

File Name: 2013/26

6 June 2013

Income Tax Assessment and Other Legislation (Sustaining the Superannuation Contribution Concession) Amendment Regulation 2013; Superannuation Contributions

ASFA's submission on the proposed *Income Tax Assessment and Other Legislation (Sustaining the Superannuation Contribution Concession) Amendment Regulation 2013; Superannuation Contributions* noted that the regulations are based loosely on those which operated under the superannuation contributions surcharge regime which does not apply with respect to contributions made on or after 1 July 2005.

ASFA raised concerns that:

- The unanimous recommendation of the industry associations about the most appropriate methodology for determining defined benefit contributions – modelled on the calculation of Notional Taxable Contributions (NTC) - has been ignored.
- The regulations as drafted are deficient and their successful implementation will require the timely release of extensive interpretative material from the Australian Taxation Office (ATO) and a guidance note from the Actuaries Institute.
- The cost of implementation will be borne by all members of a defined benefit fund even though the Division 293 tax will be incurred by a limited number of members.
- Funds will be unable to meet their Member Contribution Statement (MCS) reporting deadline with respect to this information, potentially leading to general interest charge penalties on funds and those members subject to the additional 15% tax, unless remitted by the Tax Commissioner.

ASFA strongly recommended that, due to the complexity and cost of implementation and ongoing administration, the proposed method for determining defined benefit contributions not be proceeded with and instead be replaced by the current method for determining notional taxable contributions, with an adjustment to exclude the grandfathering provision.

ASFA also noted that:

- A new condition of release will be required in Schedule IA of the *Superannuation Industry (Supervision) Regulations 1994*.
- Each State jurisdiction may need to implement its own legislative changes to support this measure and this may impact on revenue collections in 2013-14.