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File Name: 2012/18

28 February 2012

Michael Wellham

Personal and Retirement Income Division

The Treasury

Langton Crescent

PARKES ACT 2600

Email: Michael.Wellham@treasury.gov.au

Dear Mr Michael,

RE: ADMINISTRATION OF CONTRIBUTION CAPS FOR THE OVER 50s

The Association of Superannuation Funds of Australia would like to provide the following information in response to the Superannuation Roundtable's call for further comments on Agenda Item 2 of the 23 February 2012 meeting.

It is ASFA's understanding that the policy objective in not extending the current transitional contribution cap but, post 1 July 2012, introducing an additional contribution cap for those over 50 with less than $500,000 in accumulated superannuation benefits is to:

- Provide those with low account balances and the capacity to save with an incentive to contribute more to superannuation and thus achieve a better standard of living in retirement, and
- Improve the equity of the superannuation system by targeting concessions towards those with the greatest need.

ASFA has previously provided its views on the complexity of the policy and the potentially high compliance costs on industry and Government. However, we acknowledge that the compliance costs and complexity of the measure stem from the government's desire, on equity grounds, to consider account balances, account withdrawals and benefit payments when determining eligibility.

We understand that this is also a factor in the determination of the commencement date as being 1 July 2012. ASFA has considered how it may be possible to defer implementation without causing disadvantage and we would be pleased to share our thoughts with Government.

.ASFA considers that in considering the administration/compliance costs attached to the measure or any specific option, consideration should be given to the currently proposed changes to ATO reporting requirements needed to support other Stronger Super measures and the timing of those changes. For example, to support the account consolidation process, funds will be required to provide additional information about accounts together with information about additional accounts to the ATO as part of MCS reporting with respect to the year ended 30 June 2013 and subsequent years.

At the Superannuation Round Table meeting on 24 April five options were presented. ASFA has re-examined all five options from the following perspectives:

- Achievement of the Government's policy objectives
- Capacity for the rules to be circumvented
- Cost of administration to funds
- Ease of administration by the ATO (including monitoring compliance)
- Ease of understanding by fund members
- Equity of outcomes

Based on our analysis we believe that option D, with the following minor modifications, delivers the optimal solution:

- The restriction on withdrawals should apply to withdrawals made from 1 July 2011 at the earliest. Whilst it is conceded that, on equity grounds, withdrawals should be considered, ASFA is of the view that this should apply from a date that is reasonably close to the date of the policy announcement.
- Where a person over age 50 breaches the cap due to a miscalculation of their total benefits they should be able to, without penalty withdraw the excess contribution (up to $25,000) from the system using the same mechanism proposed for the one-off refund of excess contributions. ASFA considers such a mechanism to be essential if the higher caps are to be introduced, as proposed, from 1 July 2012 as the necessary compliance information will not be available to the ATO until, possibly, October 2013.

Our reasons for supporting option D are:

- It achieves the Government's twin policy objectives of restricting access to superannuation concessions whilst improving equity in the system.
- It significantly reduces the capacity for the rules to be circumvented. This is particularly so with withdrawal and re-contribution strategies already being discussed in the media.
- It reduces the administration cost on funds by significantly reducing the amount of information to be provided to the ATO.
- It reduces the administration burden on the ATO by removing the need to capture, index and track all withdrawals from the system. Noting that there will be increased administration workloads in respect of those few people who seek the exercise of the Commissioner's discretion in relation to withdrawals.
- It effectively moves the fund compliance cost from all fund members to just those seeking to take advantage of the benefit. It primarily does this by simplifying fund reporting to advising whether or not a withdrawal or benefit payment has been made and, where a person has been excluded by making a withdrawal or receiving a benefit payment, by

placing the onus of that person to demonstrate that they would otherwise have been eligible.

- In the context of the overall superannuation rules the concept is reasonably simple for members to understand – If you are over age 50 and have not made a withdrawal from the system then, provided your total account balances do not exceed $500,000 you are entitled to access a higher concessional contribution cap of $50,000.
- There is equity in the outcomes. Those who have made withdrawals from the system or received superannuation pension payment, although prima facie excluded from the higher caps have the opportunity to administratively seek access to the higher caps.

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Should you require any further information or wish to further discuss our views please contact me on (02) 8079 0805 or, in my absence, our Principal Policy Adviser Robert Hodge (02) 8079 0806.

Yours sincerely

Pauline Vamos
Chief Executive Officer