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TELEPHONE: +61 2 9409 0872 FACSIMILE: +61 2 9409 0874
EMAIL: brent.hutton@apfs.com.au

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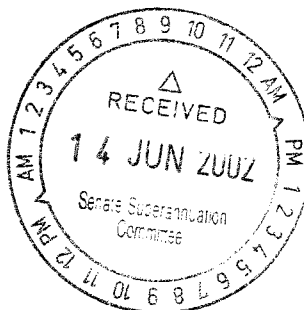
PENSION
TRANSFERS
DIRECT PTY
LTD



AFN 11 095 690 823
ACN 095 690 823

13th June 2002

Ms Sue Morton
Secretary
Select Committee On Superannuation
Parliament House
Canberra ACT 2600



Dear Sue

RE: Taxation Treatment of Transfers From Overseas Superannuation Funds

Further to your letter of 28th May 2002 and our telephone conversation last Friday, 7th June 2002, I again apologise for the delay in returning the attached information.

As mentioned, upon proof reading the 'transcript of evidence' given at the Public Hearing in Sydney on 22nd May 2002, I realised that I had misinterpreted a question from the CHAIR (Senator Watson) and thus answered incorrectly. Please refer to the bottom of page 'Super 128' as highlighted in the attached copy.

The correct answer: ***"Yes, the Australian fund that has received the 'surchargeable contribution' will pay the surcharge from the fund, as it is a fund tax, not an individual tax."***

Sue, with regard to the additional material that was requested by the committee, please find attached for consideration:

1. Copy of letter dated 3rd April 2000 from Pension Transfers Direct (PTD) to Prime Minister Howard and other ministers highlighting the inequities of Section 27CAA. The only real response was from the 'Office Of The Assistant Treasurer' and failed to address the issues and concerns raised by PTD (as per copy 25th May 2000)
2. Copy of correspondence relating to clients who as a result of the assessable income via section 27CAA had to repay 'Family Allowance'. The client involved their local Member of Parliament who subsequently wrote to the ATO. A copy of the ATO response is also enclosed.
3. Copy of the ATO response to a client request for 'private ruling' given a UK defined benefit fund was unable to provide a transfer value as at the client's date of Australian residency.

I hope this information is of use to the committee, please do not hesitate to contact either David Ford (West Perth office) or myself should you require any further detail.

Pension Transfers Direct appreciates the opportunity to be involved in the review process and are happy to avail our time as required.

Yours sincerely

A handwritten signature in black ink, appearing to read "Brent Hutton". The signature is written in a cursive style with a large initial 'B' and 'H'.

Brent Hutton
Director.

3 April, 2000

Honourable John Howard MP
Prime Minister
Suite MG 8,
Parliament House
Canberra
ACT 2600



Attachment 1
PENSION TRANSFERS DIRECT

COPY

Dear Mr Howard

Migration and Tax

Our business throughout Australia and with offices in Sydney and Perth, provides advice to British migrants on their United Kingdom superannuation entitlements, and how to transfer them to an appropriate Australian superannuation scheme where it is advantageous do so.

Over the past three years we have introduced about \$ 30,000,000 of brand new money to the Australian economy by way of these contributions to Australian superannuation schemes from United Kingdom migrants around the country.

This in turn directly reduces the ongoing burden to the Australian taxpayer in funding for future Age Pension benefits for these migrants.

As you may be aware, section 27CAA of ITAA 1936 provides for the ATO to tax migrants on the growth in the value of their superannuation fund if they trigger a taxable event such as a transfer any time after the first six months of their Australian residency.

This has a significant detrimental effect when it comes to convincing a migrant that it is prudent to transfer their fund - the resultant outcome is that many migrants simply do not take any action, and leave their benefits in the United Kingdom. In effect this leaves a tax 'timebomb' ticking behind these unsuspecting new Australians.

Further downside to the treasury here in Australia is evidenced in that revenue is not collected by the ATO under the section of the tax act, as no migrant would want to set the 'timebomb' off.

In fact no revenue would be collected by the Australian treasury until retirement when an income is taken from these United Kingdom funds, just as it would if an income was taken from an Australian superannuation arrangement.

The following figures taken from our business plan (originating from the department of immigration) show the number of migrants that this effects and blends with that number our commercial assumptions.

From this you can see there is a huge volume of money that could be brought into the Australian economy thus securing employment within fund management groups, improving the retirement ideals of migrants and reducing the impact upon state Centrelink benefits and so general income taxation.

How Is The Target Market Composed Nationally ?

New Migrants

Some 83,000 migrants arrived in Australia in 1997 - 15% of these migrants came from the United Kingdom, some 12,000.

Each year about 10,000 British migrants arrive in Australia and the Commonwealth of Australia advise that they are always oversubscribed by applicants.

Existing Migrants

Approximately 1,200,000 British migrants currently reside in Australia - approximately 8% of the population.

Returning Australian Citizens

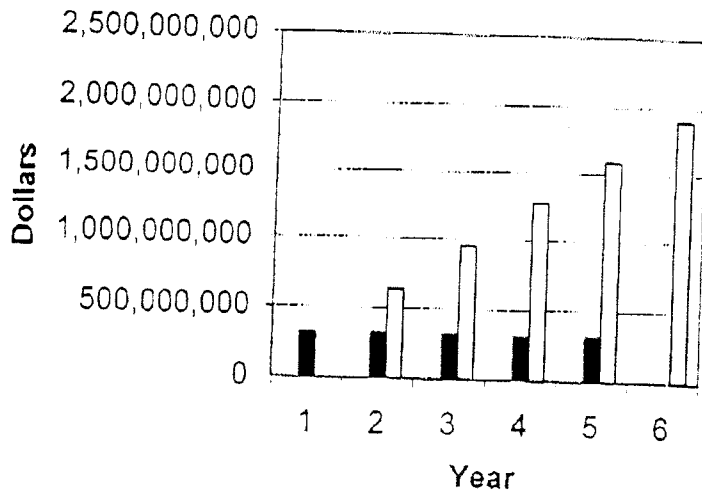
Some 100,000 Australian citizens left Australia for a period of 12 months or more in 1997, many of whom will live and work in the United Kingdom accruing superannuation entitlement. Additionally there are those who have left before and after 1997 and have not yet returned. (They are ignored for the purposes of the following table)

How Big Is The Target Market In People And Dollar Terms Nationally ?

	New British Migrants Per Annum	Existing British Migrants In Australia
Number of People	10,000 pa	1,200,000
25% Assumed To Have United Kingdom Superannuation	2500 pa	300,000
5% of the 25% Seek A Transfer each year (Over 5 Years)	125 pa	3,000 pa (300,000@ 5% divided by 5)
New Annual Funds Into The Australian Economy From New British Migrants Where Average Transfer Value Is \$ 140,000	17,500,000 pa	---
New Annual Funds Into The Australian Economy From Existing British Migrants Where Average Transfer Value Is \$100,000	---	300,000,000 pa
Total Funds Into Australian Economy At The End Of 5 Years	87,500,000	1,500,000,000

New Money into the Economy - Nationally

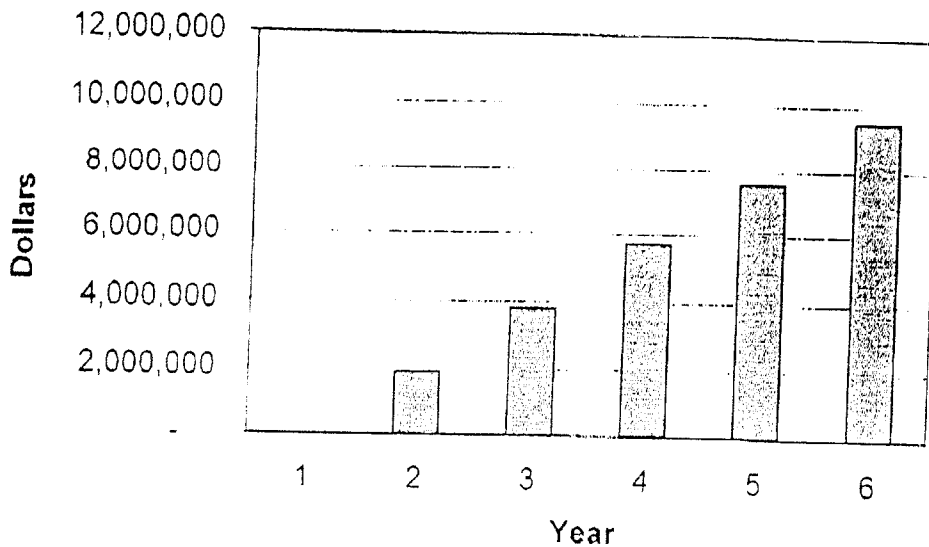
Incoming Money into Australian Economy



■ Annual Incoming Transfer □ Ongoing Funds under Management

New Income Tax To Australian Treasury Derived From Income Tax Levied On Superannuation Funds Income

Tax Revenue derived from Superannuation Income



As you can see we have only allowed for a small percentage of the potential market as so many migrants will clearly not transfer funds to Australia as they cannot afford (nor wish) to suffer the tax charge under the tax act

The main reason that S27CAA ITAA 1936 was introduced was to encourage new migrants particularly from Britain, to bring their superannuation funds with them and so mitigate the pressure on the Australian taxpayer to provide Age Pensions following the British governments continual refusal to index state pensions.

In the light of the government's decision to sever the Social Security agreement between the two nations (copy announcement attached) there is every reason to re-visit this legislation.

The purpose of this letter is to open a communication channel with you, and to look at how best the relevant section of the act can be revisited with a view to repealing or amending it, or at the very least running a sort of 'amnesty' period for existing migrants to transfer their funds. (It is particularly harsh on a migrant arriving in the country prior to 1st July 1994 when the act was introduced as it is retrospective.)

The appeal to any government is clear would welcome you initial comments and direction so that we can move forward

Yours sincerely

David M Ford



OFFICE OF THE
MINISTER FOR FOREIGN AFFAIRS
PARLIAMENT HOUSE
CANBERRA ACT 2600

Mr David M Ford
Pension Transfers Direct
PO Box 1286
WEST PERTH WA 6872

18 MAY 2000

Dear Mr Ford

Thank you for your letter to the Minister for Foreign Affairs, the Hon Alexander Downer MP, of 3 April 2000, concerning superannuation entitlements. I apologise for the delay in replying.

As this issue falls within the portfolio responsibility of the Minister for Financial Services and Regulation, the Hon Joe Hockey MP, I have referred your letter to his office for consideration.

Yours sincerely

Bill Paterson
Chief of Staff



OFFICE OF
THE HON LARRY ANTHONY MP
MINISTER FOR COMMUNITY SERVICES
FEDERAL MEMBER FOR RICHMOND

Mr David M Ford
Pension Transfer Direct
PO Box 1286
WEST PERTH WA 6872

04 MAY 2000

Dear Mr Ford

The Minister for Community Services has asked me to reply to your letter of 3 April 2000.

The Minister has noted your comments. However, this matter falls within the portfolio responsibility of the Treasurer, the Hon Peter Costello MP. I have therefore referred your letter to Mr Costello for his attention.

I hope this will be of assistance.

A handwritten signature in cursive script that reads "Gary Kent".

Gary Kent
Chief of Staff



11 MAY 2000

Mr David M Ford
PO Box 1286
WEST PERTH WA 6872

Dear Mr Ford

Thank you for your letter of 3 April 2000, concerning the transfer of British migrants' superannuation entitlements. The letter was referred to the Minister for Immigration and Multicultural Affairs, the Hon Philip Ruddock MP.

As this matter falls within the portfolio responsibilities of the Australian Taxation Office, your letter has been referred to the office of the Treasurer, the Hon Peter Costello MP, for consideration and reply direct. An officer in the Department of Treasury has been contacted to confirm that this is the appropriate office to respond.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ann Duffield', with a large, stylized flourish extending to the right.

Ann Duffield
Chief of Staff



ATTORNEY-
GENERAL'S
DEPARTMENT

Corporate Services Division

200143:ks

- 8 MAY 2000

Mr David M Ford
Pension Transfers Direct
PO Box 1286
WEST PERTH WA 6872

Dear Mr Ford

I acknowledge receipt of your letter of 3 April 2000 to the Attorney-General, the Hon Daryl Williams AM QC MP, regarding migration and tax.

The matters raised in your letter come within the responsibilities of the Treasurer. Accordingly, I have referred your letter to the Hon Peter Costello MP, for consideration.

Yours sincerely



(L A Watson)
Director
Ministerial and Parliamentary
Section

c.c. Mr Mike Callaghan
Chief of Staff to
the Hon Peter Costello MP



THE DEPARTMENT OF
THE PRIME MINISTER AND CABINET

CANBERRA, A.C.T. 2600

TELEPHONE: (02) 6271 5111
FACSIMILE: (02) 6271 5414

18 April 2000

Mr David M Ford
Pension Transfers Direct
PO Box 1286
WEST PERTH WA 6872

Dear Mr Ford

Thank you for your correspondence of 3 April 2000 to the Prime Minister regarding the taxation of migrants' superannuation funds.

The Prime Minister has asked that letters addressing matters which are the particular responsibility of another Minister be referred to that Minister for closer attention. Therefore, your comments and suggestions have been noted and referred to the Assistant Treasurer, Senator the Hon Rod Kemp who has portfolio responsibility for this matter.

Thank you once again for bringing this matter to the Prime Minister's attention.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. de Mel'.

S. de Mel
Ministerial Officer



DEPARTMENT OF
**FAMILY AND
COMMUNITY
SERVICES**

Box 7788
Canberra Mail Centre
ACT 2610
Telephone: 1300 653 227
Facsimile:
Email:
Website: www.facs.gov.au
TTY: 1800 260 402

Mr David Ford
Pension Transfers Direct
PO Box 1286
WEST PERTH WA 6872

Dear Mr Ford

The Minister for Family and Community Services has asked me to reply to your letter of 3 April 2000 about the taxation of UK pensions.

The Minister has noted your comments. However, this matter falls within the responsibility of the Department of Treasury. I have therefore forwarded your letter to the secretary of that department for attention.

I hope that this is of assistance.

Yours sincerely

Elaine Geraghty
Director
Ministerial and Parliamentary Services

10 April 2000



National Office

Your Reference:

Our Reference : 200001628
200001677

Mr David M Ford
Pension Transfers Direct
PO Box 1286
WEST PERTH WA 6872

Dear Mr Ford

Thank you for your letters of 3 April 2000 to the Minister for Employment, Workplace Relations and Small Business, the Hon Peter Reith MP, and to the Hon Tony Abbott MP, Minister for Employment Services, regarding issues relating to migration and tax.

Both Ministers have noted your concerns, however the matters you have raised fall within the portfolio responsibilities of Senator the Hon Rod Kemp, Assistant Treasurer. I have therefore referred your letters to the Assistant Treasurer for his attention.

Yours sincerely

Liz Anderson
Assistant Team Leader
Parliamentary and Government

12 April 2000



SENATOR AMANDA VANSTONE

Senator for South Australia
Minister for Justice

Mr David M Ford
PO Box 1286
WEST PERTH WA 6872

- 7 APR 2000

Dear Mr Ford,

I am writing further to your letter of 3 April 2000 to Senator Vanstone, regarding migrant pensions and superannuation entitlements.

At the moment, Senator Vanstone is away from the electorate office.

Please be assured that your correspondence will be drawn to her attention as soon as possible.

Please be advised that we have also received via the Minister's internet site your copy of the same letter to the Prime Minister.

Thank you for your contact on these issues.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S Evans', with a long horizontal flourish extending to the right.

Shane Evans
Electoral Officer



DEPARTMENT OF
FINANCE AND
ADMINISTRATION

Reference: 19349
Contact: Thelma Siebert
Telephone: 02 6215 3099
e-mail: thelma.siebert@dofa.gov.au

Mr David M Ford
PO Box 1286
WEST PERTH WA 6872

Dear Mr Ford

Thank you for your letter of 3 April 2000 to the Minister for Finance and Administration, the Hon John Fahey MP, concerning the transfer of British migrants' superannuation entitlements.

As this matter falls within the portfolio responsibility of the Minister for Immigration and Multicultural Affairs, the Hon Philip Ruddock MP, I have referred your correspondence to his office.

Yours sincerely

A handwritten signature in cursive script that reads 'Thelma Siebert'.

Thelma Siebert
Ministerial Liaison Officer

12 April 2000

David Ford

To: Kim.Beazley.MP@aph.gov.au; Lindsay.Tanner.MP@aph.gov.au;
Laurie.Brereton.MP@aph.gov.au; senator.conroy@aph.gov.au;
S.Crean.MP@aph.gov.au; senator.evans@aph.gov.au;
senator.faulkner@aph.gov.au; R.McClelland.MP@aph.gov.au;
Con.Sciacca.MP@aph.gov.au; Con.Sciacca.MP@aph.gov.au
Subject: Migration and Tax - A Recipe for Disaster

Dear Sir or Madam:

Attached is a copy of a letter that has today been sent to key ministers in government as well as the media.

I am sure that you will have your own thought on the subject matter and welcome any input that you or your party feel warranted.

Yours sincerely

David M Ford

www.pentran.com.au

1800 156 666



copy to LABour.doc

David Ford

To: Senator.Lees@democrats.org.au; Senator.Stott.Despoja@democrats.org.au;
Senator.Bartlett@democrats.org.au; Senator.Allison@democrats.org.au;
Senator.Allison@democrats.org.au; Senator.Bourne@democrats.org.au;
Senator.Woodley@democrats.org.au; Norm.Kelly@democrats.org.au

Dear Sir or Madam:

Attached is a copy of a letter that has today been sent to key ministers in government as well as the media.

I am sure that you will have your own thought on the subject matter and welcome any input that you or your party feel warranted.

Yours sincerely

David M Ford

www.pentran.com.au

1800 156 666



Copy to
Democrats.doc

David Ford

To: edletters@afr.fairfax.com.au; Debra Cleveland (E-mail); shoyle@mail.fairfax.com.au; qa@moneymanager.com.au; letters@smh.fairfax.com.au; letters@theage.fairfax.com.au; shletters@mail.fairfax.com.au; webmaster@brw.fairfax.com.au; support@moneymanager.com.au; damien@ra.abc.net.au; info@rn.abc.net.au; 2bl@your.abc.net.au; abcradiowa@your.abc.net.au; foreign@your.abc.net.au; 4corners@your.abc.net.au; 3lo@your.abc.net.au; coastfm@your.abc.net.au; 5an@your.abc.net.au; programming@2gb.com; cmletters@qnp.newsltd.com.au; ausletr@matp.newsltd.com.au; advedit@adv.newsltd.com.au; streport@matp.newsltd.com.au; dtmletr@matp.newsltd.com.au; mailedit@adv.newsltd.com.au; letters@sundaytimes.newsltd.com.au

Subject: Tax Reform - Migrant Fears

Dear Sir or Madam:

Attached is a copy of a letter that has today been sent to key ministers in government as well as the media.

I am sure that you will have your own thought on the subject matter and welcome any input that you or your party feel warranted.

Yours sincerely

David M Ford
www.pentran.com.au
1800 156 666



Copy to media.doc

David Ford

To: tt@7perth.com.au

Subject: NATIONAL STORY - TODAY TONIGHT

Dear Sir or Madam:

Attached is a copy of a letter that has today been sent to key ministers in government as well as the media.

I am sure that you will have your own thought on the subject matter and welcome any input that you feel warranted locally or nationally.

Yours sincerely

David M Ford

www.pentran.com.au

1800 156 666

David Ford

To: tt@7perth.com.au

Subject: FW: NATIONAL STORY - TODAY TONIGHT



Copy to media.doc

Sorry was not attached

-----Original Message-----

From: David Ford [mailto:david.ford@apperth.net.au]

Sent: Monday, 3 April 2000 4:47 PM

To: 'tt@7perth.com.au'

Subject: NATIONAL STORY - TODAY TONIGHT

Dear Sir or Madam:

Attached is a copy of a letter that has today been sent to key ministers in government as well as the media.

I am sure that you will have your own thought on the subject matter and welcome any input that you feel warranted locally or nationally.

Yours sincerely

David M Ford

www.pentran.com.au

1800 156 666

David Ford

To: aroberts@networkten.com.au
Subject: Media Release

Dear Sir or Madam:

Attached is a copy of a letter that has today been sent to key ministers in government as well as the media.

I am sure that you will have your own thought on the subject matter and welcome any input that you feel warranted locally or nationally.

Yours sincerely

David M Ford

www.pentran.com.au

1800 156 666



Copy to media.doc

David Ford

To: aca.feedback@ninemsn.com.au
Subject: STORY FOR ACA

Dear Sir or Madam:

Attached is a copy of a letter that has today been sent to key ministers in government as well as the media.

I am sure that you will have your own thought on the subject matter and welcome any input that you or your party feel warranted.

Yours sincerely

David M Ford

www.pentran.com.au
1800 156 666



Copy to media.doc

David Ford

From: David Ford [david.ford@apperth.net.au]
Sent: Monday, 3 April 2000 3:56 PM
To: 'aca.feedback@ninemsn.com.au'
Subject: STORY FOR ACA

Dear Sir or Madam:

Attached is a copy of a letter that has today been sent to key ministers in government as well as the media.

I am sure that you will have your own thought on the subject matter and welcome any input that you or your party feel warranted.

Yours sincerely

David M Ford

www.pentran.com.au <<http://www.pentran.com.au>>
1800 156 666



Copy to media.doc

David Ford

To: contactus@2ue.com.au

Subject: STORY IDEA

Dear Sir or Madam:

Attached is a copy of a letter that has today been sent to key ministers in government as well as the media.

I am sure that you will have your own thought on the subject matter and welcome any input that you or your party feel warranted.

Yours sincerely

David M Ford

www.pentran.com.au

1800 156 666



Copy to media.doc

David Ford

To: howard@sattler.com.au

Subject: STORY THAT NEEDS EXPOSING

Dear Sir or Madam:

Attached is a copy of a letter that has today been sent to key ministers in government as well as the media.

I am sure that you will have your own thought on the subject matter and welcome any input that you or your party feel warranted.

Yours sincerely

David M Ford

www.pentran.com.au

1800 156 666



Copy to media.doc

David Ford

To: info@2sm.com.au

Subject: Media Release (Howard Sattler)

Dear Sir or Madam:

Attached is a copy of a letter that has today been sent to key ministers in government as well as the media.

I am sure that you will have your own thought on the subject matter and welcome any input that you or your party feel warranted.

Yours sincerely

David M Ford

www.pentran.com.au

1800 156 666



Copy to media.doc

David Ford

To: breakfast@6pr.com.au
Subject: STORY FOR EOIN CAMERON

Dear Sir or Madam:

Attached is a copy of a letter that has today been sent to key ministers in government as well as the media.

I am sure that you will have your own thought on the subject matter and welcome any input that you or your party feel warranted.

Yours sincerely

David M Ford

www.pentran.com.au
1800 156 666



Copy to media.doc



PENSION TRANSFERS DIRECT

24 May 2000

Michelle Calder
Adviser (Superannuation)
Office of the Assistant Treasurer
Parliament House
CANBERRA
ACT 2600

A Reply would be nice.

Dear Michelle

Thankyou for your reply to my letter of 3rd April on behalf of the Assistant Treasurer – copy attached.

I note your comments concerning the 1994 amendments and whilst I as a taxpayer and indeed voter agree with the spirit of them, have to advise that in my 20 years or so practising in the United Kingdom superannuation industry six months is an insufficient time period to carry out a transfer (even if a migrant can be sure of permanency in that short time frame which I doubt)

Given the complex procedures required by the authorities in the United Kingdom who need to sanction the transfer of benefits, the six months grace period is unrealistic. The procedure is a far cry from a 'Rollover' as many Australians both inside and outside the Australian industry view a transfer.

However you have not addressed the main point of my letter being the total injustice of the retrospectivity of the tax.

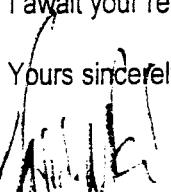
How can it be reasonable to apply the tax to the growth secured on benefits prior to July 1994 ?


Indeed United Kingdom legislation prohibited the transfer of some benefits as until as recently as April 1997.

The Government cannot consider the retrospectivity to be appropriate and I would ask that you revisit this with a view to applying the tax on accrual only from July 1994.

I await your reply.

Yours sincerely


David M Ford

 Cc Hon J Hockey, Hon Peter Costello, Hon Phillip Ruddock, Senator A Vanstone

cc Kim Blasby.



OFFICE OF THE
ASSISTANT TREASURER

PARLIAMENT HOUSE
CANBERRA ACT 2600

Telephone: (02) 6277 7360
Facsimile: (02) 6273 4125

15 MAY 2000

Mr D.M. Ford
Pension Transfers Direct
PO Box 1286
WEST PERTH WA 6872

Dear Mr Ford

Thank you for your letter of 3 April 2000 to the Minister for Financial Services & Regulation concerning the 1994 amendments to the taxation of superannuation benefits received from a foreign fund. The Assistant Treasurer has asked me to respond to you.

The 1994 amendments ensured that an individual who transferred overseas superannuation entitlements to Australia within six months of becoming an Australian resident generally would not incur any taxation liability. The amendments further ensured that, if the benefits were transferred after this six month grace period, generally only superannuation entitlements that had accumulated since the individual became an Australian resident would be subject to Australian tax.

This is consistent with the principle that an Australian resident should be subject to Australian tax on income from all sources.

It is also consistent with restricting Australian superannuation tax concessions to resident superannuation funds that comply with Australian supervisory requirements.

While your views have been noted, the Government considers that the current arrangements are appropriate.

Thank you for bringing your concerns to the Government's attention.

Yours sincerely

A handwritten signature in cursive script that reads 'Michelle Calder'.

Michelle Calder
Adviser (Superannuation)



**OFFICE OF THE
ASSISTANT TREASURER**

PARLIAMENT HOUSE
CANBERRA ACT 2600

Telephone: (02) 6277 7360
Facsimile: (02) 6273 4125

1 JUN 2000

Mr David M Ford
Pension Transfers Direct
PO Box 1286
WEST PERTH WA 6827

Dear Mr Ford

Thank you for your letters of 3 April 2000 to the Minister for Employment, Workplace Relations and Small Business and to the Minister for Employment Services concerning foreign superannuation funds. The Assistant Treasurer has asked me to respond to your letter.

As the matter raised is related to the administration of the income tax laws in Australia, I asked the Commissioner of Taxation for his comments.

The Commissioner confirmed that section 27 CAA of the *Income Tax Assessment Act 1936* provides for the Australian Taxation Office to tax migrants on the growth in value of their superannuation fund if they trigger a taxable event such as a transfer any time after the first six months of their Australian residency.

The Commissioner has advised that section 27 CAA was introduced to give effect to changes announced in the previous Government's "Security in Retirement – Planning for Tomorrow Today's Statement" of 30 June 1992.

The amendments were to simplify the existing tax treatment of overseas superannuation funds and payments related to them. The amendments were to ensure that tax concessions for superannuation contributions and benefits are limited to retirement benefits which are subject to Australian regulations. Also the amendment ensure that non-resident superannuation funds cannot be used to avoid Australian regulations and that Australian tax concessions are not diverted to non-residents.

The Commissioner also advised that the legislation allows a person who becomes a resident of Australia, six months to convert any relevant off-shore superannuation fund investment into a complying Australian fund, without any tax implications for the member.

While the Commissioner appreciates the difficulty you have convincing migrants that it is prudent to transfer their fund, he said that he could not compel migrants to take advantage of the tax-free window. In these circumstances he had no alternative but to tax the benefit when it is subsequently received, albeit sometime in the future. The Commissioner also said that he is obliged to apply the taxation laws as they stand and there is little scope for the variation of the rules.

She has no idea !!

Given the advice of the Commissioner and the generous 6 month tax-free window of opportunity that already exists, the Government does not envisage any change to the legislation at this time.

I trust this information will be of assistance to you.

Yours sincerely

Michelle Calder

Michelle Calder
Adviser (Superannuation)



**OFFICE OF THE
ASSISTANT TREASURER**

**PARLIAMENT HOUSE
CANBERRA ACT 2600**

**Telephone: (02) 6277 7360
Facsimile: (02) 6273 4125**

- 6 NOV 2000

Mr D.M. Ford
Pension Transfers Direct
PO Box 1286
WEST PERTH WA 6872

Dear Mr Ford

Thank you for your facsimile of 4 October 2000 concerning the taxation of superannuation benefits received from an overseas superannuation fund. The Assistant Treasurer has asked me to respond to you.

As I noted in my previous letter of 11 August 2000, section 27CAA of the *Income Tax Assessment Act 1936* was introduced in 1994 to ensure that an individual who transferred overseas superannuation entitlements to Australia generally would not incur a taxation liability within six months of becoming an Australian resident. If the benefits are transferred after this six month grace period, generally only superannuation entitlements that had accumulated since the individual became an Australian resident would be subject to Australian tax.

The six month grace period is designed to provide a balance between allowing individuals who become residents of Australia sufficient time to transfer their superannuation entitlements and minimising the scope for these individuals to avoid paying Australian tax by leaving their money in overseas superannuation funds.

In respect of your concerns about the treatment of overseas superannuation entitlements that have accrued prior to 1 July 1994, the intention of section 27CAA is to include in a taxpayer's assessable income any amounts that accrue in a non-resident superannuation fund that are attributable to the period that the taxpayer is a resident of Australia. This will usually be the investment earnings that accrue in the non-resident fund during that period.

Thank you for bringing your concerns to the Government's attention.

Yours sincerely

A handwritten signature in cursive script that reads 'Michelle Calder'.

Michelle Calder
Departmental Liaison Officer

PO BOX 254 ROCKINGHAM 6968

Attachment 2

Rockingham City Shopping Ct Central Promenade Rockingham 6168
Fax: (08) 95990099

Please quote: [REDACTED]
Telephone: 13 6150
Office Hours: Monday to Friday 8.30am - 4.30pm



Dear Mrs

You recently asked me to review my decision about your overpayment of Family Allowance.

After careful consideration I have decided that the decision was correct under section 838 of the Social Security Act 1991.

In making my decision I have taken into account the following factors:

Your and your partner's taxable income for the 1999/2000 financial year was above the threshold to receive Family Tax payment.

The taxable income precluded you from payment for the period 15/5/00 to 30/6/00.

If you do not agree with this decision, please contact us and we will explain it. If you still do not agree, you can ask for an Authorised Review Officer (ARO) to look at it. The ARO is an experienced officer who would not have previously been involved in your case. They can change the decision if its wrong or, if they agree with the decision they can tell you how to appeal to the Social Security Appeals Tribunal (SSAT). Both the ARO review and the SSAT appeal are free.

Remember, if you do not ask for the decision to be reviewed within 52 weeks of being told about it, any change to that decision, or any backpayment can only take effect from the date you ask.

If you wish to comment on the quality of service you received from us you can talk to our Customer Relations staff on Freecall 1800 050 004. If you have contacted our Customer Relations staff with a concern and they have not been able to resolve it to your satisfaction, you can take the matter further by contacting the Ombudsman's Office whose toll free "1300" number is listed in your phone book.

If you have concerns about your personal information phone us or come in and see us. We will look into the matter and tell you about your rights to see and amend your information. If you are still not satisfied you can contact the Privacy Commissioner whose "1300" number is in your phone book. Personal information is treated as confidential and can only be released to someone else in special circumstances, where the law requires, or where you give permission.

PO BOX 254 ROCKINGHAM 6968

Rockingham City Shopping Ct Central Promenade Rockingham 6168
Fax: (08) 95990099

Please quote: [REDACTED]
Telephone: 13 6150
Office Hours: Monday to Friday 8.30am - 4.30pm



Dear

The purpose of this letter is to gather information to help us make the right decision about your Family Tax Benefit .


Would you please provide the following:

. Tax Assessment Notices for yourself and your partner for the 1998/99 and 1999/2000 financial years.

Please mail or personally return any requested information to this office. Original documents can be returned by registered mail at your request.

If you would like to talk about this letter or are unable to provide the requested documents please phone us on the number at the top of this letter. You need to contact us or supply the documents within 14 days after the day on which this letter is given to you to avoid possible cancellation of your Family Tax Benefit.

Yours sincerely


T Kennington
Customer Service Officer
Family Assistance Office

12 February 2001



Telephone: (08) 9268 6111
Facsimile: (08) 9268 6250
Email: corina.sheref@ato.gov.au

Website: www.ato.gov.au/super

Our Reference:

Contact Officer: Corina Sheref

Extension: (08) 9268 6870

Your Reference:

11 April 2001

Mr Mark McGowan MP
Member for Rockingham
PO Box 88
ROCKINGHAM WA 6168

Dear Mr McGowan

**SUPERANNUATION: LUMP SUM PAYMENTS FROM A
SUPERANNUATION FUND IN THE UNITED KINGDOM**

Thank you for your letter dated 16 March 2001 on behalf of Mr and Mrs [redacted], concerning lump sum payments paid from a superannuation fund in the United Kingdom.

There were a number of significant changes made to the legislative provisions dealing with lump sum payments made on or after 1 July 1994 from certain non-resident superannuation funds. The superannuation fund in the United Kingdom is considered to be a non-resident superannuation fund. The provisions dealing with the transfer of benefits from non-resident superannuation funds to superannuation funds which are resident in Australia are also affected by these changes.

A lump sum payment or transfer of benefit made from a non-resident superannuation fund to an Australian resident is exempt from tax if it is made within six months of the taxpayer becoming a resident of Australia. This is also referred to as an exempt non-resident foreign termination payment.

If the payment is not exempt from tax, then part or all of the payment may be included in the taxpayer's assessable income under section 27CAA of the *Income Tax Assessment Act 1936*. This provision also applies where the payment is made directly to an Australian complying superannuation fund for the benefit of the taxpayer.

Generally the amount included in assessable income is the portion of the lump sum payment which accrued in the non-resident fund after the day immediately before the taxpayer became a member of the fund or after the day on which the taxpayer became a resident of Australia, whichever is the later. The amount included as assessable income is calculated as follows:

Accumulated entitlement + Additional contributions

[Faint, illegible text]

where:

Accumulated entitlement is the amount properly payable (or amount vested) to the taxpayer from the fund on the day before the relevant day;

Additional contributions is the amount of contributions that were paid by the taxpayer or the employer on or after the relevant day; and

Relevant day is either the day on which the taxpayer became a member of the fund or the first day during the period to which the payment relates that the taxpayer became a resident of Australia, whichever is the later.

For example:

- A taxpayer had an amount of \$10 000 vested in a fund in the United Kingdom at the time he became a resident of Australia. The taxpayer became a member of the United Kingdom fund on 4 February 1990, and a resident of Australia on 1 January 1998. The relevant day is the day the taxpayer became a resident of Australia.
- The taxpayer's employer made additional contributions of \$2 000 between 1 January 1998 and 1 January 2001.
- The taxpayer received a lump sum payment of \$15 000 on 1 January 2001.
- The assessable portion of the payment is \$3000, and is calculated as follows:
$$\$15\,000 - (\$10\,000 + \$2\,000) = \$3\,000 \text{ assessable income in Australia}$$
- The assessable portion of \$3 000 is included as assessable income in the taxpayer's assessable income, and is subject to the individual's marginal rate of tax .

The superannuation legislation allows an Australian superannuation fund to accept the payment from a foreign superannuation fund (subject to the receiving fund's approval). Such a payment will not be treated as a roll-over because a roll-over is an amount transferred between complying funds. A non-resident superannuation fund cannot be a complying fund. The transfer will generally be treated instead as undeducted contributions.

An undeducted contribution is not part of the taxable income of the receiving superannuation fund. It is exempt from tax and is not included in the taxpayer's assessable income when withdrawn as a lump sum. An undeducted contribution is not included for Reasonable Benefit Limits calculations.

Also, the undeducted contribution can be used to calculate the Undeducted Purchase Price (UPP) of any future pension payments a taxpayer may receive from his/her fund.

The UPP is an amount that can be claimed as a deduction every year in the taxpayer's income tax return, once the taxpayer commences receiving a pension from the fund.

Thank you for bringing Mr and Mrs _____ concerns to my attention.
If you have any further queries on this matter please contact Ms Corina Sheref on (08) 9268 6870 or telephone the Superannuation Helpline on 13 10 20 and ask for extension 86870.

I trust that this information will be of assistance.

Yours faithfully



(Corina Sheref)
for Leo Bator
DEPUTY COMMISSIONER OF TAXATION

15:40 9367-7654
12:07

EDWARDS KARWACKI

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NO. 295 002



Telephone: (08) 9268 6111
Facsimile: (08) 9268 6250

Australian Taxation Office
48-54 Grose Avenue (formerly Sutton Street) Cannington WA 6107
PO Box 2001 CANNINGTON WA 6987

Attachment 3

Our Reference:
Contact Officer:
Contact Phone:
Your Reference:

4 August 1999

Dear Mr

APPLICATION FOR PRIVATE RULING

Rule Name:

Rule File Number:

Subject

Foreign Superannuation Payments: Tax on a lump sum benefit paid by a non-resident defined benefit fund to a resident taxpayer.

We acknowledge receipt of your Private Ruling application dated 21 April 1999.

You are advised that the Commissioner has declined to make a ruling by virtue of subsection 14ZAQ of the *Taxation Administration Act 1953*. This is because the correctness of the private ruling would depend on an assumption as to whether an actuarial amount could be obtained.

While a Private Ruling cannot be given on the matter submitted in your application, the following advice is offered. You should understand that the advice offered is in no way a Private Ruling for the purposes of Part IVAA of the *Taxation Administration Act 1953*.

TAXES - Building a better Australia

15:40 9367-7654
12:07

EDWARDS KARWACKI

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NO. 295 003

Facts

1. Taxpayer has received a lump sum payment of \$A75 600 for a UK Final Salary Defined Benefit Scheme (Scheme). ✓
2. Under the rules of the Scheme the amount that would have been payable the day before the taxpayer became an Australian resident for tax purposes could not be determined. As there was no vested benefit available to the member under the rules of the fund there was no amount available to be paid.
3. A lump sum could only be paid under the fund rules where certain criteria were met, for example, age or residency of the member.

Questions at Issue

1. How should Section 27CAA of the Income Tax Assessment Act 1936 be applied to the lump sum amount received by the taxpayer from a non resident defined benefit superannuation scheme?

Answer: It should be applied by including in assessable income the gross amount of the lump sum less the accumulated entitlement.

2. What amount should be included under section 27CAA?

Answer: The amount to be included under section 27CAA would either be the whole amount of the payment received or an amount determined by an actuary.

|| ⇒

Reasons for Decision

SECTION 27CAA

The taxation of a lump sum from a non resident superannuation fund is found in section 27CAA of the *Income Tax Assessment Act 1936* (ITAA). Section 27CAA of the ITAA states:

27CAA Assessable income to include component of lump sum payment from an eligible non-resident non-complying superannuation fund

(1) When assessable income includes amount of the excess

If:

(a) a payment (the "relevant payment") of a lump sum (including a payment made as a result of the commutation of a superannuation pension or of an annuity but not including an "exempt resident foreign termination payment" or an "exempt non-resident foreign termination payment") is made from a fund that is an eligible non-resident non-complying superannuation fund in relation to a taxpayer when the relevant payment is made; and