

Supplementary Submission
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22/05/02

ADDENDUM TO SUBMISSION - DATED 26TH APRIL 2002

Senate Select Committee on Superannuation

Overseas superannuation/pension transfers to Australia under the legislation 27CAA

22nd May 2002

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To be able to consider the impact and implications of the current arrangements, we should first ascertain and understand which migrant groups are affected by taxation on transfers. The people most affected are migrants who have been previously employed and are therefore most likely to have accumulated benefits in a superannuation fund. With a fair degree of certainty, we can therefore use two different tests:

1. Skilled migration data overlaid by country of birth.
2. Migrants from OECD countries.

SKILLED MIGRATION

We use the Skilled Migration figures, because people who have migrated under this program are most likely to have had previous employment and therefore have accumulated retirement assets, including Superannuation.

To narrow this further, it is then possible to look at the Median age by country of birth. This will further focus our analysis by concentrating on Migrants after a certain year. This assumption can be made as migrants before a certain year are most likely to have retired and consequently, would not be transferring a lump sum superannuation benefits.

When considering the above facts, the people most likely to be affected are those that migrated after 1975. The final step is to then consider the type of superannuation system in the country of origin or where migrants have come from, which will then help quantify the impact of 27CAA in it's present form.

The data listed in Table 1, clearly shows that the UK is the largest overseas birthplace for overseas migrants throughout the 20-century, with a decline seen in recent years. The New Zealand migrant numbers have increased in more recently.

TABLE 1:

SETTLER ARRIVALS BY SELECTED COUNTRIES OF BIRTH BY MIGRATION STREAM ¹									
Selected Countries of Birth	Settler Arrivals Financial Years in 5 Year Groups					Settler Arrivals Fin. Year (d)	Skilled Migration Program	Settler Arrivals Fin. Year	Skilled Migration Program
	75-80	80-85	85-90	90-95	95-00	1999-2000	1999-2000	2000-2001	2000-2001
Southeast & Southern Asia	56552	91207	140944	110541	61104	18767	10461	21110	13864
North Asia	12439	20122	46179	64196	54524	11296	5163	9368	5954
America's	15708	16355	22753	13908	11177	1869	545	2331	808
Europe ex UK	52084	68780	56272	43100	15325	6979	1544	8214	2047
North Africa & Middle East	21903	10924	21635	11710	7795	5426	765	6176	854
New Zealand	39842	50739	82492	39673	80626	21889	(C)	nya	(C)
South Africa	10219	12416	17042	8825	21397	6495	5675	7451	5,604
United Kingdom & Ireland	89,561	124350	119554	68249	51877	8494	5990	7230	5232
Other	46471	73159	109269	102403	134808	11797	2207	2027	1244
Total	344779	468052	616140	462605	438633	92272	32350	64592	35607
Specific trends (a)									
China	4766	8651	16000	16138	36288				
Cyprus	6817	1670	2054	413	341				
Hong Kong	5467	8745	27453	40442	14834				
India	4579	7691	13841	20793	16355				
Viet Nam	30633	49950	38902	39022	12483				
Yugoslavia	8164	7128	12742	20139	(b)				
MEDIAN AGE OF SETTLERS AT CENSUS YEAR									
		1971	1981	1991	1996				
United Kingdom & Ireland		38	41	46	49				
<p>nya : not yet available</p> <p>Source : DIMA Statistics Section - Immigration Federation to Century's end 1901-2000, released October 2001</p> <p>Notes: (a) Some countries may have large variations in arrivals due to humanitarian or other non-skill related issues.</p> <p>(b) Country no longer exists</p> <p>(c) Arrival based on New Zealand citizenship (non Visaed) not included in skilled migration program</p> <p>(d) Includes Non Program NZ Citizens arriving from other countries</p> <p>Note: Because some of the data has not been mandatory to collect for all time periods there may be anomalies in the data and it should therefore only be viewed as indicative of the actual number of migrants with the listed characteristics.</p>									

The Skilled Migration figures shows that the UK is the largest overseas birthplace for migrants. The balances of UK migrants are either family migration or NZ citizens.

1. Source DIMA Overseas Arrivals and Departures Data

Extrapolation of the figures leads to the conclusion that the highest levels of skilled migrants over the period 1975 to 2001 have been UK born. This also coincides with the fact that the UK has one of the most mature and comprehensive superannuation systems in the world. If we also consider that skilled applications in total have increased 46.6% since 1995-1996² and that previously many applications were for family or humanitarian migration, then migrants from developed countries with mature superannuation systems are the most likely affected.

MIGRANTS FROM OECD COUNTRIES

It is also reasonable to assume that the most likely countries to have mature and established superannuation systems are also members of the OECD. It is also probable that the majority of humanitarian migration comes from countries outside the OECD and least likely to have superannuation.

If we look at these criteria, it can be seen from Table 2, that the greatest number of migrants are from the UK.

TABLE 2

SETTLER ARRIVALS BY SELECTED OECD COUNTRIES							
Selected Countries of Birth	Settler Arrivals Financial Years in 5 Year Groups					Settler Arrivals	
	75-80	80-85	85-90	90-95	95-00	Fin. Year	Fin. Year
						1999-2000	2000-2001
United Kingdom	86,197	119,463	106,985	64,347	48,121	7,754	7,230
Ireland	3,364	4,887	12,569	3,902	3,756	740	685
Germany	4,771	11,981	6,275	3,836	4,000	710	770
Italy	6,607	4,703	2,525	1,543	1,142	146	158
USA	6,148	8,417	9,519	8,037	6,520	942	1,036
New Zealand	39,842	50,739	82,492	39,673	80,626	21,889	nya
Canada	3,390	4,347	5,121	3,919	3,773	583	565
Netherlands	3,947	7,076	2,733	1,426	1,974	347	334
Sweden	560	1,052	1,569	1,104	665	114	100

Source : DIMA Overseas Arrivals and Departures Data

SUPERANNUATION SYSTEMS OF COUNTRIES
WITH HIGH MIGRATION TO AUSTRALIA BY PLACE OF BIRTH

UNITED KINGDOM:

Large and mature superannuation system, including employer, personal and state. Access to lump sum limited. Whilst the formulas differ from employer to personal, the general maximum lump sum is 25% of the fund, with some arrangements being more restrictive. The balance must be used as an income/annuity for life. Legislative rules on access age are set at a normal retirement age between 50 and 60

NEW ZEALAND:

As their system taxes the growth at 33% per annum and most funds are accessible, it is unlikely that any transfer would be made to the Australian system. It is therefore more probable that someone would cash-out the fund and then bring the money to Australia as normal person money. Therefore taxation on superannuation transfers to Australia is generally not relevant.

SOUTH AFRICA:

Superannuation system has a range of schemes, Retirement Annuities, Provident funds and Pension funds. Access restriction set to a normal retirement age. Maximum lump sum 1/3 of fund value, balance must be taken as a pension income. In Addition exchange controls apply, thus limiting transfers.

ASIA:

Many countries have had limited superannuation structures until only very recently. Skilled Migration from these regions has only recently increased. Previously most migrants were on humanitarian grounds. Therefore people migrating with superannuation arrangements would be low. Wealth held directly, would be covered by existing Australian legislation.

This overview has not tried to provide an in depth examination of the past 30 years, it does however make it clear that the when migration place of birth, age and superannuation systems, are looked at together, the UK has provided the largest percentage of people affected by the application of 27CAA.

- ❖ When viewed with the superannuation system the restrictions and requirements to draw an income and not a lump sum plus the fact that when transferred, the benefits must be preserved until retirement. The taxation treatment of superannuation transfers as income not consistent.
- ❖ A reduction would in no way provide for a more generous treatment than other Australian residents as the transfer cannot be accessed, changes would only make for a more equitable level of taxation.

SUMMARY

The impact on individuals that arises as a result of 27CAA can vary considerably. The present arrangements have a far greater impact on people who have been resident for some time, due to the greater amount of growth that is added to the income. This is best illustrated by way of examples:

EXAMPLE 1. (Based on 2001/2002 rates- figures rounded)

Resident since	1982
Current income (per annum)	\$69,000
Super Guarantee contributions @ 8%	\$5,520
Overseas superannuation fund value now	\$217,083
Overseas superannuation fund value at residency	\$74,740
Growth component	\$142,343

RESULT:

Transfer amount subject to tax	\$ 142,342
Tax rate	47% + 1.5% Medicare
Income for year now	\$ 211,342
Adjusted taxable Income for Surcharge	\$ 216,862
Surcharge Rate	15%
Tax on transfer	\$ 69,035
Surcharge tax payable on Australian Contributions	\$ 828
Total tax payable if transferred	\$ 69,863

EXAMPLE 2. (Based on 2001/2002 rates- figures rounded)

Resident since	1995
Current income (per annum)	\$ 45,000 per annum
Super Guarantee contributions @ 8%	\$3,600
Overseas superannuation fund value now	\$ 132,724
Overseas superannuation fund value at residency	\$80,000
Growth component	\$ 52,724

RESULT:

Transfer amount subject to tax	\$ 52,724
Tax rate	42 % - 47% + Medicare
Income for year now	\$ 97,724
Adjusted taxable Income for Surcharge	\$ 101,324
Surcharge Rate	13.19278 %
Tax on transfer	\$ 24,821
Surcharge tax payable on Australian Contributions	\$ 475
Total tax payable if transferred	\$ 25,296

In both Example 1 and Example 2 there is an extremely large tax liability.

A surcharge liability is also incurred on the Australian Superannuation Contributions. In the second example the person isn't a higher rate taxpayer and yet they incur a surcharge liability and pay the top marginal rate on a large portion of the transfer.

SOLUTIONS

Whilst there are some slight variations in the solutions proposed by various people involved in transferring benefits, the core problems seem to be pretty well identified and agreed upon by all.

Even though there may be a number of valid solutions, it would be desirable if any changes were designed so they fitted within the existing Australian superannuation policy.

This would result in a more equitable and workable system, in which people are keen to transfer their overseas benefits to Australia. The changes would also result in longer standing residents and newly arrived residents being treated equally.

RECOMMENDED CORE CHANGES

- 1. Growth only treated as an untaxed component, and therefore taxed (currently 15%) and credited to a superannuation fund as a Post 83 taxed component.**
- 2. Fund value before residency applied as undeducted component.**
- 3. Remove retrospective nature of legislation. So only applies to growth after 1st July 1994**
- 4. Extend transfer window to 18 months.**
- 5. FIF to be extended to cover all superannuation arrangements whether employer sponsored or not.**
- 6. Allow the above changes to apply to transfers that have already occurred, so people who have made an effort to comply with the current arrangement and been disadvantaged, can apply to have the tax already paid credited back to them.**

RESULTANT BENEFITS:

1. Avoids the need to change legislation to accommodate payment of tax, as this is already covered in the treatment of untaxed components. This will also ensure that future changes in general superannuation legislation do not result in the need to conduct separate reviews of overseas superannuation transfers.
2. The tax would be deducted from the transfer by the receiving superannuation scheme, therefore shifting the responsibility away from the self-assessment system. It would also negate the need for changes to tax returns or tax packs. Thus simplifying collection.
3. Removes issues surrounding Surcharge tax as the transfer would not be a contribution nor would the transfer affect adjusted taxable Income.
4. Encourage people to transfer their benefits to Australia as they would transfer into the tax effective area of superannuation. Even if the tax rate of their overseas fund was nil, it would be better to transfer sooner, as the growth would always be treated as untaxed until transferred (15%). If they transferred sooner then the effective tax rate in Australia on future capital gains would be only 10%, with interest and dividends benefiting from franking credits.
5. Should increase tax revenue due to more people transferring, plus the increased taxation of earnings from the greater superannuation balances of transferees.
6. Reduce reliance on state benefits, as the additional funds in a persons superannuation account would increase self-funded retirement.
7. Increase Australian investment. Since the money will now be in an Australian fund, there should be an increase in the percentage of money invested in local investments. This will occur, as most super funds tend to invest greater than 55% of the assets in the country they are based spread across equities, fixed interest or property.

End.