

# AUSTRALIAN DEMOCRATS SUPPLEMENTARY REPORT

1.1 The Australian Democrats are concerned that the integrity of the superannuation system is being abused by the promoters of aggressive tax planning involving the use of small self-managed superannuation funds. This Senate Inquiry did not quantify the extent of the abuse, but did confirm to us that it is occurring.

1.2 We are generally supportive of any measures to close loopholes and will be supporting of Regulation 5.04(2), 5.08 and Divisions 7.1 and 7.2 applying specifically to forfeiture arrangements and allocation of contributions to reserves within accumulation funds.

1.3 The application of Divisions 9.2A and 9.2B in the Regulations, applying to the provision of defined benefit pensions, have been more controversial.

1.4 The Democrats acknowledge that it is more appropriate for lifetime pensions to be paid from larger superannuation funds that are better equipped to deal with the inherent mortality, investment and liquidity risks. Having said that, we do not believe that lifetime pensions should be necessarily be purchased from the large life offices.

1.5 In our opinion, the integrity of the taxation system should be addressed. Strategies such as 'RBL compression', even if they are not widely being used at present, should be 'nipped in the bud', to use the Treasury expression. The announced Treasury review of the defined benefit pensions, due to be finalised by April 2005 should include a broader review of the taxation treatment of superannuation pensions.

1.6 We believe that allocated pensions and market linked pension are more appropriate for a small self managed fund partly because they do not involve the annual actuarial compliance costs associated with lifetime pensions. The changes that will apply from 20 September 2004 will increase the options available to members of self managed superannuation funds.

1.7 We are also concerned by the heavy selling of self-managed Super by certain elements of the financial sector often to people whose balances are so low that that the high management fees are not justified. There is a clear need to educate investors with smaller superannuation balances about the high costs and risks involved with self-managed funds.

## **Conclusion**

1.8 In our opinion, the Government's intention to improve the integrity of the superannuation system by addressing a range of tax avoidance strategies is admirable. However, we are concerned that simply removing the ability of small self-managed

funds to pay lifetime pensions unfairly reduces the options available to legitimate members of self-managed funds.

1.9 Our preference is to correct the perceived tax avoidance opportunities that has driven the marketing of lifetime pensions from self managed super funds. Disallowance of the Regulations, along with the uncertainty of an upcoming Federal election could allow this tax avoidance and abuse to continue for another year. A preferable approach might be to seek to amend the regulations to address the concerns we have outlined.

1.10 We will continue to work with whichever political party is in Government with a view reducing the opportunities for tax avoidance, whilst providing flexibility within the payments of pensions from self-managed superannuation funds.

1.11 We reserve the option to support appropriate legislation which could target tax avoidance retrospectively from 13 May 2004.

Senator John Cherry