

**Senate Select Committee on
Superannuation and Financial Services**

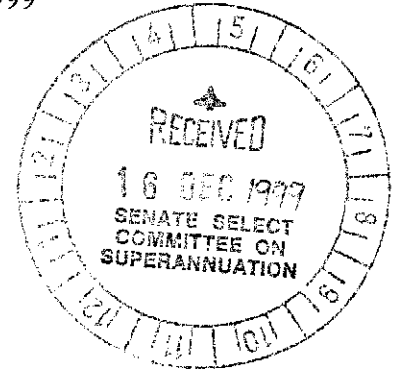
**Main Inquiry
Reference (a)**

Submission No. 1

Submittor: Mr Peter Williams
1-B Drumfern Street
ANDROSS WA 6153

1 – B Drumfern Street
ARDROSS WA 6153
9 December 1999

The Secretary
Senate Superannuation & Financial Services
Select Committee
Parliament House
CANBERRA ACT 2600



Dear Sir/Madam

Consumer protection for superannuation services

Thank you for the opportunity to make a submission to your committee which is looking into, inter alia, consumer protection for superannuation.

Background

I am an academic employed by a university. I am compelled to belong to two superannuation schemes, both managed by Unisuper Management Pty Ltd (commonly referred to as 'Unisuper'):

- Tertiary Education Superannuation Scheme (commonly referred to as 'TESS'), and
- Superannuation Scheme for Australian Universities (commonly referred to as 'SSAU').

I have been employed at the university since 1987. Should I choose to retire at age 65, I will have been a member of TESS and SSAU for approximately 26 years. I have no superannuation entitlements other than those provided by TESS and SSAU. My annual salary at present is approx. \$81,00.00.

As you are most probably aware, TESS is an accumulation fund maintaining individual member accounts. Until recently, SSAU was an entirely defined benefit fund. In 1999, however, SSAU members were compelled to choose between entering an Investment Choice Plan (essentially an accumulation fund maintaining individual member accounts) or remaining in a Defined Benefits Plan. Under the defined benefits plan, an SSAU member does not have a separate account – rather, member

contributions are invested by the SSAU trustees as a single portfolio and benefits are paid out of that single portfolio. I chose to remain in the defined benefits plan.

Superannuation levy

Because of my salary level, both my TESS and SSAU schemes attract the superannuation levy.

At attachment A is a copy of information, as inadequate as it might be, provided by Unisuper about the effect of the superannuation levy on the defined benefits plan.

At Attachment B is a copy of a document forwarded to me by Unisuper. The document purports to explain how Unisuper will manage the superannuation levy. As the document indicates, because TESS is an accumulation fund, any superannuation levy liability incurred by me is paid directly out of my TESS superannuation account. However, because I have remained in a defined benefits plan under SSAU, Unisuper has decided that my superannuation levy liability in relation to my SSAU fund will be managed through a Surcharge Debit Accumulation Account (referred to as 'SDA Account') within my SSAU record. As Attachment B indicates, this SDA account will accumulate with interest, and upon my leaving SSAU, will be offset against my final benefit. **What Attachment B does not indicate is that the rate of interest to be applied by Unisuper to the SDA account is 12.8% per annum!!** Apparently, the rate of interest charged from year to year against a SDA account is to be based on the net earning rate of SSAU.

Unisuper has further decided that if a defined benefits plan member wishes to avoid interest charges against the SDA account, the member can make a lump sum payment in any year to SSAU to offset part or all of the member's SDA account. What this practically means is that if I choose to offset my SDA account by making a lump sum payment, I must find additional after-tax monies to do so.

According to Unisuper, the Australian Taxation Office had difficulty establishing systems to collect the superannuation levy and so superannuation levy assessments for 1996/1997 and 1997/1998 were not advised to Unisuper until March and May 1999 respectively. What this practically meant was that if I chose to offset my SDA account with a lump sum payment, I had to find a significant after-tax amount to reduce the impact of the Taxation Office's 'difficulty' on me.

My position

My total superannuation levy assessment for 1996/1997 and 1997/1998 amounted to \$3878.10. As of 25 August, that figure had increased to \$4,246.40 because of the 12.8% interest imposed by Unisuper. Since 25 August, I have managed to pay after-tax lump sums to cancel out the 1996/1997 and 1997/1998 liability accruing in my SDA account.

I have written to a number of politicians about the inequities caused by the superannuation levy and by the manner in which Unisuper has decided to manage the superannuation levy. I still await a response from Mr Kim Beazley's office; the response from my MP, Mr Daryl Williams, is attached as Attachment C.

Issues

The superannuation levy raises a number of issues:

- In the light of current taxation policies, the superannuation levy is unfair, discriminatory, anti-worker and mean.
 - For 9 years I went without income to acquire my qualifications and expertise. Because I worked like the proverbial dog to get where I am, I am penalised by a tax that singles me out for getting off my backside and working hard to achieve goals.
 - The current tax policies of the government are utterly unfair. Because of my salary level achieved after sacrifice and hard work, I must now pay the superannuation levy and the increased medicare/East Timor levy. I note, with an enormous amount of cynicism, that our good old politicians seek and are granted a pay-rise that will help them very nicely manage not only these increased levies but also the GST!! And I suspect, too, with an equal amount of cynicism, that the politicians' own taxpayer-funded superannuation scheme has not adopted the Unisuper method for handling the superannuation levy!!

- If the superannuation levy must be paid, the mechanism employed by my superannuation fund to deal with it is grossly unfair and imposes a real burden on members who remain within the defined benefits plan.
 - We were not consulted by Unisuper with respect to the establishment of the SDA account and the imposition of a 12.8% interest rate on any outstanding liability.
 - I have requested Unisuper to meet my SSAU superannuation levy liability from my TESS account, but Unisuper has maintained that because TESS and SSAU are different funds, my request cannot be granted. I am therefore compelled to comply with the SDA account mechanism implemented by Unisuper.
 - While members have a choice as to whether they pay off any superannuation levy liability, there is really no real choice. The consequences of letting the liability accrue at the interest rate of 12.8% for a period, in my case, of approximately 26 years would have a devastating impact on the amount of superannuation I would then receive upon retiring.

- Unisuper does not appear to be accountable to its members whose monies it is managing.
 - In my dealings with Unisuper over the superannuation levy and the manner in which it has unilaterally decided to deal with it, Unisuper continues to show no concern whatsoever for members for whom, like me, superannuation is going to be their only source of income upon retirement. As often as I have complained, Unisuper continues to defend its actions.
 - There is no appeal mechanism that I can pursue against the idea of an SDA account or the grossly unfair 12.8% interest rate imposed by Unisuper. In fact, the interest rate is, for all intents and

purposes, a penalty on those who have chosen to remain within the SSAU defined benefit plan; because the SSAU investment choice plan is essentially an accumulation fund, the superannuation levy liability is met immediately by the monies in one's investment choice plan account so that there is no negative 12.8% impact on funds held in that account.

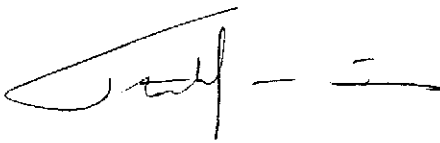
My submission

I urge the following:

- 1) The superannuation levy should be abolished, or at least reduced in the light of additional tax burdens that government seems increasingly willing to impose on PAYE folk.
- 2) Superannuation funds managers must be compelled to put in place mechanisms that ensure that the superannuation levy liability is borne directly by a member's superannuation account. The levy is imposed in relation to superannuation contributions; it should therefore be paid out of superannuation funds, even defined benefits plan funds, or at least another superannuation fund (such as, in my case, TESS).
- 3) There must be an appeals body within the superannuation industry to deal with such grossly unfair mechanisms as the Unisuper mechanism employed to deal with defined benefits plan schemes and payment of the superannuation levy. The appeals process should be cheap, accessible, well publicised and effective. It is simply not good enough for government to take the attitude as reflected in the government's Assistant Treasurer's letter at Attachment C.

I thank the Senate Committee for the opportunity to make a submission.

Yours sincerely

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

PETER WILLIAMS

Defined Benefit Plan

Summary booklet

your current benefits



SSAU

Defined Benefit Plan

ATTACHMENT A

How the plan works

Benefits in the plan are defined benefits. They are calculated—or defined—using a formula. The formula is based on your salary in the last three years of employment and years of SSAU membership.

The trustee does not keep a separate account for each member. Contributions are invested as a single portfolio and used as required to pay benefits.

Contributions

Member contributions

You are required to contribute 7% of your salary to the plan. These contributions are deducted from your pay each pay period. Members on lower salaries may have the option to contribute at 3.5% of salary.

Before-tax member contributions

Some employers allow members to make contributions from their before-tax pay (ie salary sacrifice).

Employer contributions

Your employer contributes an amount equal to 14% of your salary. For members on lower salaries who contribute at 3.5%, the employer contributes 7%. Contributions made by your employer (including salary sacrifice contributions) are taxed at 15% on receipt by the plan.

Rollovers

If you have superannuation elsewhere, for example in a previous employer's fund, you can roll over that amount into SSAU. Any amounts you roll over after 1 July 1998 will be held in an account in your name in the Investment Choice Plan where it will earn interest. It will be paid to you in addition to any benefits from the Defined Benefit Plan.

Expenses and tax

The formula used to calculate benefits makes allowance for administration, death and disablement insurance charges and 15% contributions tax on employer contributions.

Your benefits from the Defined Benefit Plan will be reduced by any contributions surcharge tax the trustee is required to pay on your behalf. The surcharge tax is in addition to the 15% contribution tax. It applies to contributions made by employers for members whose taxable income plus employer superannuation contributions exceeds \$73,220*. The surcharge is calculated on a sliding scale up to 15% of contributions where taxable income plus employer contributions is \$88,910* or more.



* 1997-98 year
These amounts are
indexed to 1 July



Superannuation

Surcharge

The Australian Taxation Office has recently sent out its first batch of Superannuation Contributions Tax (called the "surcharge") assessments. Some members of SSAU may be assessed for Surcharge.

The surcharge legislative package is very complex, comprising 7 Acts of Parliament plus Amendments, Regulations and Explanatory Memoranda.

This pamphlet addresses five questions of interest to members:

- What is the superannuation surcharge?
- What information has been given to the ATO?
- What is the assessment procedure?
- How will it affect my benefits?
- How will I be kept informed?

What is the surcharge?

The Superannuation Contributions Tax (surcharge) is a new tax which came into effect on 20 August 1996. The assessments currently being despatched by the Australian Taxation Office (ATO) relate to the year ended 30 June 1997.

The surcharge is payable in addition to the standard 15% contributions tax applicable to employer contributions. It can range up to a maximum of a further 15%. The tax is applied to:

- employer contributions (including contributions made by your employer under a salary sacrifice arrangement); and
- certain eligible termination payments such as redundancy payments.

The surcharge will only apply where your *adjusted taxable income* exceeds a threshold of \$70,000. Adjusted taxable income differs from taxable income as used to assess income tax liability. It generally comprises:

- taxable income from all sources;
- employer superannuation contributions, which are calculated at 14% of salary for SSAU members (7% for half contribution members), and 3% of salary for SSAU members of TESS;
- those portions of eligible termination payments (ETPs) taken in cash;

The rate of surcharge is:

- 0% if your adjusted taxable income is below the threshold *provided that* the ATO can match information contained in their records with that which must be provided by the Scheme. If not, the maximum surcharge rate of 15% may be applied, *irrespective of your adjusted taxable income*. Check your Annual Statement to see whether or not you have supplied SSAU with your tax file number.
- If your adjusted taxable income falls between \$70,001 and \$84,999 a surcharge rate ranging from 0.01% to 14.99% will apply.
- If your adjusted taxable income exceeds an upper limit of \$85,000 a flat surcharge rate of 15% applies.



PARLIAMENT OF AUSTRALIA
HOUSE OF REPRESENTATIVES

- 6 DEC 1999

ATTACHMENT C

Mr Peter Williams
1B Drumfren Street
APPLECROSS WA 6153



THE HON
DARYL WILLIAMS
AM QC MP
ATTORNEY-GENERAL
MEMBER FOR TANGNEY

Dear Mr Williams

I refer to my previous correspondence dated 30 August 1999 and to my representations on your behalf to the Assistant Treasurer, Senator the Hon Rod Kemp, concerning the issue of superannuation surcharge assessments and the use of superannuation surcharge offset accounts by funded defined benefit superannuation providers.

I have received a response from the Assistant Treasurer and enclose a copy herewith for your information.

Thank you for drawing your concerns to my attention. Should you have any further queries, do not hesitate to contact my office.

Yours sincerely

Daryl Williams

Enc.

Representing the
people of

- Alfred Cove*
- Applecross
- Ardross
- Bateman
- Booragoon
- Brentwood
- Bullcreek
- Canning Vale
- Ferndale
- Kardinya*
- Langford
- Leeming
- Lynwood
- Mt. Pleasant
- Myaree*
- Murdoch
- Parkwood
- Riverton
- Rossmoyne
- Shelley
- Thornlie*
- Willetton
- Winthrop

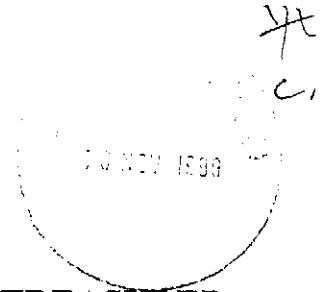
*Part of Suburb Only.

Suite 8, The Gateway
Garden City
BOORAGOON

PO Box 1206
BOORAGOON 6154

Tel: (08) 9316 3633
Fax: (08) 9364 9971

ATTACHMENT C



ASSISTANT TREASURER
Senator The Hon. Rod Kemp

PARLIAMENT HOUSE
CANBERRA ACT 2600

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

www.treasurer.gov.au/AssistantTreasurer

28 NOV 1999

The Hon Daryl Williams, AM QC MP
Attorney-General
PO Box 1206
BOORAGOON WA 6154

Dear Attorney-General *Daryl*

Thank you for your personal representations of 30 August 1999 on behalf of Mr Peter Williams, 1B Drumfern Street, Ardross WA 6153, concerning the issue of superannuation surcharge assessments and the use of superannuation surcharge offset accounts by funded defined benefit superannuation providers. I apologise for the delay in responding to you.

As you are aware the Government regards the introduction of a surcharge on all employer and tax deductible member superannuation contributions made by or on behalf of high income earners as a major superannuation initiative which makes the superannuation system more equitable for all Australians, while also ensuring that superannuation remains an attractive savings option. In this regard, higher income earners were benefiting from the concessional tax arrangements to a much greater extent than lower income earners.

As the Commissioner of Taxation is responsible for the administration of superannuation surcharge legislation, I sought his comments.

The Commissioner said he can only issue a surcharge assessment after he has received all the necessary information to determine whether a surcharge liability exists and if it does, the rate at which the surcharge is to be applied. He issued assessments to Unisuper when he was in a position to do so.

Mr Williams was also concerned with the mechanisms used by his superannuation scheme to deal with the superannuation surcharge. These are the same concerns that were raised by the Australian and International Pilots Association at the Senate Economics Legislation Committee. I provided a detailed submission to the Committee addressing the concerns.



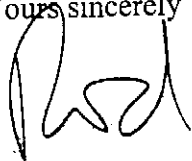
In my submission to the Committee, I said that as the surcharge legislation does not prescribe the manner in which trustees of funded defined benefit schemes may fund the surcharge liability assessed, they would be free to determine the manner of funding that liability.

I indicated the Government was not convinced it would be appropriate to legislate in the manner suggested and expressed the view that the question of charging interest and the rate at which that interest is charged is a matter for trustees who must act in the best interest of all members. I have no reason to change those views.

Fundamentally, the issue is one between the trustee and the members of the fund. It would seem to me that if a member considers that a trustee has acted in an unfair or unreasonable manner or has acted improperly, then the member should seek to have the concerns heard and remedied through the existing statutory processes.

I trust this information will be of assistance to you and Mr Williams.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rod Kemp', written over the typed name.

ROD KEMP