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ASFA Pre-Budget Submission for the 2020-21 Budget

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ASFA is a non-profit, non-political 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 $2.9 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 nearly 90 per cent of the 16 million Australians with superannuation.

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1. Allow recent changes to tax and Age Pension provisions to be bedded down

With substantial changes to the taxation of superannuation and the provision of the Age Pension in recent years, ASFA believes there should now be a period of consolidation to allow the various changes to be bedded down. This includes the legislated phased increase in the Superannuation Guarantee from 9.5 per cent to 12 per cent.

The validity of current settings is confirmed by budget outcomes and impacts on retirement incomes. For instance, the May 2016 Budget changes have reduced the overall amount of tax concessions for superannuation contributions and investment earnings by around $2.5 billion a year. As well, there has been a substantial change in the distribution of the tax concessions by income tax rate band. Going forward, the reduction in contribution caps will limit balances that can be accumulated, further decreasing the proportion of the tax concessions benefitting upper income earners.

The bulk of the concessions (around 40 per cent of the total tax concessions for superannuation) in 2017-18 went to those in the $37,001 to $80,000 income band, with that proportion increasing by around 2 percentage points as a result of the 2016 Budget changes. The changes also reduced the proportion of concessions going to those in the top income tax bracket from 20 per cent to 17 per cent, and this percentage will fall further over time.

RECOMMENDATION:

ASFA recommends no further adverse changes be made to superannuation tax provisions or to the Age Pension in the 2020-21 Budget and over the Forward Estimates period.

2. Adjust superannuation policy settings in response to changes in the nature of work

The gig economy is becoming more pervasive. Over the last three years, ASFA estimates that the number of gig economy workers has increased from around 100,000 to up to 500,000. The volume of activity facilitated through web-based platforms is growing fast and platforms are expanding to encompass a wider variety of professions and industries.

The rise of the gig economy is leading to shifts in the structure of the Australian labour market. A larger proportion of people have some form of independent work arrangements, such as independent contracting, where workers generally are not covered by the Superannuation Guarantee (SG).

More specifically, the rise of the gig economy is being accompanied by an increase in the proportion of workers who could best be described as 'dependent contractors' – that is, workers who are engaged under a commercial contract for services, but who have little discretion in regard to how they carry out their role and have work arrangements that (in a variety of ways) resemble those of an employee.

With respect to 'dependent contractors', greater certainty around the application of the legislative framework to gig economy workers could be achieved through legislative change that introduces a new category of worker subject to SG arrangements.

RECOMMENDATION:

ASFA recommends the Government amend the current legislative framework in order to include dependent contractors within the scope of the Superannuation Guarantee.

3. Remove the $450-a-month threshold

ASFA has long advocated removing the $450-a-month earnings threshold for payment of the SG.

In general terms, the existence of the threshold penalises low-income earners, permanent part-time and casual workers, and those with multiple jobs who receive little or nothing in the way of SG contributions. It especially affects gig economy workers and those on ‘zero hour’ contracts.

The existence of the threshold results in lower superannuation balances at retirement for those affected, generally the most vulnerable members of the Australian labour force. For example, consider the case of a part-time cleaner, who holds multiple jobs, none of which pays more than $450 a month. It is possible their annual income from such work is $20,000 a year but in this case they miss out on superannuation contributions of $1,900. By way of contrast, a part-time employee earning the same amount from one employer receives the benefit of such contributions. Over a period of years, the amount of superannuation contributions and earnings foregone can be considerable.

Analysis undertaken by the Treasury, released in August 2019 under a FOI request, estimates that around 240,000 women and 160,000 men are affected by the $450 a month threshold. Further, Treasury estimated that around 40 per cent of those affected were aged under 25 and two-thirds aged under 35. Missing out on employer contributions also means that those affected miss out on substantial compounding investment earnings.

Given the disproportionate number of women affected, abolishing the $450 a month threshold would help redress the imbalance between men and women in average retirement balances.

The cost to employers and the Commonwealth Budget would be modest, estimated by the Treasury to be less than 0.1 per cent of the national wage bill. ASFA estimates that the impact on employers would amount to approximately $95 million in total a year. With respect to the Budget, the reduction in revenue would be around $25 million.

RECOMMENDATION:

ASFA recommends the $450 a month threshold for payment of Superannuation Guarantee contributions be removed.

4. Review the treatment of superannuation payments owed by insolvent employers

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 has been a number of recent high profile cases, including restaurant groups, where businesses have become insolvent and there are unpaid superannuation contributions.

While recent changes to reporting requirements for employers and superannuation funds gives greater visibility for the Australian Taxation Office to unpaid employer contributions, and greater attention is being given to contributions in arrears, it is likely that 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. 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:

ASFA recommends unpaid SG entitlements be included in the definition of unpaid 'employment entitlements' for the purposes of the Fair Entitlements Guarantee.

5. Open up access to the MARIA model of retirement income and assets

The Retirement Income Review presents an opportunity to provide a sound fact base for consideration of superannuation policy settings. However, if the Review is to fully deliver on its aspiration to establish a single source of truth, then it is important for the Government to place in the public domain the Model of Australian Retirement Incomes and Assets (MARIA).

Open access to the dynamic microsimulation model at the heart of the Review would assist in establishing an agreed fact base. It would also help users of the model to lay to rest incorrect assertions that plague the superannuation debate in Australia. It would provide a platform for an informed evidence-based debate on the important issues of adequacy, benefit design and the impact of assumptions regarding CPI, wage growth, and capital market returns.

ASFA understands that there may be confidentiality issues in regard to unit record data utilised in the model. However, such issues arise in the release of other unit record data sets, such as those released by Australian Bureau of Statistics and by the Australian Taxation Office. Statistical techniques such as data perturbation can address such issues. Access to MARIA through a secure and supervised data laboratory also could ensure that any privacy concerns are dealt with comprehensively.

RECOMMENDATION:

ASFA recommends the Government should provide access to the MARIA model by interested parties outside of government.

6. Establish a fact base of the lived experience of retirees and those saving for retirement

While the Retirement Income Review will make use of statistics and the microsimulation modelling capability of the MARIA model, there has been no substantive focus group or survey work undertaken of what Australians actually think about saving for retirement or what the lived experience is of current retirees.

As well, microsimulation of outcomes is only as accurate as the assumptions that are applied in the modelling. These assumptions can be tested by tracking what actually happens to real people in both the pre- and post-retirement periods. This can be done through longitudinal studies which can collect information on income, wealth, retirement savings and drawdowns. Such studies also can provide a rich source of data on how well or poorly individuals are doing, what their concerns are and what would improve their situation.

Social policy needs to know how people really are living and what is relevant to their needs and justified aspirations.

RECOMMENDATION:

ASFA recommends the Government provide funding in the Budget for a longitudinal study of the lived experience of current retirees and those saving for retirement.

7. Establish a single data collection point for information provided by superannuation funds to government agencies

ASFA has significant concerns about the current inefficiency for superannuation funds in reporting data to different agencies in different formats, including where data being reported are available from another source or where duplicate data are being required to be reported.

ASFA considers that the relevant government agencies should work to develop a single data collection agency and process in order to minimise data reporting processes and to implement common data standards, taxonomies and definitions. A single approach to standards along the lines of Standard Business Reporting, which was introduced in 2010 to simplify business reporting obligations, would serve to reduce costs for agencies and the industry alike. Lower costs for superannuation funds lead to lower fees for superannuation fund members.

A single data collection agency and process would also build upon other government policy initiatives to extend and enhance data collaboration between government agencies and others, reflecting a growing awareness of the increasing importance of cooperating and collaborating with respect to data.

For instance, the government has established a permanent superannuation data working group (SDWG), comprised of APRA, ASIC, the ATO, the ABS and the Commonwealth Treasury, with Treasury taking the lead. The SDWG could be used to identify ways to develop a single data collection agency and common data standards across the superannuation system.

RECOMMENDATION:

ASFA recommends the Government provide funding in the Budget to develop centralised data collection arrangements for the range of data currently reported by superannuation funds to multiple agencies.

8. Establish the costs to consumers of increased regulatory burden on superannuation funds

While there is a role for regulation, excessive regulatory burden is a drag on the performance of superannuation and the retirement outcomes of Australians. Costs of implementing regulatory change and ongoing regulatory burdens are ultimately borne by the members of superannuation funds through the impact on their retirement balances.

While there are arrangements in place which in theory should avoid unnecessary red tape being put in place, current guidelines are not always implemented as well as they could be.

An independent review of the level of regulatory burden on superannuation funds would be able to consider:

- the cost impact of major regulatory reforms on superannuation fund members
- whether rationalisation or reduction of regulation should occur given the costs and benefits of the regulation concerned
- how future development of legislation and regulation can be improved so that costs are only borne by members when there is commensurate benefit.

Such a review should be conducted by a respected and qualified individual (or panel of individuals), independent of government and supported by a secretariat.

RECOMMENDATION:

ASFA recommends the Government provide funding in the Budget for an independent study into the costs and benefits of regulation of superannuation funds and into the scope for rationalisation or reduction of regulation.

9. Ensure that decisions made by fund members on insurance cover remain in place

Recent legislative changes have put considerable emphasis on superannuation fund members being actively involved in making decisions about their insurance cover. Where a member has specifically elected to have insurance cover continue this decision should be respected.

In this context, ASFA considers that Protecting Your Super (PYS) and Putting Members' Interests First (PMIF) elections made in a fund where subsequently there is a successor fund transfer (SFT) of members, or a trustee initiated intra-fund transfer between products in the same fund, should be carried over to the new fund or product. Under current legislative arrangements such members would be regarded as being new members in the fund or product to which they are transferred without regard to whether an election for insurance cover was in effect.

The proposed legislative change would help to minimise the possibility of members who have opted-in for insurance cover from unintentionally losing their insurance entitlement and reduce confusion for members during a successor fund transfer. Members receive many communications during an SFT and including a further insurance election notice to members who have previously elected to opt-in increases the risk that members may overlook the election request due to it being mixed up with the other communications or ignore it because they may not readily understand that the SFT negates their previous election.

ASFA considers that recognising PYS/PMIF elections in a successor fund transfer would require an amendment to the PYS/PMIF sections of the Superannuation Industry (Supervision) Act 1993 (SIS Act). However, in the meantime there is potential for regulator guidance to be provided in the same way as the guidance for the account/product, fixed term and PYS/PMIF election issues which trustees are relying on pending legislative amendment.

RECOMMENDATION:

ASFA recommends that the SIS Act be amended so that an election on insurance cover made by a fund member is recognised by the new fund after a successor fund transfer.