Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

TREASURY

Australian Taxation Office

(Supplementary Budget Estimates November 2004)

Outcome 2, Output 2.2.1

Topic: Taxation of death benefits from superannuation funds.

Supplementary question on notice: Supp 11

Senator **Murray** asked:

a) How much tax is collected from the taxation of death benefits (section 27AAA of the Income Tax Assessment Act 1936) paid from superannuation funds?

b) If section 27AAA [of the Income Tax Assessment Act 1936] deemed all death benefits that were below the RBL limits to be tax free, would it increase the opportunity for tax avoidance?

Answers:

a) The Tax Office is unable to determine the amount collected from the taxation of death benefits (section 27AAA of the Income Tax Assessment Act 1936) paid from superannuation funds. Tax withheld by a Superannuation fund for a payment of a death benefit ETP is declared to the Tax Office through their Business Activity Statement (BAS) together with amounts withheld from salary, wages and other payments. As such, the tax withheld from death benefit ETPs is not shown separately.

An amendment was introduced to apply from 1 July 2004 to expand the potential beneficiaries of tax-free superannuation death benefits to include 'interdependency' relationships. The Explanatory Memorandum (EM) accompanying the amendment indicated that the expansion to the definition of dependant is expected to result in a cost to revenue of $20 million dollars over forward estimates.

b) The Tax Office is unable to comment specifically on this question as it contemplates taxpayers' potential responses to a hypothetical scenario. However, the Tax Office notes that it is possible under the current superannuation tax and regulatory arrangements for a taxpayer to minimise total tax paid over retirement by arranging their estate to ensure that a lump sum benefit within their pension RBL is paid to a dependent beneficiary on their death.