Australian Institute of Superannuation Trustees

21 October 2016

Manager
Superannuation Tax Reform
Retirement Income Policy Division
The Treasury
Langton Crescent
PARKES ACT 2601

Via online portal

Dear sir/madam,

Re: Superannuation reform package - tranche three

In brief:
The third tranche of superannuation reform will implement a lower annual non-concessional contributions cap, an account balance cap on non-concessional contributions and streamlines release authorities for Division 293 taxation. AIST notes the dependence of these measures on timely and accurate data being held by the ATO, but supports these measures and their early consideration by Parliament.

AIST welcomes the opportunity to comment on this exposure draft legislation and welcome its introduction into Parliament. We generally support these measures, and recommend that efforts be made to assist Parliament with swift transition of this Bill when it is introduced to Parliament.

Chapters referenced in this submission relate to the draft explanatory material.

Chapter 3 – annual non-concessional contributions cap

AIST does not oppose the introduction of a lower annual non-concessional contributions cap. We note that, other in relation to the account balance cap, its operation (and the carry-forward mechanism) is similar to the existing non-concessional cap.

Furthermore, this measure and its implementation is much simpler than the initial Budget proposal for a $500,000 lifetime non-concessional; contributions cap. In particular, unlike the previous proposal the operation of this measure from 1 July 2017 does not require changes to or additional reporting back to 1 July 2007.

The account balance cap on non-concessional contributions, however, is a new policy initiative that was announced by the Treasurer in his media release of 15 September 2016. It will have the

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effect of further limiting the amount of non-concessional contributions that can be made by an individual over their lifetime.

The level of administrative changes necessary to give effect to this measure is relatively low. However, a reasonable lead time is still required for implementation. For this particular measure, changes or supplements to Product Disclosure Statements, revised letters and other changes to fund documentation and communications to super fund members are required.

While these changes can be drafted over 4-6 week period, the approval and compliance process associated with them will take between 4-6 months, and will depend on the schedule for Board meetings and Board sub-committees. This means that the change and approval process for a PDS scheduled for release on 1 July 2017 should commence prior to Christmas 2016. This process cannot commence until there is certainty about the nature of the change.

- **Relationship between the general transfer balance cap and contributions caps**

It is noted that the general transfer balance cap is to be indexed in $100,000 increments in line with the Consumer Price Index. This is a different indexation method to the average weekly ordinary time earnings (AWOTE) indexation for the for the annual concessional contributions cap (and hence the annual non-concessional contributions cap tied to it).

This will result in the relationship between the general transfer balance cap and the contributions cap changing over time. Given that the rate of change in AWOTE tends to be historically higher than that of CPI, one consequence of this is that there will be reducing capacity for individuals to use the carry-forward mechanism over time.

This is demonstrated in the following table (see.

Financial year ending	Concessional contributions cap ($)	Non-concessional contributions cap ($)	Transfer balance cap ($)	Transfer balance cap minus NCC Cap ($)	Transfer balance cap minus 2x NCC Cap ($)
2018	25,000	100,000	1,600,000	1,500,000	1,400,000
2019	25,000	100,000	1,600,000	1,500,000	1,400,000
2020	25,000	100,000	1,600,000	1,500,000	1,400,000
2021	27,500	110,000	1,700,000	1,590,000	1,480,000
2022	27,500	110,000	1,700,000	1,590,000	1,480,000
2023	27,500	110,000	1,800,000	1,690,000	1,580,000
2024	30,000	120,000	1,800,000	1,680,000	1,560,000
2025	30,000	120,000	1,900,000	1,780,000	1,660,000
2026	32,500	130,000	1,900,000	1,770,000	1,640,000
2027	32,500	130,000	1,900,000	1,770,000	1,640,000
2028	35,000	140,000	2,000,000	1,860,000	1,720,000

Assumes CPI indexation of 2.5% and AWOTE indexation of 3.5%.

As can be seen above, even though the transfer balance cap remains unchanged, a change in contribution caps between 2023 and 2024 financial years would result in a reduction of the amount set by transfer balance cap less any multiple of the non-concessional contribution cap. Consequently, the ability for members near the transfer balance cap to bring forward non-concessional contributions is similarly reduced.

AIST recommends that the general transfer balance cap be indexed by AWOTE rather than CPI.

- **Relationship between the general transfer balance cap and the total superannuation balance for defined benefit members**

The draft legislation sets the valuation of defined benefit interests for the general transfer balance cap at a value of 16. In contrast, the valuation of these interests for total superannuation balance is set according to the age based factor in schedule 1B of the Income Tax Assessment Regulations 1997.

In order to avoid confusion and the possibility of distorted decision-making as a result of these different valuation methods, it is recommended that the valuation methods be aligned. Alignment could be achieved by using actuarially determined commutation factors for both the general transfer balance cap and the total superannuation balance for defined benefit members.

Chapter 10 – Release authorities

AIST welcomes the proposed change to release authorities for Division 293 taxation, for the Commissioner of Taxation to be able to provide a release authority to a super fund without an election from the relevant taxpayer in specified additional circumstances.

AIST also supports the standardisation of the period that payment must be provided to the Commissioner after issue of the release authority. However, AIST would prefer this period to be 21 days rather than the proposed 7 days. Notwithstanding this, super funds will not generally have a problem meeting a 7 day requirement.

AIST would welcome the opportunity to discuss our submission with you further. 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.