

4 September 2013

Mr Mladen Bajic
Australian Taxation Office
GPO Box 9977
SYDNEY NSW 2001

Email: mladen.bajic@ato.gov.au

Dear Mr Bajic,

Re: Draft Tax Determination TD 2013/D7

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.

Thank you for the opportunity to comment on this draft tax determination ("the draft TD"). AIST writes with respect to two issues raised in the draft TD.

The first relates to the difference in treatment of assets for the purposes of the draft TD. Paragraphs 18 and 19 indicate that, even if accounting records are sufficient to identify which portion of a bank account relates to a fund's accumulation phase, the draft TD suggests that even amounts that can be classified as pension assets through accounting means are unable to be considered as such. Paragraph 6 requires such amounts to be transferred to a fund's segregated bank account set up for this purpose within a reasonable amount of time.

We consider this to be outside of many funds' current practices and will require fundamental operational change in order to comply. In addition, we consider that the treatment of bank account assets in this way is inconsistent with the treatment that is allowed for other assets. Paragraph 31 in particular, allows for treatment of shares or units held where accounting evidence can route the funds invested and financial proceeds home to an accumulation or pension phase within the same fund.

Accordingly, we recommend that paragraphs 18 and 19 be amended to bring them into line with paragraph 31, as we see no conceptual difference between dollars held in a bank account, compared to units held in a trust.

The second issue we raise relates to the same separation of assets, however from the context of the draft TD itself. We note that this draft TD appears to be written with respect to defined

contribution funds, but notes that the TD may apply to defined benefit funds in addition. We believe that this is an important point that should be stated early on in the final TD in order to ensure that no confusion arises. Alternatively, we believe that this draft TD could be improved with some defined benefit examples.

AIST has practical examples of how the pooling of assets presently works, and how it applies in practice. We seek the opportunity to present these, and will be in touch next week to arrange an opportunity to present these examples to you.

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
Chief Executive Officer