Submission number: 2014/38

24 October 2014

Treasury: Tax and Superannuation Laws Amendment (2014 Measures No. 7) Bill 2014

Reforming the Superannuation Excess Non-concessional Contributions Tax

In a submission to Treasury, ASFA responded to the call for comments on the exposure draft legislation and draft explanatory memorandum to give effect to the 2014-15 Budget measure to allow individuals the option of withdrawing superannuation contributions in excess of the non-concessional contributions cap made from 1 July 2013 and associated earnings, with these earnings to be taxed at the individual's marginal tax rate.

ASFA noted that the measure is intended to deliver on the Government's election commitment to develop an appropriate process that addresses inadvertent breaches of the contribution caps where the error would result in a disproportionate penalty.

1. General comments

ASFA's submission welcomes the proposal to reduce the impact of the current arrangements but considers that there remains a need for there to be a disincentive to breaching the caps.

In supporting the design of the measure and specifically the decision that the 'associated earnings' are to be calculated using the General Interest Charge (GIC) rate and the decision to commence the 'earnings' calculation period on 1 July of the income year in which the contribution was made ASFA considers that the proposed amendments are consistent with the policy objective and the Government's election commitment.

In specific comments on the design of the legislation ASFA's recommends that more guidance be provided in regards to implementing the release authority where an income stream has commenced sometime after the breach and before the release authority was issued.

ASFA also recommends some minor adjustments be made to the draft legislation and the explanatory material.

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