Tax Rethink

Superannuation reform – proposal for sustainable changes

Dear Treasury,

Superannuation Reform – a proposal for sustainable changes

1. Thank you for the opportunity to join the national discussion. I do so in my private capacity as a tax and superannuation specialist for 30 years (but not on behalf of any professional organisation - notwithstanding my membership of several of those).

2. I submit this idea, notwithstanding the comments of our Prime Minister that superannuation reform would not be entertained if it involved more tax (or something like that).

3. The idea is this.

(a) That there be a maximum amount each person is allowed to have in their superannuation fund (or to their credit in all their superannuation funds). Thus each spouse (including non-working spouses) would of course be entitled to this maximum amount.

(b) That any amount over this maximum must be refunded to the member immediately and be fully taxable at the member's marginal tax rates (with perhaps transitional rules to tax only the 'untaxed component' of current balances).

(c) This maximum might be, say, 30 times average annual earnings (in other words enough to fund average annual earnings based a long term 'real' 3% earning rate). If average annual earnings were $80k, then the maximum would be $2.4m. Assuming that a spouse had their own fund, each couple would have access to a maximum of $4.8m (based on current (assumed) average annual earnings and the 3% real earnings assumption). And if a spouse didn't have their own fund, benefit splitting be allowed so that excess marginal rates were not suffered by the family unit).

(d) That contributions be fully deductible to any member, the spouse of any member and any employer of any member (irrespective of whoever else might also be contributing).

(e) There would be no limit on the amount that could be contributed. This might seem extreme but people would not flock to put in the maximum, even if they could afford it, as they would keep getting any excess back and would be taxed on it. Also, such a rule would also simplify things. For instance, such a limit would then result in having 'deducted' and 'undeducted' balances in the fund to account for. There would also need to be exceptions for those making catch up contributions later in life and those forced to retire early. Further, there would have to be transitional rules for those with some balances under the old and new regimes. No doubt there would be more exceptions too.

(f) There would also be no tax in the fund - on contributions or on fund earnings.

(g) Funds could only pay 'pension' benefits (no lump-sum benefits). And the pension benefits would have to be taken over the member's life time (say based on the life expectancy of the member each year - with say plus or minus 10% lee-way.

(h) That all benefits from the fund be added to the member's assessable income and taxed (therefore) at their marginal tax rates. This would apply equally to pension benefits and excess amounts returned to members.

5. I recognise that this idea assumes that all funds are 'allocated' funds, whilst some of course are defined benefit (and even unfunded). I haven't thought through exactly how this would apply to all those funds, but I suspect that providing for them will not be difficult.

(a) The most difficult thing to provide for is how the 'maximum' would be provided for.

(b) A defined benefit fund would also be required to pay only pension benefits, no larger than the 'average annual income' amount and the actuary could give a certificate if the amount in the fund were more than was required to fund the 'average annual earnings' projected for the person's retirement age and any excess would have to be returned to the member (to be part of their assessable income and taxed at their then marginal rates of tax).

(c) Unfunded defined benefit funds also would be required to pay only pension benefits and would be required to pay no more than the 'average annual earnings' pension each year.

(d) The exceptions to the above might be Constitutionally protected funds, where none of the above limitations would be possible (and this would allow for judges pensions to go on being what they are so that they were free from bias).

4. In other words, the idea is to impose a clear and fair maximum that applied to all, whilst simplifying the system.

(a) The idea is to also make the system sustainable in the longer term.

(b) But the forced repatriation of excess balances on a taxable basis ought compensate to some extent.

5. This submission need not be treated as confidential (if that were relevant).

Cheers,

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