

23 January 2017

Mr Graham Hager
Australian Taxation Office
Via email

Email: superconsultation@ato.gov.au

Dear Mr Hager

Re: Draft Law Companion Guideline LCG 2016/D11: Superannuation reform: concessional contributions - defined benefit interests and constitutionally protected funds

In brief:

LCG 2016/D11 provides guidance around amendments to the calculation of concessional contributions and excess concessional contributions in the Act apply to contributions and amounts allocated by superannuation providers under the new rules from 1 July 2017. AIST welcomes the guidance, and takes the opportunity to raise potential areas for clarification.

AIST welcomes the opportunity to comment on this draft law companion guideline (the “draft Guideline”, the “draft LCG”, LCG 2016/D11). As we have indicated in our submissions to date, the transfer balance cap is the most complex area of the superannuation reform package, in particular, where it relates to defined benefit interests. Consequently, we believe that the industry will welcome all guidance that is able to be provided.

Defined benefit contributions

We note the reference to “defined benefit contributions” in paragraph 13.

The *Income Tax Assessment Regulations 1997* presently prescribe these to be equal to an individual’s notional taxed contributions, at regulation 293.115.01. We are therefore uncertain what these paragraphs are designed to convey.

AIST recommends further details of circumstances where defined benefit contributions, as defined at section 293-115 of the *Income Tax Assessment Act 1997*, is not equal to notional taxed contributions as explained above. This should include guidance for actuarial calculations of these amounts.

Examples

AIST welcomes the inclusion of examples in the draft LCG and believes that these are valuable.

We believe that this section would benefit further from analysis of an additional example involving a member of two defined benefit funds, where one is unfunded and the other is fully funded. This would reflect the reality for many Australians who move between sectors of the economy and who retain defined benefit interests from each sector.

Please contact Richard Webb, Policy & Regulatory Analyst on 03 8677 3835 or at rwebb@aist.asn.au should you wish to discuss our submission.

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

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.
