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ASFA Pre-Budget Submission for the 2024-25 Budget

January 2024

ASFA is a non-profit, non-partisan national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its $3.6 trillion in retirement savings.

Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing over 90 per cent of the 17 million Australians with superannuation.

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Overview

The Superannuation Guarantee (SG) system is now over 30 years old and is delivering better retirement outcomes for Australians. It also is having a positive impact on the whole economy through the listed and unlisted investments that superannuation supports.

With respect to the retirement prospects of individuals, the compulsory superannuation system underpins higher standards of living in retirement than otherwise would be the case.

In this context it is also helpful to acknowledge the original and continuing goals of the compulsory superannuation system.

Prior to the introduction of compulsory superannuation, coverage was around 40 per cent of employees – generally white collar or public sector and predominantly male. Defined benefit schemes linked to specific employers dominated the market. Coverage of women was low and/or many women failed to receive significant superannuation benefits because of the need in most cases to have long periods of continuous employment with the one employer.

Compulsory superannuation changed all that with its concept of dignity in retirement for all employees, not just the lucky few. It led to superannuation becoming something that individual fund members could control and make decisions about rather than being subject to the control of employers. It provided for vesting of contributions which allowed individuals to make choices about which fund and which investment option their superannuation was in. The intention also was to supplement rather entirely replace the Age Pension in the case of most employees, particularly those on low to middle incomes.

The rate of compulsory contributions started at no less than 3 per cent of wages, gradually increasing to 9 per cent and then more recently with phased increases to 12 per cent. It will be some decades before the system is fully mature in the sense that employees will have received contributions at the rate of 12 per cent of the bulk or all of their working career. Even then there will be individuals who will not have benefited from the maximum rate of compulsory contributions due to breaks from the labour force.

Going forward it will be important to build on the strengths of the compulsory superannuation system and to acknowledge its goals. As well, it will be important to further improve retirement outcomes for those individuals (particularly women) who have not had continuous periods of involvement in the paid labour force.

ASFA's submission has adopted the following framework for recommendations relating to the May 2024 Budget:

- Equity issues should be at the forefront, with measures needing to improve the position of those on low incomes and/or interrupted time in the paid labour force, especially women
- It is important that employees receive the superannuation contributions that they are entitled to and that in cases where an employer becomes insolvent unpaid superannuation is dealt with in the same way as unpaid wages
- Innovation in regard to superannuation products in the retirement phase should be supported by appropriate government programs and policy settings
- Any policy changes should not involve any undue compliance or administrative burden on individuals, funds or government departments.

ASFA's position is that any equity measures 'at the top end' should be accompanied by measures to address equity for individuals with lower incomes/lower superannuation balances (including lifting the upper threshold for the Low Income Superannuation Tax Offset (LISTO) in order to provide a more appropriate tax incentive for low-income earners), and measures to address the shortfall in women's retirement savings. The Better Targeted Superannuation changes addressing account balances over $3 million are forecast to generate considerable additional revenue. In 2027–28, the first full year of receipts collection, the measure is expected to increase receipts by $2.3 billion. A part of this should be used to enhance the superannuation balances of those on low incomes or who have breaks from the paid labour force due parental responsibilities.

However, it must be acknowledged that the superannuation system is working well and delivering strong retirement outcomes for millions of Australians and therefore ASFA would strongly oppose any wholesale changes to the tax settings for superannuation.

The following recommendations, if adopted by the Government, would lead to better retirement outcomes for Australians, particularly low and middle income earners.

Introducing SG on paid parental leave in order to reduce the retirement savings gap between females and males

Background

The retirement savings gap between males and females is one that has been well-documented and discussed. The median superannuation balance in June 2021 for those aged 60 to 64 was around $212,000 for males and $159,000 for females which equates to a retirement savings gap between women and men of 25.0 per cent. While this figure is well down on the equivalent figure for seven years earlier it is still very substantial.

The reasons for this average gap for women are also well documented, including time out of the workforce (predominantly as a result of raising children and/or caring for ageing parents), part-time working hours for at least a portion of the career of many women, and gender segmentation of the labour force with traditionally female jobs receiving lower wages on average.

Payment of superannuation contributions in regard to paid parental leave would further assist in reducing the retirement savings gap.

Reducing the retirement savings gap and increasing the living standards of females in retirement

This is an issue that is far bigger than the employer and the individual and one that requires the backing and support of the Government to put women on an equal footing to their male counterparts. With the acknowledgement that compounding of investment returns is the key to accelerating retirement savings, the earlier the additional funds are contributed the bigger the impact they will have on an individuals' retirement savings. Further we also acknowledge that each child a woman has further contributes to her time out of the workforce and consequently less retirement savings.

It is for these reasons that ASFA is proposing that superannuation contributions could be paid in regard to paid parental leave. No such payments currently are made in regard to paid parental leave provided by the government. However, while it is not compulsory for employers to pay superannuation in regard to the paid parental leave they choose to provide, many do.

Larger employers are more likely to provide paid parental leave than smaller employers. Around 50 per cent of women getting government funded paid parental leave receive employer funded parental leave as well. Survey data indicates that around 80 per cent of the employers paying parental leave also pay SG on the amount (with some topping up the government payment with SG as well).

Requiring SG to be paid on parental leave payments is likely to have a net cost for the government of around $300 million a year in 2024-25. The cost would increase in future years with increases in the minimum wage and also with proposed increases in the duration of paid parental leave which have been announced.

How many women would benefit and by how much?

There are around 300,000 births a year in Australia, around 175,000 of them first time and around 80,000 a second child. The average age of women for first birth is around 29, the average age for a second child is 31. Income and employment tests applying to paid parental leave mean that only about 180,000 women a year receive government funded payments.

Currently government funded paid parental leave is payable for up to 100 days for a woman, with a maximum payment of $17,656. Superannuation on this at the current Superannuation Guarantee rate of 11.5 per cent applying from 1 July 2024 would result in a superannuation contribution of $2,030. For a woman aged 30 this would lead to an increase in their superannuation balance at age 67 of around $3,750 in today's dollars.

The scheduled increase in compulsory superannuation to 12 per cent of wages together with foreshadowed increases in the duration of paid parental leave to 26 weeks by July 2026 would lead to an increase in superannuation balance at retirement of around $5,100. For a woman who received paid parental leave at age 28 for a first child and at age 30 for a second child, the increase in superannuation balance would around $10,700 in today's dollars.

RECOMMENDATION 1:

ASFA recommends the Government that SG contributions be made in regard to paid parental leave payments

Increasing the upper threshold for the Low Income Superannuation Tax Offset

Background

The Low Income Superannuation Tax Offset (LISTO) is a government superannuation payment of up to $500 that helps people earning $37,000 or less a year save for retirement. Until 2019-20, the $37,000 ceiling for LISTO corresponded with the top of the second lowest tax bracket. However, the top of the second lowest tax bracket was increased to $45,000 for 2020-21 and following years.

The maximum amount of $500 is equivalent to 15 per cent of 9 per cent of $37,000, which was in line with the 9 per cent SG when the LISTO was introduced.

The first tax bracket ($0-$18,200) incurs a zero per cent rate of tax and the second ($18,201- $45,000) currently incurs a 19 per cent rate of tax. For those on the 19 per cent rate there is also the 2 per cent Medicare levy. Individuals in these income bands can also benefit from superannuation payments rather than wages such as favourable impacts on family tax payments and higher child care rebates.

Addressing the problem

It is equitable that individuals on the lowest tax bands receive concessional tax treatment for superannuation that is commensurate with the rate of assistance for higher income earners. With the increase in the upper threshold on equity grounds it is reasonable to provide those earning between $37,000 and $45,000 with a tax concession in line with what they received prior to the change in the taxation rate structure. Otherwise those falling within that income band receive a tax concession of only 6 per cent of contributions, which is lower than for any other income group. The Government is proposing that the 19 per cent rate be reduced to 16 per cent from 1 July 2024. Such a change would reinforce the need to adjust the LISTO upper threshold as otherwise the tax concession for superannuation in the relevant income band would be negligible.

Increasing the upper threshold would have implications for the maximum amount payable. The rate of the SG has also increased.

ASFA therefore recommends that the ceiling for LISTO payments be increased to correspond with the top of the second lowest tax bracket and that the maximum value of the LISTO payment be increased correspondingly to $700 in line with that tax threshold and with the increase in the SG since the LISTO was first introduced.

For a person aged 35 and retiring at age 67 who is on a wage of $44,000 a year, receiving a LISTO payment to their superannuation account of $700 a year would lift their superannuation balance at retirement in today's dollars from around $293,000 to $336,000, a substantial increase.

The number of employees benefiting

In 2022-23 around 2.7 million individuals received a total of around $670 million from LISTO. Based on 2020-21 ATO data, increasing the upper threshold to $45,000 would lead to around 1.2 million additional individuals receiving LISTO with expenditure on LISTO increasing by about $750 million a year. There are a considerable number of parttime workers who have income in the $37,000 to $45,000 range. Around 55 per cent of those who would benefit are women.

> **RECOMMENDATION 2:**
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> ASFA recommends that the upper threshold for the LISTO be increased to $45,000 a year and the maximum amount be $700 a year

Review the treatment of superannuation payments owed by insolvent employers

Background

The Fair Entitlements Guarantee (FEG) provides for the Commonwealth to pay an 'advance' on certain unpaid 'employment entitlements' in cases where an individual's employment ended in circumstances connected with the insolvency or bankruptcy of their employer, and the individual cannot obtain payment of their entitlements from other sources. However, the types of 'employee entitlements' currently covered by the FEG are limited and do not include unpaid superannuation contributions. There have been a number of recent high profile cases, including restaurant groups, where businesses have become insolvent and there are unpaid superannuation contributions.

From the perspective of employees, unpaid compulsory superannuation contributions are equivalent to unpaid wages. They are part of an employee's remuneration and are vital for achieving dignity in retirement. Without government assistance in regard to unpaid superannuation contributions due to employer insolvency many Australian employees will have a substantial shortfall in their superannuation savings and lifestyle in retirement.

Addressing the problem

While recent and proposed changes to reporting and payment requirements for employers give greater visibility for the ATO to unpaid employer contributions, and greater attention is being given to contributions in arrears, it is likely that even after the implementation of Payday Superannuation there will be continuing cases where there are unpaid contributions when businesses become insolvent. In ASFA's view, there is merit in reviewing the treatment of unpaid SG entitlements in insolvency/bankruptcy, with the objective of considering how to achieve the maximum possible recovery on behalf of affected employees.

It suggests that unpaid superannuation should be treated the same way for the purposes of the FEG as unpaid wages as both make up the remuneration of employees. If the ATO is subsequently able to raise an SG charge against an employer this could be used to offset any SG related payments made though the FEG arrangements.

The number of employees benefiting and the budgetary cost

ASFA estimates it would cost around $150 million per year to include unpaid SG in the FEG, with around 55,000 employees a year benefitting.

> **RECOMMENDATION 3:**
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> ASFA recommends unpaid SG entitlements be included in the definition of unpaid 'employment entitlements' for the purposes of the Fair Entitlements Guarantee

Capital Gains Tax (CGT) relief at the product/option level

Background

Consolidation within the superannuation industry has become a key focus for policy makers and regulators over recent years. Indeed, since the start of the Your Future, Your Super regime on 1 July 2021, the number of APRAregulated funds has fallen from 140 to just below 100. Fund consolidation can have a positive impact on the super system through increased scale and improved efficiency, and on member outcomes.

Less legislative and regulatory focus has been on consolidation within superannuation funds – in particular, to reduce the stock of legacy products.

Legacy products are those that have been closed to new members but need to be maintained for a gradually decreasing number of existing members. In many cases, the creation of legacy products is a consequence of changes to regulatory or tax settings, such that a product may no longer represent an optimal choice for a new member.

ASFA estimates that, as of June 2023, legacy products account for around $130 billion of super assets, and around 1 million member accounts. Furthermore, legacy products account for a disproportionate number of underperforming products in the super system – more than 50 per cent of choice products that under-performed in the most recent APRA performance test.

The lack of CGT rollover relief at the product/option level is a significant barrier to trustees removing legacy products. Without tax relief, members would be impacted by their account balance being prematurely reduced by tax on capital gains arising on the sale of assets associated with the product/option.

The member tax consequences can be significant. This makes it difficult for a trustee to determine that it would be in a member's best financial interests to transfer the member to another suitable product/option in the fund – notwithstanding the fact that the product/option may no longer represent an optimal choice in other regards.

Addressing the problem

ASFA recommends extending CGT rollover relief – that already applies at the fund level – to the product/option level. Any concerns about the cost to the Budget could be addressed by relief being confined to those product/options that are subject to the APRA performance test and only being available for a limited period of time (for example, two years).

Extending CGT rollover relief would not only help reduce the stock of under-performing products but also would be expected to increase efficiencies and reduce costs to members – thereby improving member outcomes. Moving members and account balances to higher performing options also would generate additional superannuation fund taxation from the higher investment returns achieved.

The impact of the Budget would be expected to be small. While the policy change would not generate CGT revenue, the counterfactual – the absence of relief – is that members would tend to remain in affected products until retirement (due in part to the potential tax liability), and thus not incur a CGT liability when transferring to another product.

RECOMMENDATION 4:

ASFA recommends that Capital Gains Tax relief be provided in appropriate cases for legacy superannuation products which are transferred into contemporary products within a fund.

Making it easier and more attractive for fund members to take up retirement income streams

Background

As noted in the recent Superannuation in Retirement discussion paper issued by Treasury, the take-up rate of superannuation products providing protection against the financial costs of longevity has been modest to date. There also are a substantial number of individuals who have superannuation who remain in the accumulation phase even though through age or other circumstances they qualify for taking up a superannuation retirement income stream.

The Government response to the consultation process regarding the discussion paper may take some time given the complexity of the issues. However, there are a number of steps that could be taken in the short term to assist funds to deliver enhanced retirement income options to fund members.

Actions that could be taken in the short term

There are regulatory impediments to the offering of retirement products flowing from limitations of ASIC's legislative relief for superannuation calculators and retirement estimates. Legislative relief from substantial requirements in regard to provision of financial advice does not apply to:

- Estimates and calculator results provided to those already in retirement
- Estimates and calculator results in regard to specific rather than generic products.

The ASIC relief also requires calculators and estimates to assume that the Age Pension will substantially increase over the course of retirement, which downplays the need for financial protection against the impact of longevity. Recasting of the current legislative relief to also deal with retirement income products would assist fund members in determining whether such a product is suitable for them. It would also support the offering of such products by funds.

Offering of suitable products by funds would also be assisted by preparation and publication by Treasury of relatively recent data on retirees generally and for specific cohorts. Such information also would better inform policy debate and also would assist funds meet their obligations under the Retirement Income Covenant. Central publication would be less expensive and more consistent than having each fund preparing its own data on retiree cohorts.

Such data could be drawn from:

- HILDA surveys
- ABS surveys relating to both retirement and household wealth and income more generally
- ATO data on income and sources of wealth
- Centrelink data on Age Pension recipients.

Finally, there currently are nearly 700,000 Australians aged 65 and over who hold accumulation superannuation accounts and who have employer or personal contributions made to their accounts. Such individuals automatically qualify for opening a retirement income account but they need to maintain an accumulation account as well for contributions to be made. Also, there are individuals aged under 65 who have a pension account after establishing a condition of release but who subsequently have contributions being made in regard to them. The overall cost and complexity of superannuation arrangements would be reduced by allowing individuals to make contributions to an account in pension phase. Such a change would be administratively simple for funds, especially compared to the current requirement for a member to close a pension account and then start a new account if they want to top up their pension account.

RECOMMENDATION 5:

ASFA recommends that:

- Regulatory relief be provided for calculators and retirement projections for account balances in the retirement phase and to allow for the comparison of various types of retirement income products
- Funding be provided by the government for preparation and publication of data in regard to varying cohorts of retirees and those approaching retirement
- Individuals be permitted to top up existing account based income streams rather than being required to close an account and start up a new income stream.

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