Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

(Budget Estimates 30 May 2006)

Question **BET 153**

Topic: **Super Splitting and APRA Definition**

Hansard Page: **E86**

Acting Chair asked:

My question concerns what constitutes retirement for purposes of the superannuation contribution splitting, often referred by the acronym SCS. I am conscious that eligible fund members can begin splitting on or after 1 July 2006. I draw attention to the fact that there is a different interpretation offered by APRA to the Australian Taxation Office and I am conscious that it would be helpful if this difference could be resolved before 30 June. We have recently had separate documentation produced by both APRA and the tax office and there appears to be a different interpretation on what constitutes retirement for the super contribution splitting purposes. On initial reading it would appear that the ATO's Nat 15237 has a much narrower view than the APRA interpretation. My understanding is the tax office views on retirement for those aged 60 and over would appear to be a lot stricter in that once you have ceased a gainful employment relationship once you are over 60 you have retired for SIS A93 purposes and cannot therefore be a
superannuation contribution splitter recipient. APRA's view is a lot wider. I refer to their circular LA.1, where they state: Eligible superannuation contribution splitter recipients include: a spouse who is (1) under the age of 55; (2) aged between 55 and 64 and currently gainfully employed for 10 or more hours per week; (3) aged between 55 and 64 not currently gainfully employed for 10 or more hours per week but has not yet decided that they will never resume gainful employment for 10 or more hours per week; or (4) aged between 55 and 64 and has never been gainfully employed for 10 or more hours per week.
I believe that as such, on a reading of those two definitions, there does appear to be a quite significant and fundamental difference between the Taxation Office and APRA in terms of their treatment of retirement for superannuation contribution splitting. I presume the tax office is aware of these differences. But in view of the need to treat all splitters the same, whether they are under APRA jurisdiction or under ATO jurisdiction, I think it is in the interests of equity, fairness and good legislation to ensure that there is that complete harmony. Could I have a comment, please?

> ***Ms Vivian****—I am aware that we are discussing with APRA about that issue and we have raised it with Treasury. I can take it on notice to provide where we are at with it. Our aim would be to reach a consistent definition with APRA on that issue. My understanding is it is still under discussion, but we simply need to resolve it fairly quickly.*

Answer:
The Tax Office has revised its view in the light of APRA's Superannuation Circular No. I.A.1. All Tax Office communications products have been updated to ensure there is no inconsistency of view between the two regulators.