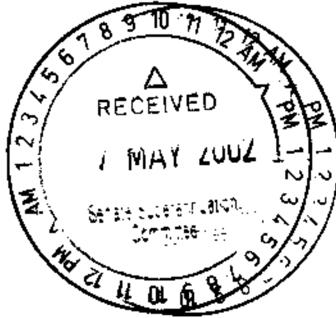


A SUBMISSION

TO THE

SENATE SELECT COMMITTEE

ON SUPERANNUATION

3RD MAY 2002

BY
TONY KINCAID
ANZIIF(Aff), FAFA, CFP, Dip. FP.

CHAIRMAN
Supermaster Investments Pty Ltd
Supermaster Corporation Pty Ltd
Suite 1
296 Doncaster Road
Greythorn Vic 3104
Phone (03) 9816 3200
EMAIL: advice@supermaster.com.au

This submission has been authorised by the majority of directors of both Supermaster companies.

SUMMARY OF SUBMISSION

	Page
Introduction	**3**
Submission	**4**
Recommendations	**10**

Attachments:		**Reference No.**
Tony Kincaid		RS401
Superannuation, change, change, change & more change - An extract from the April 1999 Supermaster newsletter		RM710
Australian Financial Review articles:		
- Call for ATO to steer funds	- 29 October 2001	-
- Super savings boost coming up	- 22 April 2002	GS100
- Top firms tipped to gain in retirement fund sales	- 22 April 2002	GS101
Copy of letter to the Hon P Costello dated 6 April 2001.		GG300
Office of Australian Taxation Office reply dated 16 July 2001.		GG301
Asset Magazine article:		
- Let Super Shine at pension time – October 2001		GS010
Adviser Magazine:		
- Super reform: let's forget it		GS200

INTRODUCTION

1. This submission is presented with the intention:

   To protect the world's best retirement environment.

2. It does however suffer from a lack of preparation time. There simply has not been enough time in my hectic retirement mode of interstate trips, golf etc to provide some of the detailed research, facts etc which would improve the submission. I would be happy to expand, elaborate or add to the content later.

3. I write this submission as one of a relative handful of qualified retirement advisory industry specialists (now ex) in Australia.

   The submission is based on thousands of face to face ongoing advisory relationships over two decades with real people, not just theory!

   Thousands claim a degree of knowledge and excellence in retirement planning to which they have little legitimate entitlement. Often it is difficult to know what you don't know. Even more so to admit it!

   This badly effects the quality of advice that millions of Australians receive.

4. This submission addresses entirely the first part of the issue "the adequacy of the tax arrangements for superannuation and related policy to address the retirement income and aged and health care needs of Australians".

SUBMISSION

In assessing the adequacy of our superannuation system we need to understand some basics:

1. **The Australian system is clearly the best in the world, in my opinion.**

   a. It is a very flexible system offering a range of options and choices; thousands of diverse products; Self Managed Superannuation and Pension Funds and a range of pension styles; allocated, fixed term and complying; as well as lump sums.

   To my knowledge no other country has this extensive range!

   b. The government provides an excellent legislative and tax framework for planning retirement income streams. Many don't understand or use them, preferring investment in property, the income of which is taxed **forever**.

   c. Superannuation isn't locked away until 'retirement' as most think.

   We have access to benefits at age 55, 60 or 65 according to a well established set of rules.

   - under defined circumstances a person can commence a pension (often tax free) and contribute any income from employment into another account.

     This is to be encouraged!

   - Money can be withdrawn as a lump sum, any debt eliminated, lifestyle purchases (caravan, car etc) made and the balance re-contributed for a spouse.

   d. Undeducted Contributions play a huge part in providing retirement income. It is a facility unknown elsewhere in the Western world to my knowledge.

   Because we actively encourage Undeducted Contributions with significant income tax incentives we draw into the superannuation net billions of dollars that would otherwise be invested in other, less productive areas.

   e. Our personal retirement pension system allows for significant income tax benefits:

   - The earnings of the pension fund are entirely tax free.
   - Any excess tax credits eg from franking credits can be cashed,

   and most importantly:

   - Significant tax free income.
     The amount of which is limited only by the capital invested as Undeducted Contributions.

   Other countries are generally locked into fixed, taxable pensions provided predominantly by institutions.

2. How allocated pensions really work for the pensioner

a. The allocated pension is uniquely Australian. Developed by Australians for Australians. Approved in 1992 the structure/system (it is not really a product) has grown from strength to strength. Today it is the best vehicle yet designed for the provision of retirement income.

Few understand how good it is.

b. The attachment 'Let Super Shine at Pension Time' gives some excellent information.

c. The allocated pension system provides enormous security of capacity to pay increasing pensions way past life expectancy, particularly when planning uses the minimum pension as its base.

For example, using a 9% gross growth assumption (used by Supermaster for over 20 years), a 55 year old who commences a minimum allocated pension of $20,210 p.a. with $400,000 can expect this scenario:

At Age	Capital of	Annual Pension
60	$477,318	$26,820
70	603,846	44,730
74	624,145	53,350
80	590,290	64,867
90	333,576	60,650

Few realise this, fewer use it as the basis for planning and investing but it is entirely viable.

- **The pensioner's capital should grow by over 50% to age 74, despite pension payments.**
- **At age 90 the pensioner can expect to still have 83% of the original capital.**

Commercial confidentiality prevents me from making public some significant explanatory material built by Supermaster which would expand on this, but I would be happy to make copies available to Senators on the committee.

d. A large percentage of the money invested in retirement income streams comes in large amounts during the final planning stages from :

- Distributions from deceased parents etc estates
- The surplus after downsizing residences
- Sale of holiday homes
- Sale of investment property or shares
- Winding up of investment gearing programs

Retirement isn't suppose to be funded by 9% Superannuation Guarantee!

e. Probably their greatest attributes are:

- Flexibility. The ability to:
  - Set pension levels annually, and
  - Withdraw lump sums for purchases, trips, motor vehicles etc.
- No loss of capital. On death (of the last of two spouses if a reversionary pension) all remaining capital is returned.

These features are highly valued.

3. The problem is knowledge

Many well meaning organisations claim to speak for the retirement industry, including:

- ASFA
- Industry associations
- Some Actuaries
- Fund Managers

In my opinion many of these:

a. Know a great deal about superannuation **but little about retirement planning.**

- Most are too young in age to be concerned or have experienced the retirement process.
- ASFA speaks for retirees but lacks in-depth knowledge because it has few, if any members involved in the retirement process. **ASFA represents superannuation funds, generally those of employers.**

and

b. Are mainly concerned with, (and very expert in) today's superannuation accumulation, taxes and improving returns on fund investments, and

c. Want contribution and fund taxes removed and blithely suggest the end result is taxed at higher rates.

This is crazy! Australia's retirement process needs more intelligent, knowledgeable, experienced and unbiased input.

d. Don't understand retirement tax or pension planning strategies with any degree of sophistication.

4. A large percentage of financial planners, particularly "general practitioners", do not know their retirement onions well enough!

There are many reasons for this including the complexity of legislation and regulations and the newness of the Australian industry. It really only started in 1983 and allocated pensions were not legalised until 1992, only a decade ago.

Retirement planning is seen by many as largely an investment and product sale exercise when it should mostly be about:

- Maximising contributions and capital in the fund.
- Tax planning } with extensive option modelling over extended periods
- Pension planning } (10,20 and 30 years) so as to maximise benefits throughout the period, not just today.
- Splitting benefits with a spouse
- Debt elimination
- Cash flow planning
- Reasonable Benefit projections and planning
- Social Security
- Estate Planning
- and more

Few retirement reports written for clients by advisers address these issues.

Rather than being critical of those bodies and individuals (which appears to be the case) what I am trying to say is:

1. **Superannuation funds (particularly employer funds) are totally different to personal retirement funds.**
   vested interests of organisations do not necessarily flow over each boundary.

2. **The process and rationale is and should be entirely different.**
   Ill-informed request for legislative change can be counter productive.

3. **There is far more to retirement planning than many appear to understand.**

4. **The more legislators and those in the industry realise this the better for Australia's retirees.**

5. **We have a long way to go to provide a uniformly high standard of retirement advice.**

Examples of well meaning but patently wrong statements of "what retirees need" by inexpert practitioners include:

a. "The closer to retirement one gets, the more conservative the investment in an allocated pension fund should be".

   - The opposite is true. This is a recipe for running out of money.

b. "Clients should be asked their risk profile".

   - They simply would not know without extensive education.

   - Without proper explanation they generally choose the worst, most conservative option.

c. "The 9% Employer contribution will not provide reasonable retirement benefits".

   - It was never intended to. People must also contribute.

d. "The current rules mean that income streams tend to be invested in interest securities, with lower earning rates".

- Simply untrue.

e. "We should allow partly retired people some access to an income stream while also allowing them to contribute further to a fund".

- This is allowed now and regularly practised by those retirement advisers who take the trouble to plan their clients affairs.

5. Adequacy of income

a. Claims of needing 60-80% of current income in retirement are often misguided as they ignore these important elements:

- The effects of income tax on present income which probably can be eliminated in retirement.

Gross Income	Income Tax	Net Income	
		$	%
$30,000	$5,380	$ 24,620	82
50,000	11,380	38,620	77
100,000	34,380	65,620	66
200,000	81,380	118,620	59

- Expendable income being saved today in superannuation, other investments or used for non continuing purchases.
- Retirees simply need less income (eg no work related costs)

For example:
A person earning $100,000 today could have realistic pension income needs of only:

Net salary	65,620
Less current expenditure	15,000
Less reduced income needs	10,000
Net (comfortable) need	40,620

This income stream can easily be generated entirely tax free for a couple!

b. Those who criticise the 3 tier tax on superannuation often forget a few facts:

1. Contributions which are taxed at **a maximum of 15%** and liable for the Surcharge are tax deductible at 30-47%.

   Each dollar contributed has therefore only cost around 40 cents.

2. In 'exchange' our retirement income **capital is entirely tax free**

   and

   considerable income streams can be generated tax free.

3. The Contributions tax and surcharge do not apply to Undeducted Contributions.

4. Franking credits are fully refundable.

5. A maximum 10 per cent tax applies on capital gains.

6. The system provides opportunities to offset, minimise and even eliminate most taxes (including CGT in the right circumstances) with good planning.

Despite the continual pleadings from some quarters to eliminate the contributions tax it would be naïve in the extreme to think a government would agree without increasing the end tax.

This would destroy a number of excellent retirement planning strategies and unfairly penalise retirees.

RECOMMENDATIONS

1. **Leave retirement planning through superannuation fundamentally alone.**

   No radical changes please!

   A number of marginal improvements and refinements should be made but no wholesale changes made or "thorough review" undertaken.

   These are my reasons:

   a. Retirement planning is extra-ordinarily complex because of the myriad changes needed continuously since 1983 to drag Australia's superannuation system from the worst to the best.

      Refer to attachment Superannuation change, change, change and more change.

   b. The degree of complexity has caused many financial advisers with no background in superannuation and little desire or stimulis for technical study to opt out of the system, instead advising clients to invest outside superannuation.

      Because:
      - The complexity is gradually becoming more understood, and
      - The growth of superannuation and retirement pensions over the last decade is forcing more and more advisers to put in the effort.

      The standard of advice is rising.

   c. Enough people (advisers and public) don't know and trust superannuation now. Further changes, even under the guise of simplification, would have a very negative effect.

      Change generates confusion.

      Change creates stories for Journalists. Read opportunities to criticise rather than illuminate.

      Change creates the need for millions of hours of research, thought and study to understand. This effort would be more effectively directed to better understanding, strategic development and application for the benefit of retirees of the current system.

   d. Our system is the envy of retirement advisers I have met throughout the Western world, with few exceptions.

   e. There should be no change made which could disadvantage those who have planned and organised their retirement affairs over the last 10-18 years.

      Most would be totally unable to react to any negative change (ie changing the tax regime) and unable to re-order their affairs because of their age.

   f. Attachments from the Australian Financial Review of April 22, 2002 talk of the expected growth in retirement investment.

      Nothing should be done to interrupt or stall this!

2. **Remove all 10 hours work and age barriers to being able to contribute to superannuation.**

a. The 10 hours barrier is artificial and archaic. It appeared in many places throughout the Income Tax Legislation in past decades and has been slowly whittled away.

Why is 10 hours important?

Why is work important to encouraging Australians to contribute to superannuation with the ultimate aim of providing retirement income?

Superannuation legislation started in this country solely to regulate **employer superannuation**. Superannuation was entirely associated with work.

It is only in the last decade or so we have turned our minds to issues such as;
- Personal superannuation and pension funds
- Much longer life expectancy.

The recent increase in contribution age to 75 is a further step in the right direction but applies only to those working 10 hours per week. There appears no rationale for this!.

My recommendation is also that of the Small Independent Superannuation Funds Association. (Refer attachment "Call for ATO to steer funds") and many others.

b. Currently single people can only contribute if working more than 10 hours per week. Even Undeducted contributions cannot be made after age 65.

c. Encouraging retiring Australians into the pension system has been extraordinarily successful over the last decade. A relatively short time.

Allowing a large number of older Australians (who have previously been denied access by rules or the newness of the products) the benefits of private pensions

would be very popular electorally!

d. In April 2001 I wrote to Treasurer Costello (copy in attachments) along these lines. Unfortunately I received months later a bureaucratic reply from the Office of the Assistant Treasurer (also attached) which totally failed to understand the suggestion.

3. **Reduce the surcharge to zero as quickly as possible**

No other tax/change/impost is so lacking in merit and achieves so little net result.

There are many other, easy ways of achieving the aim with NONE of the pointless and excessive costs.

4. **Phase in a requirement for all income earners not receiving at least 9% employer support to personally contribute at the same rate.**

Probably a minimum age of say 40 and minimum income level should apply.

Tax deductibility should be at a flat 30%, identical with the company tax rate.

This would:

a. Create equality.

Today individuals receive a tax deduction at their personal marginal tax rate.

b. Simplify the confusing $3,000 plus 75% deductibility which was designed in the 1970's to create equality with then company tax rates, but is generally awkward and misunderstood.

ATTACHMENTS

TONY KINCAID ANZIIF(Aff), FAFA, CFP, Dip F.P.

Tony joined the industry in 1969.

He is a past State President, National Vice President, Fellow and Life Member of the Association of Financial Advisers. He is a life member of the Million Dollar Round Table.

Tony founded the Supermaster Group in 1978, based solely on the establishment nationally of Self Managed Superannuation Funds. A pioneer of a segment of the Industry which continues to boom.

When the government fundamentally and structurally changed Australia's retirement planning industry in 1983, with the introduction of incentives for pension income and taxes on lump sum withdrawals, Supermaster changed to specialise in retirement planning.

Superprofit, the first non text reference book published in Australia on superannuation and retirement was written solely on the technical input of Supermaster in 1987.

Supermaster grew into a nationally recognised financial services organisation specialising in superannuation and retirement planning.

Supermaster pioneered the electronic access to investment services by public accountants wishing to advise their clients by developing the unique Viatel service. In 1986, 46 accounting practices were connected and active.

Supermaster today operates solely as a specialist retirement planner with a staff of approximately 30 people.

Tony was a pioneer in the development and introduction of the allocated pension and is counted as a fervent supporter.

He retired from active client advising June 30 2001, after 32 years "hands on" experience.

Tony offers no nonsense practical advice ..... not just theory

Superannuation change, change, change and more change.

In the past two decades we seem to have had almost constant change in superannuation legislation and regulation.

This continual change has led some to believe that superannuation is just so complex and future change so likely they can no longer have confidence in the system. This feeling is often fuelled by the negative thrust given to most change by journalists.

There is very good reason for the extent of the change.

Since 1983 Australia has gone from a very backward lump sum superannuation system with virtually no private pension funds to being the envy of the superannuation world with probably the most flexible, advanced private pension system available.

The amount of money in UK pensions has long seen them considered to be the world leader. So great is the volume of money in pensions in that country that the Chancellor of the Exchequer gave it to be the sole reason for not joining the Euro dollar.

Our figures show that within 16 years, Australia has over A$20,000 in superannuation, mostly heading for pensions, for every man, woman and child of the population; i.e. 18 million people have A$365 billion in superannuation.

The UK figure is just under A$30,000; i.e. 60 million Britains have. 650 billion in pensions.

On present trends, the growth in compulsory contributions, fund choice etc., etc., it will not be long before we lead the world. This is a staggering turnaround!

Not only do we now have lots of money in superannuation/pension funds but the incentives to invest more in the preferred retirement funding system are legion.

How has this occurred? Because of some initial guts and foresight by the government of the day and then constant change, change, change and more change.

Change has been the essential ingredient. True, not all of the changes have been good. For example, the hideous surcharge, but generally governments, the Senate Select Committee on Superannuation and some visionary bureaucrats should be thanked for their foresight and strength of purpose.

It is a pity though that the government cannot clearly and lucidly tell us the benefits of each change. They need much better marketing and educative skills. It is like Prime Minister Howard happily telling us we have very low inflation. So what? Few know what effect inflation has on our lives.

So next time you read of criticism of a change in superannuation rules ask yourself if the change is necessary or are the journalist critics just trying to sell newspapers.

The Australian Financial Review
www.afr.com • Monday 29 October 2001

Call for ATO to steer funds

[illegible]

Allowing small super funds whose members were 100 per cent related parties or family members to be regulated by the Australian Taxation Office instead of the Australian Prudential Regulation Authority would save costs and allay fears of fund collapses at the smaller end of the industry, a Productivity Commission hearing into the superannuation system was told last week.

The director of the Small Independent Superannuation Funds Association, Mr Michael Lorimer, told the hearing in Sydney last Thursday that he could not think of a rational reason for the present rules, which require any super fund with five or more members to be subjected to the cumbersome and costly regulation of APRA rather than the more self-regulated approach of the ATO.

"The vast majority of APRA-regulated funds have five to six members and are comprised of family members working in the same family business," Mr Lorimer said.

"The current regime will not permit APRA to look at those funds in any other light other than as if they have 5,000 members, and that's a waste of their resources," he said.

The superannuation industry has recently wrestled with the issue of how to prevent fund collapses at the smaller end of the market, which is where most of the risk to members is thought to lie.

APRA has publicly said it lacks the resources to adequately regulate the more than 12,000 super funds in its jurisdiction, most of which are very small in assets and members.

SISFA told the hearing that if the laws were changed to allow super funds to come under ATO jurisdiction if they met certain requirements, such as having a 100 per cent family-related membership, many of the funds regulated by APRA would disappear.

This would leave the regulator with more resources to devote to higher-risk sectors, such as small corporate funds, Mr Lorimer said.

The rule was also described as discriminatory, since an ATO annual return for a super fund cost $45, whereas the APRA return cost more than $400.

The Productivity Commission is reviewing the Superannuation Industry Supervision Act and other parts of legislation affecting the super industry.

> **"ATO regulation of small super funds would save costs."**

Its draft report, released last month, was marred by controversy over its recommendation to abolish the Superannuation Complaints Tribunal and replace it with an industry-regulated complaints scheme similar to those operating in the insurance and banking sectors.

The commission also heard the reporting dates for super funds' annual returns were too stringent and did not allow for realistic reporting dates for fund managers and other service providers.

Mr Lorimer also said the age restrictions on contributions to super funds should be relaxed and simplified.

The present rules restrict whether people can contribute to superannuation over the age of 65, and prevents all contributions past the age of 70.

"Simplify the rules on whether super funds can accept contributions," Mr Lorimer said.

"For instance, there's one set of rules for [those aged] up to 55, another set of rules for after that. There are too many rules to decide whether or not a person can contribute to a super fund ... Why does the answer have to be so complex?"

The requirements also imposed significant compliance costs on super funds, especially smaller funds, which were ultimately paid from members' accounts, he said.

SUPER, SAVINGS BOOST COMING UP

The Australian Financial Review

Monday April 22, 2002

Alison Kahler, with Ben Wilmot

Retirement savings are poised to grow to $1.4 trillion over 10 years. GREG NEWINGTON

Australia is poised to enter a savings and superannuation boom that will increase the nation's retirement savings to $1.4trillion over the next decade, generating billion-dollar sales for financial institutions and renewing calls for more flexible regulation of retirement products.

Savings are forecast to grow at an average annual rate of 6.1 per cent as retail investors overtake institutions as the biggest consumers of financial services products.

The rapid growth in savings mirrors a worldwide trend that will boost the value of global pension funds significantly over 20 years.

Recent forecasts suggest European corporate pensions will grow from 3.5 trillion ($5.76trillion) to 17trillion by 2020 as governments introduce compulsory retirement savings contributions to avert a pension funding crisis.

Future dynamic growth in the Australian financial services market shows up in analysis by DEXX&R, formerly Rice Kachor Research.

It forecasts the financial services market will grow from $842billion at June 30, 2001 to $1.4trillion at June 30, 2011. The retail sector is expected to raise its market share from 51per cent to 63per cent, or $1.05 trillion, over the period.

The biggest winners will be financial institutions, such as AMP, and specialist fund managers that offer after-retirement products.

After-retirement investments, such as allocated pensions, will increase by an average 15.6per cent a year to $167 billion over the next decade as the ageing Australian population reaches retirement age and cashes in its superannuation.

The double-digit growth in after-retirement products will easily outstrip forecast superannuation growth over 10 years. Super savings will grow at a more steady annual average rate of 8.8 per cent but will still constitute the largest sector of the financial services market by 2011.

The likely growth in after-retirement products highlighted the drastic need to allow more flexible income streams, said AMP Financial Services strategic executive Peter Stone.

"Today's complying annuities are very conservative products that are usually invested in debt instruments. The big boom in equity markets was fuelled by baby boomers, and now they're required to take their money out of equity markets and put it into fixed interest," Stone said.

The Federal Government promised at the last election to consider extending tax and social security concessions to a wider range of pension products to help retirees invest in growth assets.

DEXX&R forecasts the super market will reach $1.1 trillion by mid-2011, fuelled by a sharp rise in self-managed funds and the continued surge in master trust investment.

Investments in self-managed funds will reach $308.8 billion by 2011 and master trusts will continue their rapid growth as the distinction between retail and wholesale financial products blurs.

Tax efficiency was the biggest driver in the growth of self-managed funds, said PricewaterhouseCoopers' head of personal financial services, Mike Forsdick.

"There also a greater awareness that people can take control of their retirement capital," Forsdick said.

Industry funds will also continue to grow at an impressive annual rate of 11.9 per cent over the next 10 years, increasing their assets to $139.3 billion by 2011. But corporate funds will continue to decline in popularity and grow by a relatively modest annual rate of 5.3 per cent, DEXX&R says.

GS100
01.05.02

TOP FIRMS TIPPED TO GAIN IN RETIREMENT FUND SALES

The Australian Financial Review

Monday April 22, 2002

Ben Wilmot with Alison Kahler

Forecast explosive growth in sales of after-retirement products is likely to prove a boon for listed companies such as AMP, the National Australia Bank and AXA Asia Pacific, according to stockbroking analysts.

The 10 biggest companies in the market had annual annuity inflows of $6.2 billion in the year to September 30, 2001, or close to 83per cent of total industry sales, according to Salomon Smith Barney.

New research by DEXX&R shows the largest growth rate, 15.6 per cent, is expected in the after-retirement segment - its percentage of total funds will rise from 5.3 to 10 per cent over the next 10 years.

DEXX&R forecasts allocated pensions' share of total funds will almost double to 6.49per cent by 2011 from 3.95 per cent in 2001.

The report says consumers prefer allocated pensions that let them vary the income taken to meet changed circumstances over time.

Sam Wall, strategic technical analyst at Zurich Financial Services, said financial planners favoured allocated pensions for their flexibility. "The only downside is that allocated pensions are assessed against the lump sum benefit limit rather than the higher pension limit," Mr Wall said.

DEXX&R's forecast growth rates for certain term and lifetime annuities have declined, given the lower growth rates in the past two years and questions about the industry's capacity to fund the capital demands that strong annuities growth would require.

Nick Sherry, shadow minister for retirement incomes and savings, consumer affairs, said increased sales of after-retirement products raised important consumer issues.

"Over 90 per cent of superannuation investors pay fees and charges equal to less than 1 per cent of their investment. But it is not uncommon for post-retirement products to have fees ranging from 2per cent to 5 per cent," he said

"The higher fees and charges reduce post-retirement incomes and this will be a big issue, particularly in an environment of lower real investment returns."

He also said there was no adequate compensation scheme for after-retirement products, leaving investors with inadequate protection against fraud and mismanagement.

April 6 2001

Hon P Costello
Treasurer
Parliament House
CANBERRA ACT 2600

Dear Peter

Rumour has it that you are looking for constructive ideas for new policies which will appeal to a large section of the community adversely affected by both the current low interest environment and the GST.

I refer to the self-funded retiree, or at least those who have not been fortunate enough to take advantage of Australia=s excellent allocated pension system. Instead their capital is typically invested short term or "securely" in cash or similar asset classes, returns on which continue to fall from rates of 12-15% 10 years ago to today=s 4-6%. No wonder they are anti a low interest (Liberal) government.

Having spent 32 years in financial planning, the last 22 specialising in retirement planning with particular emphasis on pension funding, I can see a fairly simple solution to these people s problem; that is, allow them access to the superannuation pension system.

The rules, somewhat illogically, deny the capacity to contribute to superannuation generally at age 65. Over the years I have been practising, many other entry rules to superannuation have been significantly relaxed including removal of the Gainful Employment requirement for most and the ability of a spouse to make contributions.

If those over 65 could still contribute to superannuation without any tax deduction on their contributions (i.e. Undeducted Contributions), there would be no drain on the revenue but it would create a situation where allocated pensions could be paid from investment capital invested for the long term; i.e. in shares and other growth assets which typically generate net investment returns of 9-12% p.a.

..../2

An educational paper we use with clients to explain allocated pensions is attached to assist your understanding of the true use of the product. At, for example, age 74, the minimum pension which can be paid is 9% of invested capital, a very large increase on today=s cash rates.

Because pension payments are very tax effective, there could be a cost to the revenue but as most self-funded retirees probably pay little or no income tax today, they could be provided with a huge benefit at little cost.

I am confident this measure would prove electorally popular and am available for discussion and further development should you wish to do so.

Yours faithfully

J A (Tony) Kincaid Dip. A.I.I., FAFA, CFP, Dip. FP.
Managing Director

Encl.

OFFICE OF THE
ASSISTANT TREASURER

PARLIAMENT HOUSE
CANBERRA ACT 2600

Telephone (02) 6277 7360
Facsimile (02) 6273 4120

16 JUL 2001

Mr L.A. Kincaid
Managing Director
Supermaster Investments Pty. Ltd.
Suite 1
296 Doncaster Road
NORTH BALWYN VIC 3104

Dear Mr Kincaid

Thank you for your letter of 6 April 2001 to the Treasurer concerning the age limit placed on superannuation contributions. The Assistant Treasurer has asked me to respond to you. I apologise for the delay in responding.

As you would be aware, a regulated superannuation fund can accept contributions only in accordance with the *Superannuation Industry (Supervision) Regulations* (SIS Regulations). Under the SIS Regulations, employer contributions on behalf of employees are either:

- mandated employer contributions, which can be accepted by a superannuation fund regardless of the person's age or number of hours worked; or

- non-mandated employer contributions, which cannot be accepted by a superannuation fund for a person aged 70 years or more or for a person without sufficient connection to gainful employment. The age limit was 65, but it was increased to 70 from 1 July 1997.

The SIS Regulations define mandated employer contributions to include:

- contributions that reduce the employer's liability to the Superannuation Guarantee (SG) charge (this does not provide a basis for contributions for persons aged 70 and over, as the SG charge does not apply); and

- superannuation contributions payable under an industrial agreement or an award made on or after 1 July 1986 by an industrial authority. There is no age limit for contributions made under this heading.

As a result, contributions can be made to a complying fund on behalf of a person aged 70 or more only under an industrial agreement or award approved by an industrial authority.

Superannuation receives substantial tax concessions designed to increase the retirement incomes of members. Given the scale of these concessions, it is important that superannuation be used for retirement purposes. It is inevitable that this constraint will not suit all individual circumstances. However, the Government considers that a maximum age limit on contributions to superannuation is required.

Finally, the Government is committed to a retirement incomes policy that ensures that all Australians enjoy security and dignity in retirement. A key objective of retirement income policy in this respect is to encourage individuals to undertake private savings in order to secure a higher standard of living in retirement than would be possible from the age pension alone. The Government believes that this objective can best be met by Australia's current three pillared retirement income system comprising:

- compulsory superannuation savings through the Superannuation Guarantee;
- voluntary superannuation and other private savings; and
- a means-tested age pension and associated social security arrangements.

A fundamental objective of the Government's retirement income policy is to ensure that public assistance, whether provided in the form of tax concessions for superannuation savings or by means of social security payments, should be targeted to those who most need it.

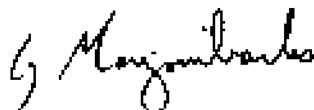
This reflects the Government's view that it is only fair and reasonable that people who have substantial financial resources, whether in the form of income or assets, should use those resources for living expenses before calling on the community for income support through the social security system in retirement.

Consistent with this objective, and also to ensure that concessionally taxed superannuation savings are genuinely used to fund income in retirement and not used for estate planning purposes, the Government is committed to encouraging retirees to purchase retirement income streams that provide for an orderly, regular draw-down of the capital underlying the product over the expected duration of retirement. Income stream products that meet these objectives are afforded considerable tax and social security incentives.

In comparison to complying lifetime and new life expectancy pensions and annuities, allocated pensions and annuities offer retirees significantly greater scope for deferring tax and estate planning. For this reason and reflecting the fact that, unlike complying lifetime and life expectancy income streams, allocated pensions and annuities can generally be commuted to a lump sum or partial lump sum at any time, allocated income streams are not eligible for the pension reasonable benefit limit.

Thank you for bringing your views to the attention of the Government.

Yours sincerely



Genevieve Marjoribanks
Departmental Liaison Officer

GG301
31/05/02

Let super shine at

[illegible] the sophisticated techniques applied by advisers in organising clients' [illegible] remains one of the best ways of investing, especially in retirement

Superannuation may be surrounded by complex laws and regulations, but the basic tenets are fairly straightforward. The maximum internal tax rate within super is capped at 15 per cent, and 10 per cent for CGT on assets held longer than 12 months. Undeducted contributions go into super with no tax deducted and can be taken out of super after retirement with no exit tax. And while undeducted contributions do not count towards a person's reasonable benefits limit (RBL), the earnings do.

During the pension phase of superannuation, it positively shines. There is no other place a person's assets grow in such a tax-effective way. Now there is no tax rate on superannuation during the pension phase. This applies to both income and capital gain. If the investments produce some franked dividends then these franking credits can be claimed back from the tax office after the end of the tax year. This effectively produces a negative tax rate.

In addition to this extremely favourable environment for retirement assets to grow, usually a portion of the income stream is returned to the superannuation pensioner tax free. A 15 per cent tax rebate often applies to a portion of the pension income. The flexibility of the minimums and maximums applying to the income stream also means that, should a superannuation pensioner wish to use more of their capital in one year for a holiday or a capital purchase, such as a car, then they have the flexibility to do so.

Even in death, the assets in superannuation are normally dealt with quite favorably. A spouse can have up to the pension RBL paid to them tax-free. Dependent children can sometimes be paid a very tax-effective income stream as well.

So, for a vast majority of clients who have some reasonably significant assets available to them for their retirement, superannuation in the accumulation phase and moving to the pension phase in retirement will usually be a major part of their retirement planning.

Additionally, when it comes to planning for the placement of other assets into the superannuation environment, what are the most effective ways of achieving this outcome? Salary sacrificing, even when the surcharge applies, is very effective. However, many advisers often overlook other forms of contribution.

An in specie contribution, especially of listed shares, is another contribution that can be made. Whether the member also claims a deduction or not depends on each person's particular situation. However, this form of contribution should not be overlooked.

Undeducted contributions can be especially effective when the superannuation fund moves into the pension phase. Obviously, a portion of the undeducted benefit will be returned to the member tax-free each year. Also, the withdrawal of an amount of the undeducted portion in later years is possible with no exit tax, should an usual capital requirement be required.

These undeducted amounts could conceivably come from a range of sources. Many people have invested in investment properties over the years that they may not wish to hold into retirement. The hassles of tenants, along with the inability to sell a balcony or bathroom should the client require capital, are among some of the most

pension time

oft-quoted reasons. Clients also often have a larger proportion of their assets in property than in other asset classes. This is usually a result of the bias towards property investment that many people have had who may be nearing retirement.

Despite the complications of any CGT that could apply on sale, the benefits of placing assets into the super environment for the long haul of retirement often far outweigh the short-term pain of paying some tax.

Pre-CGT assets that are often considered sacrosanct, but may be earmarked for the provision of retirement income, may also be better placed into the superannuation fund. Whether to do this is not the preserve of particular widely held beliefs, but of what is best for a client's situation.

Many advisers fall into the trap of trying to display their technical brilliance by confusing their clients with a lot of unnecessary information. The client is mainly concerned with the benefit that will arise with their personal situation, rather than whether the adviser can quote Section 42A(3) of the *SIS Act*.

Clients are interested in the general principles that will benefit them in retirement as opposed to another form of arrangement of their assets. It is incumbent for an adviser to ensure that they are fully aware of the relevant rules and regulations that apply across the board. However, the old maxim of "keep it simple" remains. ■

Luke McGrath CFP is head of personal financial advice and holds a Proper Authority with Permanent Investment Management Limited, part of the Permanent Group of companies. He specialises in superannuation matters.

Super reform: let's forget it

The Government is not interested in having a review of the super system. Since early November last year, they have, more than once, made this quite clear.

No one could deny that the super system is a dog's dinner. The problems with many of the calls for simplification are twofold. Firstly they often fail to acknowledge the real reason for complexity in the super system, and secondly they are really a poor disguise for the proponents' agenda which is an increase in the contribution rate and a transparent reduction in the super tax rate.

I suspect that politicians see through most of this posturing. Super exists and grows massively bigger by legislated decree and, despite being a fiercely competitive marketplace, the business' margins produces quite attractive profits for everyone including the most inefficient operators.

Over the last few years, there has been a significant reduction in the tax rate applying to super. Fully refundable franking credits and a maximum 10 per cent tax on capital gains are fundamental reforms. But who knows about these? Who in this industry even acknowledges their importance? The politicians would argue that they have already given us so much and yet we're still asking for more!

A super portfolio should be invested in such a way that over time tax isn't paid.

What's more, even though over time a really well run fund shouldn't be paying tax, the Government still gives most superannuation pensioners a 15 per cent rebate. We don't need a reduction in tax, we just need to understand the rules.

So how do you really reform super since tax is not the issue? There is one thing which could be done – but it wouldn't be popular with powerful vested interests.

Let's quickly think about what super really is. Here's my definition – super is a quantum of money to replace income which used to be earned from personal exertion.

Where does the employer fit into this? Well it doesn't. Superannuation in Australia is so complex because the employer has such a massive role to play in its operation. Remove the employer and most of the need for complexity disappears.

The employer lingers around super for reasons which are anachronistic. The idea of loyal life-time employment at one company has largely disappeared. Ironically it was employers through massive redundancy programs over the last 20 years that destroyed the bond which existed between employers and employees. And it's employees who now have the upper hand.

> A super portfolio shoud be invested in such a way that over time tax isn't paid

Lot's of people will jump to the defence of the employer's involvement in super. But if we want the employer in the super system then we must accept complexity. It's as simple as that ©

Tony Negline is a financial services consultant [illegible]@bigpond.net.au