Coalition Productivity Priorities Working Group Terms of Reference

March 2013

AIST Submission

AIST

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 is a registered training organisation and has recently expanded its education program to encompass the growing and changing needs of all members of the not-for-profit superannuation sector.

AIST offers a range of services including compliance and consulting services, events - both national and international - as well as member support. AIST also advocates on behalf of its members to relevant stakeholders.

AIST's services are designed to support members in their endeavour to improve the superannuation system and build a better retirement for all Australians.

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1 Productivity priorities

AIST welcomes this opportunity to provide a submission to the Coalition's Productivity Priorities Working Group. We believe that there are many initiatives that could be implemented to enhance Australia's productivity and agree with the sentiments contained in the Working Group's terms of reference media release, on the areas of workforce participation, effective public institutions, reducing red tape, better competition rules, better value infrastructure and improving workplace laws.

In this submission, we will focus on subjects concerned with superannuation, and highlight an area that is often forgotten about by policy makers – that of increasing mature participation in the workforce. We believe that these issues have been unaddressed for some time, and consider that these initiatives would make a considerable contribution towards achieving the aims of improved productivity expressed in the Working Group's Terms of Reference.

In addition to age-based inefficiencies, we also will be addressing the question of back office inefficiencies for small business. Superannuation is as much a part of an employee's package as getting paid their wages, however the same ease by which an employer pays their employees' salaries does not yet exist in the remittance of superannuation contributions. We believe that costs can be immediately removed from the bottom lines of small employers and superannuation funds alike and note that the costs of superannuation guarantee (SG) compliance can be prohibitive.

Finally, we wish to address recommendations related to infrastructure inefficiencies. Rightly or wrongly, the future of Australia's superannuation system is linked to infrastructure and it is in the interests of all Australians that we ensure that these assets are handled correctly and in a way that is commensurate with the role they occupy in Australia. This submission includes proposals designed to encourage more 'greenfield' investment from superannuation funds.

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2 Executive summary

In our submission to the Coalition Productivity Priorities Working Group ("the Working Group"), we have chosen to focus on three areas where we believe that productivity enhancements will be readily obtained:

- Age-based inefficiencies;
- Back office inefficiencies; and
- Infrastructure inefficiencies.

Our recommendations are as follows:

1. Remove age-based restrictions for voluntary superannuation contributions
2. Retain the work test for members aged 65 and over
3. Remove age-based restrictions on tax deductibility of concessional contributions made voluntarily
4. Remove age-based restrictions for spouse contributions
5. Remove age-based restrictions from spouse contributions splitting
6. Removes age-based restrictions on the co-contribution
7. Address SuperStream implementation costs for small business
8. Identify further savings from the SuperStream reforms
9. Create a taskforce to identify further savings and consult with small business
10. Uplift carried forward designated infrastructure project tax losses at a rate commensurate with costs of capital
11. Amend the tax treatment of distributions from a designated project
12. Design a robust process to enable projects to be designated as eligible projects

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3 Recommendations

3.1 Age-based inefficiencies

3.1.1 Recommendation 1: Remove age-based restrictions for voluntary superannuation contributions

More and more Australians are looking into the possibility of extending their working lives. This can be caused by a number of factors, however the ability to contribute their money voluntarily to superannuation ceases once they reach the age of 65.

AIST supports removing the age-based restriction. The age limit for superannuation contributions should be removed and a work test should be extended for those aged 75 years and over.

We also believe that the current work test, namely 'a minimum of 40 hours over a consecutive 30-day period', requires review as it does not reflect modern and future employment practices and may, in fact, work as a disincentive for people seeking part-time or casual work. Any new work test developed should apply to contributions for all ages post-65.

We will discuss the work test further in the next recommendation.

Finally, we support removal of these age-based restrictions for both concessional (pre-tax) and non-concessional (post-tax) contributions made voluntarily.

3.1.2 Recommendation 2: Retain the work test for members aged 65 and over

It has been suggested by some that the current work test is out-dated and has not kept pace with modern employment practices. However, we also point out that the primary reason for superannuation's existence is to provide Australians with a vehicle within which to house their retirement savings.

We support the retention of the work test, because it is designed as an incentive for Australians to participate in the workforce and it also maintains a level of integrity for the superannuation system, particularly given the context of the above. We believe that if an Australian has ceased work, it will most likely be because they wish to retire, and therefore would be preferring to access their retirement savings, rather than contributing more.

However, we are of the opinion that the work test itself could benefit from an update.

We consider that the monthly calculation of the work test could be altered to better accommodate workers with cyclical working patterns or those who work consistently throughout the year, but for fewer hours than required. AIST suggests that a new definition of the work test be open for consultation, with potential options to altering the requirement of gainful employment being:

- A certain number of hours per annum (e.g. 50 hours per annum) or;
- Presentation of a group certificate or similar to provide evidence of employment.

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We also draw the Working Group's attention to the relative ease in which the work test is satisfied. Currently, it is left to the member's discretion to confirm that they satisfy the work test and this is not actively enforced. Therefore, there is an opportunity for people to take advantage of this and make contributions when they have not worked, knowing they are unlikely to be audited. Conversely, it can deter more honest people to not make contributions if they have not strictly met the test, despite the fact that they might have worked. We are not proposing at all that superannuation funds should be required to validate the work tests as this would only add cost to members. However, to increase the integrity of the work test, the ATO could apply greater attention to this area as part of its enforcement activities.

3.1.3 Recommendation 3: Remove age-based restrictions on tax deductibility of concessional contributions made voluntarily

Presently, concessional contributions made either by employers on behalf of employees such as salary sacrificed contributions are tax deductible expenditure up to the time the employee turns 75. The same situation applies to the self-employed with respect to concessional contributions made by taxpayers who are either self-employed, or substantially self-employed.

As with our first recommendation, we support this recommendation with respect to voluntary contributions that are concessional.

3.1.4 Recommendation 4: Remove age-based restrictions for spouse contributions

AIST proposes that the aged based limits on spouse contributions should be removed and the work test should be extending to members aged 70 years and over. Any work test should be altered to move in line with our suggestions outlined in our first proposal.

AIST is on record as commenting that spouse contributions, as well as spouse contributions splitting, are not commonly used and could potentially be removed. These complex rules create confusion around contribution rules and increase costs for superannuation funds to administer. However, they do not necessarily encourage members to remain in the workforce.

We do not believe that this is contradictory. Whilst we believe that these measures could possibly be removed, we understand that there are sufficiently good reasons as to why they could be retained. We are more concerned with the consistency of maintaining this class of non-concessional contribution according to the same rules as what we have proposed for other non-concessional contributions in our first proposal.

AIST encourages industry consultation on the usefulness of spouse contributions. We discuss spouse contributions splitting further in the next recommendation.

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3.1.5 Recommendation 5: Remove age-based restrictions from spouse contributions splitting

The ability to split contributions between spouses is a feature that, while little understood or used, is a way to remedy the great inequity that women, who can spend a great deal of time away from work during their careers, have smaller balances than men. Splitting contributions provides a way to reduce this inequity, as well as empowering women to have a more equal say in how a couple's retirement savings are invested.

Consistent with our first recommendation, we support removing the age-based restriction on contributions splitting.

3.1.6 Recommendation 6: Removes age-based restrictions on the co-contribution

Surveys undertaken by AIST found members above retirement age, particularly those with low superannuation account balances and receiving Age Pension benefits, said that the government co-contribution was one of the major factors for them continuing to remain in the workforce. Based upon this research, we can conclude that this measure provides an incentive to mature workers, particularly if there is the potential for workers such as these to be topping up their retirement savings.

For the same reasons as in our first recommendation, we support removing the age-based restriction on the co-contribution.

3.2 Back office inefficiencies

3.2.1 Recommendation 7: Minimise SuperStream implementation costs for small business

It is expected that the SuperStream initiatives will save money across the board. The business costs of superannuation compliance will reduce, once the act of remitting contributions becomes a mere feature of the payroll cycle, with the removal of cheques and written contribution advice schedules. Superannuation funds will benefit from receiving contributions and rollovers electronically and as a result of this, members fees are expected to reduce.

However, with long term cost savings can come short term costs of their own. It is expected that the total implementation cost of the SuperStream reforms will amount to approximately $1 billion dollars to the superannuation industry alone[1].

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[1] FSC (2012) *FSC Submission - Parliamentary Joint Committee on Corporations and Financial Services: Inquiry into Superannuation Legislation Amendment (Stronger Super) Bill 2012; and Superannuation Supervisory Levy Imposition Amendment Bill 2012*. [pdf] Sydney: Financial Services Council. http://is.gd/ubCPBM [Accessed: 28 Feb 2013].

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AIST believes that the SuperStream implementation cost to business, especially small business, has not been adequately addressed. Whilst it is generally understood that the costs to medium to large business will be minimal, it is small business that will incur the greatest disruption.

3.2.2 Recommendation 8: Identify further savings from the SuperStream reforms

The SuperStream reforms are designed to reactively address the issue of costly back office inefficiencies. However, it is the opinion of AIST that the reforms could be used to provide additional benefits to employers and members with respect to reporting of payments.

The savings to superannuation funds and their members from the SuperStream reforms has been estimated at $20 billion[2]. Whilst we believe that this is a good start, there may now also be additional areas where savings can be made.

More streamlined reporting could ensure that employees consult with their funds on the matter of contributions, rather than time-constrained payroll or finance staff at employers. The productivity gains that will be made in the remittance of superannuation contributions could very well be passed on to other payments.

3.2.3 Recommendation 9: Create a taskforce to identify further savings and consult with small business

Further to the recommendations above, AIST recommends that a taskforce be created to look into extracting greater value from the SuperStream reforms.

Consistent with the points that we raised above, the task force would initially look into two key areas:

1. Ensuring that the implementation of SuperStream is eased for small businesses and that any implementation costs are minimised; and
2. Identifying other areas where the SuperStream reforms could benefit the economy.

AIST is of the opinion that further areas may be identified. We believe that it is important that Australia does not waste this opportunity for further technological enhancement.

3.3 Infrastructure inefficiencies

3.3.1 Recommendation 10: Uplift carried forward designated infrastructure project tax losses at a rate commensurate with costs of capital

Recent proposals have included uplifting carried forward tax losses on certain designated infrastructure projects by an amount equal to the 10-year bond rate. AIST supports this idea in principle; however we believe that it could be improved slightly.

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[2] FSC (2012).

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The 10 year Government bond rate does not reflect the true cost of capital of investors in infrastructure projects and does not fully compensate for the erosion of the real value of early stage tax losses of an infrastructure project.

We recommend that the rate by which unutilised tax losses are uplifted should be increased to better reflect private investors' true cost of capital. The equity market risk premium for operating assets is typically 6% above the long-term government bond rate, excluding any additional risk premium associated with greenfield projects.

It should be pointed out that the uplift will not provide any real incentive for superannuation funds to invest, unless the incentive is maintained at the superannuation fund level when investment returns are distributed out of the project vehicle.

3.3.2 Recommendation 11: Amend the tax treatment of distributions from a designated project

Superannuation funds are generally subject to tax in respect of returns from investments in companies and trusts. Investment decisions are made taking into account the after tax returns to the investor, and are not confined to investment returns at the project entity level.

In respect of designated projects, the uplift of tax losses is expected to provide a temporary tax shelter at the project entity level (in the case of a project company) and limited deferral of tax for investors (in the case of a project trust). Either way, much of this benefit will be unwound as investment returns are distributed to investors by the project entity and taxed at the investor level.

Our recommendation is that a stronger incentive for superannuation fund investors to participate would be to treat the corresponding distribution as a non-taxable amount. For example, in the case of a project entity that is a trust, treating that part of the distribution as a non-assessable amount that does not require a cost base adjustment. This would increase the revenue cost of the incentive.

3.3.3 Recommendation 12: Design a robust process to enable projects to be designated as eligible projects

In order to ensure that the tax recommendations above are utilised by the very projects that they are designed for, a robust process needs to be developed and implemented that assess eligibility.

AIST supports the development of a single integrated process for conferring designated project status and awarding the project to a private investor. We also consider that designated status must be irrevocable before a decision to invest. But also, the design needs to instil confidence in the integrity of the process.

Crucially, designated project status needs to be irrevocable from an earlier point in time which must be before an investor is required to make a binding commitment to the investment.

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Finally, the process should consider the kinds of activities that can be carried on as part of the designated project, without jeopardising a project's designated status.

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