Australian Institute of Superannuation Trustees

16 September 2016

Manager
Superannuation Tax Reform
Retirement Income Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

Attn: Ms Jessica Carew

Lodged via online portal

Dear Ms Carew,

Re: Superannuation reform package – Budget superannuation tax measures

In brief: AIST supports the deductibility of personal contributions, increased eligibility of tax offsets for spouse contributions and the revised arrangements for the low income tax offset. AIST suggests the general exclusion of defined befit funds from the deductibility measure, and a transitional mechanism for the LISTO.

This submission responds to the Exposure Drafts and the Explanatory Material to the Exposure Drafts for the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016* and the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulation 2016.*

We have responded in a separate submission to the Exposure Draft of the *Superannuation (Objective) Bill 2016*.

Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016

Chapter 2 – Deducting personal contributions

AIST supports the removal of the requirement that an individual must earn less than 10% of their income from their employment related activities for them to be able to claim a deductible personal superannuation contribution.

AIST supports the further consultation proposed with defined benefit funds in paragraph 2.17 of the Explanatory Material. AIST welcomes the proposed exemption for defined benefit schemes from having to accept personal deductible contributions from all members because there are likely to be circumstances where it is either impractical or inequitable to offer all defined benefit members the option of making tax deductible personal contributions.

Many defined benefit funds already offer an option to members to salary sacrifice provided that members contribute at a higher rate to cover the additional contributions tax. Most hybrid defined benefit schemes also allow members to deduct personal contributions provided that those members have sufficient monies in their associated accumulation accounts to cover any additional tax burden.

Currently, defined benefit schemes only have to accept personal deductible contributions if their benefit design and governing rules allow for it. AIST would like to see a continuation of a voluntary compliance regime. To that end, we welcome the proposal in the exposure draft to prescribe certain funds or types of funds in the regulations. We would also, however, like to see additional flexibility that would allow funds to be exempt from having to accept personal deductible contributions and avoid having to restructure their rules and benefits to allow all members to make tax deductible personal contributions.

We suggest consideration should be given to an additional exemption in ITAA 97 itself at section 290-155(1) as follows:

> *(d) a scheme in which you have a *defined benefit interest and the trustee is unable to accept such contributions in respect to a class of members based on the scheme's rules and benefit calculations in accordance with its governing rules.*

We believe that this additional exemption would offer defined benefit schemes more flexibility to reject personal deductible contributions where the scheme rules do not currently allow for them, while allowing for future scheme enhancements (for example, additional top-up contributions or using accumulation monies to pay the additional tax) to facilitate these measures.

Chapter 3 – Tax offsets for spouse contributions

AIST supports this measure. We note that the arrangements in the Bill to raise the maximum spouse income eligibility for this measure are consistent with the announcement in the 2016 Budget.

Notwithstanding the Treasurer's announcement of 15 September changing certain aspects of the Budget reform package, AIST submits that the consequential amendments addressed in paragraphs 3.13 – 3.16 of the Explanatory Materials are still necessary and appropriate.

Chapter 4 – Low income superannuation tax offset

AIST supports this measure, as structured in the Bill, draft Regulation and Explanatory Material. In so doing, we welcome the change in the configuration of this measure from a tax-offset mechanism to a contribution payment mechanism. As a consequence, the transition from the low income superannuation contribution (LISC) to the low income superannuation tax offset (LISTO) will be more straightforward for superannuation funds to administer.

However, in order to avoid creating any unnecessary administration arrangements, AIST recommends the addition of a transitional mechanism. That is, in circumstances where a superannuation fund receives a LISC payment after 1 July 2017, that fund should be able to treat that payment as if it were a LISTO payment. The transitional rules should clarify that the rules for the treatment of a LISC payment relating to a period prior to 1 July 2017 are interchangeable with those for a LISTO payment from 1 July 2017.

Clarification along these lines will ensure that there is no need to change the SuperStream taxonomy or data standard, no need for system rebuild, and will provide superannuation funds with confidence and certainty about the introduction of the LISTO.

We note that, unlike other measures, the Explanatory Material does not include a 'Comparison of key features of new law and current law'. AIST recommends that such a comparison table be included in the Explanatory Material for this measure.

Harmonising contribution rules for those aged 65-74

AIST supports this measure, but in light of the Treasurer's announcement of 15 September that this measure will not be proceeded with, makes no comment on the Exposure Draft and Explanatory Statement associated with it.

AIST would welcome the opportunity to discuss our submission of these applications with you. Please contact David Haynes, Executive Manager Policy & Research on 03 8677 3800 or at dhaynes@aist.asn.au .

Yours sincerely,

Tom Garcia
Chief Executive Officer

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the $700 billion not-for-profit superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.

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