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18 September 2002

Ms Sue Morton
Secretary
Select Committee on Superannuation
Australian Senate
Parliament House
CANBERRA ACT 2600

Dear Ms Morton

**Proof Transcript of Evidence
Public Hearing in Melbourne on 2 September 2002**

Thank you for your letter dated 5 September 2002 enclosing copies of the transcript of evidence.

This letter is written in the capacity in which the evidence of Donald Steel was given, namely, Actuarial Adviser to the Society of Superannuants.

The transcript sent with your letter is accurate.

Two additional matters of significance in relation to the superannuation surcharge are reported in the following paragraphs. These deal with the need to prescribe the basis of operation of a cap on surcharge debts in defined benefits funds and the surcharging of contributions which eventually provide excessive benefits from either defined benefits or accumulation funds. It has been in my mind that the first of these was covered in my evidence but it does not appear in the transcript. The transcript is so precise that I am satisfied that the points were made to other persons at another place at another time. I hope that these additional matters can be brought to the Committee's notice.

Operation of a cap on surcharge debts – need to prescribe method of calculation

A cap of not more than 15% of the employer financed benefit accrued after 20 August 1996 applies to surcharge debts in certain public sector superannuation funds. The cap is an admission that the debts are incorrect and need to be revised when the actual benefit is known.

The operation of the cap ought to call for the re-working of the debt. It would not be sufficient to test the debt against 15% of the specified employer financed benefit. In some cases, the debt should be less than the

limiting sum. In some cases, particularly where benefits of poor value are paid, for example on death without a dependant, no surcharge at all ought to have been levied.

The re-working of a surcharge debt to ascertain how much it should have been is an exceedingly difficult task requiring Adjusted Taxable Income and Superannuation Salary data for the whole of the period of accrual of benefits after 20 August 1996. The whole of the data required would not be available to trustees.

Trustees of the public sector superannuation funds in which the cap operates are vested with discretion to revise debts taking various matters into account. It would be interesting to determine from those trustees what matters are taken into account and how the calculations are made. I would like to debate with such trustees how proper calculations can be made on the basis of the data that would be available to them in the course of their trustee duties.

Legislation vests the discretion to revise debts in the trustees of the prescribed public sector superannuation funds. It would not be practicable to vest similar discretion in the trustees of private sector funds. Diversity in "the various matters taken into account" and in the way the calculations are made would lead to all sorts of anomalies. If it were to be held that a cap is to be applied to surcharge debts, prescription of the way the cap is to be applied would be essential.

In my opinion, the proper operation of a cap in private sector funds, namely by re-working debts having regard to actual benefits, would be impossible.

Surcharging of contributions which provide excessive benefits

The Government has indicated an intention to exempt from surcharge, employer ETP's which provide benefits in excess of the so-called Reasonable Benefits Limits because those benefits are already taxed at the top marginal rate of personal income tax. Because I am effectively retired, I have not been in close enough contact with recent developments to know whether the exemption has been legislated.

No one can know which contributions will eventually provide excessive benefits. Suffice to say that as Transitional Reasonable Benefits Limits are phasing out, more and more taxpayers will qualify for excessive benefits that enjoy no tax concession if taken as a lump sum and limited tax advantage if taken as a pension.

It is repugnant to apply the superannuation surcharge to contributions that fund excessive benefits.

The modification of surcharge debts to exempt contributions that provide excessive benefits would be another administrative impossibility. The basis of making the calculations would have to be prescribed. The calculations would have an affinity with those for re-working surcharge debts on completion of benefit payments in defined benefits funds.

The superannuation surcharge is a monumental inequitable mess. The Government has responded to complaints about it by calling it a major step towards equity in the superannuation system. The truth is that it is quite the reverse.

The Committee is asked to reach a view as to whether my assertion that the superannuation surcharge is a monumental inequitable mess is true or false. If the Committee finds it to be true, it is its duty to convey that opinion to the Government. Let there be no semantics or shilly-shallying,

The Government is urged to repeal the tax forthwith.

Yours sincerely

A handwritten signature in black ink, appearing to read "Don Adams". The signature is written in a cursive, flowing style with a prominent initial "D" and a long, sweeping tail.