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15 July 2011

Manager
Contributions and Accumulation Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: liegsc@treasury.gov.au

Dear Manager,

**RE: Consultation paper – Low Income Earners Government
Superannuation Contribution**

The Association of Superannuation Funds of Australia (ASFA) would like to lodge this submission with respect to the above Consultation Paper on the operation of the Government's low income Earners Government Contribution

The Association of Superannuation Funds of Australia (ASFA) is a non-profit, non-political national organisation whose mission is to advance effective retirement outcomes for members of superannuation funds through research and advocacy. We focus on the issues that affect the entire superannuation industry. Our membership, which includes corporate, public sector, industry and retail superannuation funds as well service providers some of whom deal with self managed superannuation funds (SMSFs), has over 90% of the approximately 12 million Australians with superannuation as members. ASFA members manage or advise on the bulk of the \$1.3 trillion in superannuation assets as at September 2010. ASFA is the only organisation that represents all types of superannuation funds and associated service providers.

General comments on the Policy

ASFA strongly supports the proposal to enable superannuation funds to compensate low income earners for the impact of contributions tax on their retirement savings. It has long been a concern of ASFA that the flat rate of tax on contributions had a disproportionate impact on persons on the bottom marginal tax rate and provided a disincentive to them saving for their retirement through superannuation.

Comments on the consultation paper

POLICY PARAMETERS OF THE MEASURE

Eligibility

Age test

ASFA supports the proposal to not include an age test.

Residency

ASFA supports the proposal to exclude from the measure holders of a temporary resident visa at any stage during the year.

ASFA supports the extension of the measure to New Zealand citizens.

Lodgment of income tax returns

ASFA supports the mechanism operating through the income tax return system and notes that this may require some individuals currently exempt from lodging a tax return to do so should they wish to gain access to the government contribution.

However, as part of the Government's announced plan for a price on carbon, the tax-free threshold will be increased to \$18,200 from 1 July 2012 and to \$19,400 from 1 July 2015. The tax rate on income between the tax-free threshold and \$37,000 a year will rise from 15% to 19%, while the tax rate on earnings between \$37,000 and \$80,000 a year will rise from 30% to 32.5%.

The proposed increase in the tax-free threshold means that about one million low-income earners will no longer be required to lodge a tax return. This has implications for how the low-income earners superannuation contribution rebate will work in practice, as the discussion paper indicates that for an individual to receive this rebate they must lodge a tax return. This issue will need to be considered as part of the implementation of the Government's carbon price announcement.

One possible mechanism may be for the ATO to use information from payment summaries issued by employers to establish eligibility for the rebate along with use of tax return information.

Also, whilst in general the lodgment of a tax return is not an unreasonable requirement, ASFA requests that special administrative arrangements be considered for workers engaged under the disability services award. Recent amendments to that award have created a weekly superannuation payment entitlement of the greater of \$6 and their superannuation guarantee (SG) entitlement.

These people are often quite disabled, work in sheltered workshops and have recognised carers. Due to the very low incomes received by many of these individuals (as a consequence of low pay rates and minimal part time hours worked) we know that a large number of them do not lodge an income tax return or in some cases even have a TFN.

ASFA requests that consideration be given to the design of administrative arrangements that address the plight of these people such that they also can benefit from the rebate. Whilst we do not have an answer to the design problem, we would expect that the individuals most at risk would be in receipt of specific government funded disability benefit entitlements and there may be a possibility to base administrative arrangements in part on this entitlement.

CALCULATING THE LOW INCOME EARNERS GOVERNMENT CONTRIBUTION

Adjusted taxable income

ASFA supports, on equity grounds, the use of adjusted taxable income (ATI) for determining whether or not a person meets the low income threshold of \$37,000.

ASFA supports, on the grounds of administrative simplicity, the proposal (paragraph 17) to not apply a taper to the benefit.

Paragraph 18 states that no indexation will apply to the adjusted taxable income threshold of \$37,000. ASFA recommends that strong consideration be given to tying eligibility not to \$37,000 but rather to the upper threshold of the 15% marginal income tax band (which will increase to 19% under the Government's carbon price announcement) and to reviewing the maximum amount payable so as to more completely achieve the policy objective of compensating low income earners for the impact of contributions tax on their superannuation benefits.

Relevant concessional superannuation contributions

ASFA supports the proposed rules setting out which superannuation contributions will be eligible for the government contribution.

ASFA supports the use of notional taxed contributions reported for individuals with a defined benefit interest as being the relevant contribution as this amount is currently provided by superannuation funds to the ATO and is used for determining compliance with the concessional contribution caps.

Paragraph 21 deals with the intention not to match "non-contribution amounts allocated by superannuation providers, including allocations from reserves".

A small number of funds in the industry are in the position of making their SG contributions from reserves due to the size of an actuarial surplus. The allocation is calculated as 85% of the gross contribution entitlement. This means that the members' account balances reflects the same position as if the employer had directly contributed to the fund on their behalf and those contributions had actually been taxed. Also, the Member Contributions Statement (MCS) reporting to the ATO includes the grossed up amount of the reserve allocation as a "Transfer from reserves – Assessable" contribution.

While there has been no payment of tax to the Government which will be reimbursed under this initiative, these members will be disadvantaged in terms of their accumulation balances if they do not receive the low income benefit to their accounts. ASFA's view is that these employees should not be disadvantaged purely on the basis of the source of their superannuation contributions.

It is important to note that the revenue impact of SG contributions being made from reserves is zero, as opposed to contributions made directly from employers, as follows:

Deductible to employer @ corporate rate
Taxable in fund @ superannuation fund tax rate
Net cost to revenue of 15% of contributions

By contrast, the tax position for allocations from surplus is:

No deduction to employer
No tax in superannuation fund
Net cost to revenue \$0

Therefore, extending the eligibility of the low income earners Government contribution to these employees results in a neutral revenue effect.

Amount payable

Paragraph 24 states that “No indexation will apply to the maximum amount”.

ASFA recommends that strong consideration be given to tying the maximum amount payable to 1.35% of the upper threshold of the 15% marginal income tax band (i.e. 15% of the 9% SG payable on that salary) rounded up to the nearest dollar. Currently this is $0.15 \times 0.09 \times \$37,000 = \$499.50$ rounded up to \$500). This would ‘future proof’ the provision and ensure that, on an ongoing basis, contributions made for or on behalf of a person with an ATI below the upper threshold of the 15% marginal tax rate would receive a refund of their ‘superannuation contributions tax’.

Administration of the measure

ASFA supports the proposal to give general administration of the measure to the Commissioner of Taxation and to model the administrative processes on those in place for the existing Government co-contribution. Such a proposal will minimise (though not entirely remove) the superannuation fund’s costs in introducing administration systems for the measure.

ASFA strongly recommends that the Government contribution be given a name that clearly distinguishes it from the Government co-contribution. To this extent we would not like to see the payment called a Government contribution as this has the potential to cause confusion and misunderstanding. Government Low Income Earners Tax Rebate may be a possible alternative name.

We note that (at paragraph 34) the Commissioner will determine the account to receive the payment. ASFA requests that, similar to the Government co-contribution, administrative arrangements are made that would enable a trustee to advise the Commissioner that a fund is unable to receive the contribution on behalf of the member.

Related issue

Death Benefits – Anti-Detriment Provisions

ASFA requests that consideration be given to ensuring that the low income Government contribution does not impact on the calculation of an anti-detriment payment made under the provisions of Section 295-485 of the Income Tax Assessment Act 1997. Currently the formulae used to determine the amount of the anti-detriment payment made to dependants of a deceased member has regard to the contributions tax suffered on contributions to the deceased member’s account. ASFA is concerned that, should fund trustees be required to take these payments into account, the calculation process would be significantly complicated and funds may need to make significant changes to their

administration systems.

ASFA recommends that this bonus payment to low income earners be ignored for the purposes of determining the amount of an anti-detriment deduction.

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Should you have any questions on any of the matters raised in this submission please contact our Policy Adviser, Jon Echevarria, on 02 8079 0859.

Yours sincerely

A handwritten signature in black ink, appearing to read "D. Graus". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

David Graus
General Manager, Policy & Industry Practice