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RE: Superannuation - Increases to the Lost Member Small Account Threshold

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the request for comments on exposure draft legislation to increase the lost member small account threshold.

We note the intent of the draft is to increase from \$2,000 to \$4,000, and then to \$6,000, the account threshold below which small lost member accounts will be required to be transferred to the Commissioner of Taxation (the Commissioner).

About ASFA

ASFA is a non-profit, non-politically aligned national organisation. We are the peak policy and research body for the superannuation sector. Our mandate is to develop and advocate policy in the best long-term interest of fund members. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90% of the 12 million Australians with superannuation.

General comments

The management of lost superannuation accounts has seen considerable change in recent years, including:

- From mid-2010 superannuation entities have been required to transfer to the ATO the balance of the accounts of:
 - Lost members where the account balance is less than \$2,000; and
 - Lost members who are not defined benefit members, where no contributions have been received in the last 12 months and the superannuation provider is satisfied that it will never be possible for the provider, having regard to the information reasonably available to the provider, to pay an amount to the member.
- From 1 July 2013 superannuation funds are no longer required to protect account balances of less than \$1,000 from erosion by administration fees.

- From 1 July 2013 the Commonwealth has paid interest calculated in accordance with the CPI on account balances repaid.

The above changes have been enhanced by the requirement from 1 July 2013 for funds, on an annual basis, to determine whether members have more than one account with the fund and, if so, to consolidate those accounts where that is deemed to be in the member's best interest.

Viewed collectively, the above changes largely have enhanced the situation of fund members and particularly the class of members with lost accounts.

We note that the history of the current proposal regarding lost small accounts is that:

- The 2013-14 Budget proposed to increase the threshold, first to \$2,500 on 31 December 2015 and then to \$3,000 on 31 December 2016, providing savings to the budget of \$118.4 million over the forward estimates period.
- The August 2013 Mid-Year Economic and Fiscal Outlook (MYEFO) included a statement (p 34) that the threshold below which small inactive superannuation accounts are required to be transferred to the Australian Taxation Office will be increased from \$2,000 to \$4,000 from 31 December 2015, and then to \$6,000 from 31 December 2016, with a net positive impact on the budget in underlying cash balance terms of \$582 million over the forward estimates.
- On 6 November 2013 the measure was included in the list of 18 un-enacted measures that the Abbott Government announced it would proceed with, thus maintaining close to \$11 billion in total in revenue over the forward estimates.

At the time of the Budget 2013-14 announcement the stated aim of the measure was to protect the real value of these small transferred accounts. The MYEFO statement's stated aim was to protect the real value of **more** of these small transferred accounts.

We also note that more recent announcements have been made in the context of a deteriorating budget position.

Specific comments on the exposure drafts

Proposal to increase the threshold

The Explanatory Statement (paragraph 1.11) states that transferring small lost member accounts to the ATO ensures these accounts are protected from erosion by fees and charges.

A similar statement was made when, in 2012, the transfer threshold was raised from \$200 to \$2,000. The Explanatory Statement to that amending legislation advised that:

Transferring more small lost accounts to the ATO will ensure they are properly protected from being eroded by fees and charges. The payment of interest from 1 July 2013 on amounts reclaimed from the ATO will further boost individuals' retirement savings.

At the time of the initial proposal to increase the threshold for these small lost account transfers to the ATO, concerns were raised at the immediate loss of life and/or Total and Permanent Disability insurance cover for the affected account holders. While not all transferred accounts would have insurance cover, a significant number would. We acknowledge that not all 'lost members' will experience a 'claimable event'. However, for those who do, the potential impact is significant, particularly if they do not have cover elsewhere.

The industry response to the 2012 change was that, on balance, given the impending loss of member benefit protection the increase in the threshold was justified.

With respect to the current proposal, there is considerable doubt about the merits of the proposed further increases in the threshold.

While the aim of protecting account balances may be appropriate for account balances under \$2,000, there is far less certainty about the need for such protection of the members' accounts under the proposed higher thresholds.

While acknowledging that interest will be paid at the CPI rate on amounts held by the ATO, for a member invested in a fund's default investment option, based on long term average investment returns, it is probable that for account balances greater than \$2,000 the member would be significantly better off financially were the account balance to remain invested with the fund.

A further concern is that these higher account balances are more likely to hold insured benefits. There is also an increased likelihood that the member has consciously maintained an otherwise inactive account for the explicit purpose of retaining insurance through that account. A significant number of superannuation funds, under their partial portability rules, have a "retained balance" threshold – generally around \$5,000 - which insured members avail themselves of in order to retain insurance cover through their account. Where a member avails themselves of this feature it may be many years before they need to perform the positive act of making a contribution in order to top up their account so that the insurance premiums can continue to be deducted. Some funds will also allow members to let their account balance fall below the threshold before they require them to top up the account in order to retain the insurance cover. Prior to the 1 July 2012 inactivity test changes these accounts could remain inactive for 5 years before being captured by the *lost member* definition. The 2012 change which reduced the *lost member – inactive member* definition's time limit to 2 years, combined with the proposed increase in the lost member small account threshold to \$4,000 and then \$6,000 is more like to result in the inadvertent capture of these members who have made a deliberate decision to retain an inactive account so as to maintain insurance cover.

The draft explanatory material (paragraph 1.12) states that:

The ATO has in place existing strategies which aim to reunite members with lost and unclaimed superannuation accounts and reduce the number of unnecessary and inactive accounts in the superannuation system.

A similar statement was contained in the explanatory material to the 2012 amending legislation:

The new arrangements will enhance the current strategies employed by the ATO to reunite members with lost super accounts, aiming to reduce the number of unnecessary and inactive accounts.

Whilst the ATO is active in identifying and contacting account owners and encouraging them to consolidate these lost accounts with their other superannuation holdings, it would appear from discussions with the ATO that only a small percentage of these account holders follow through with the necessary action to enable the Commissioner to consolidate these amounts. ASFA notes the limitation placed on the Commissioner by the requirements of section 24G of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*, (SUMLM Act) whereby, despite having identified the account owner, the Commissioner can only repatriate the money to a superannuation fund account in the name of a member where 'the person directs the Commissioner to pay to the fund'. (See sub-paragraph 24G(2)(a)(ii) of the SUMLM Act).

Because of this limitation in the SUMLM Act, the bulk of the transferred monies are not repatriated to members but rather remain with the ATO. As well as being contrary to the goal of account consolidation, this fails to recognise that it is likely that a lack of awareness or understanding of

superannuation, coupled with an element of disengagement, is often what has led to the account being lost in the first place. Where money is unable to be repatriated, the higher account balance holders amongst the transferred cohort will be more adversely affected. ASFA submits that it would be appropriate to address this issue through legislative change to better facilitate the repatriation of lost accounts.

Given the definition of **lost member account**, the nature of these accounts and recent changes to superannuation reporting requirements that have enhanced the Commissioner's information about superannuation accounts ASFA considers that, before the current proposal to increase the lost member account threshold to \$4,000 and then \$6,000 proceeds, the opportunity should be taken to amend section 24G of the SUMLM Act to empower the Commissioner to initiate the repatriation of lost member accounts. Such a change would be consistent with the policy objective of reducing the number of unnecessary accounts within the superannuation system.

When combined with the Commissioner's service of providing the ATO's current address for a lost member to participating funds, this may be sufficient to significantly reduce the number of member accounts in the superannuation system (including ATO held accounts).

Recommendation 1

ASFA recommends that priority be given to amending the *Superannuation (Unclaimed Money and Lost Members) Act 1999 Act* so as to permit the Commissioner of Taxation to pay a **lost member account** amount to a complying superannuation plan where the Commissioner is satisfied as to the identity of the lost member account owner and that the person holds an account in the proposed destination fund.

Recommendation 2

ASFA recommends that the two proposed increases in the threshold not be enacted, or otherwise, that the increases be deferred, until such time as the Commissioner's capacity to pro-actively repatriate these accounts under the SUMLM Act has been granted and given an opportunity to take effect.

The proposed wording of the amendments

ASFA has reviewed the draft amendments and considers that they will be effective in meeting the objective of the change.

ASFA has reviewed the draft Explanatory Statement and has no comment to make about the content.

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I trust that the information contained in this submission is of value.

If you have any queries or comments regarding the contents of our submission, please contact ASFA's Principal Policy Adviser, Robert Hodge, on (02) 8079 0806 or by email rhodge@superannuation.asn.au.

Yours sincerely



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