

14 February 2013

General Manager
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: superamendments@treasury.gov.au

Dear Sir/Madam,

Re: Tax certainty for deceased estates

The Australian Institute of Superannuation Trustees (AIST) is an independent, not-for-profit professional body whose mission is to protect the interests of Australia's \$500 billion not-for-profit superannuation sector. AIST's members are the trustee directors and staff of industry, corporate and public-sector superannuation funds, who manage the superannuation accounts of two-thirds of the Australian workforce.

AIST welcomes and supports these draft regulations which provide both a clear and practical solution to the problems identified with income streams at the time of death.

We have some minor queries with regards to proposed subregulation 995-1.01(3), after subregulation (c):

*...the amount paid as the superannuation lump sum is taken to be the amount of a payment from a superannuation income stream of a superannuation income stream benefit **that was payable from** the day of the recipient's death until **as soon as it was practicable** to pay the superannuation lump sum.*

(our emphasis)

The first bolded phrase has been emphasised, as it is not clear whether a new income stream should be initiated upon the day of the recipient's death or that the current income stream can be maintained. We recommend that this be clarified in the explanatory material to make it clear that the policy objective is to retain the current income stream in the interim.

With regards to the "as soon as it is practicable", we are aware that a "soon as practicable" test presently exists in superannuation law, notably with regards to the transfer or rollover of existing benefits in the *Superannuation Industry (Supervision) Regulations 1993* ("the SIS Regulations") at r.6.34. Rather than creating a new test for the purposes of the ITAR97, we recommend that the test in the SIS regulations be the test that applies.

If you have any further questions regarding this submission, please contact Richard Webb, Policy & Regulatory Analyst on 03 8677 3835 or at rwebb@aist.asn.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tom Garcia', is written over a light blue horizontal line.

Tom Garcia
Executive Manager, Policy & Research