



8 June 2012

The General Manager  
Business Tax Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

By email: [cgt\\_super\\_roll-over@treasury.gov.au](mailto:cgt_super_roll-over@treasury.gov.au)

Dear Sir/Madam

### **Introduction**

This submission by the SME Committee of the Law Council of Australia's Business Law Section is a response to a Proposals Paper issued by the Minister for Financial Services and Superannuation, the Honourable Bill Shorten MP in relation to taxation relief to support the implementation of the "Stronger Super Reforms".

### **Submission**

The SME Committee supports any legislative reform which will have the effect of assisting superannuation funds seeking to merge and consolidate in response to the "Stronger Super Reforms" and, in particular, addressing the income tax impediments to such mergers or consolidations.

The Committee supports the implementation of the proposed roll-over for capital gains and capital losses and the transfer of certain losses to facilitate the mandatory transfer of members' benefits and relevant assets to a fund that offers a MySuper product.

The proposals appear to ensure neutral income taxation consequences for superannuation funds at a Federal level.

It is suggested that any merger or consolidation of funds should be at no or little cost including any Federal or State taxation implications of such a merger or consolidation.

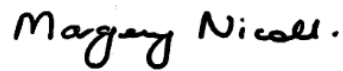
The SME Committee does have concerns regarding whether or how the stamp duty implications of such mergers or consolidations of superannuation funds, arising as a direct result of the Government's "Stronger Super Reforms", have been or will be addressed.

In some States, a stamp duty liability may arise on the transfer of dutiable assets between superannuation funds. The SME Committee would like to see the Treasury liaise with the relevant State revenue authorities to ensure that relief is provided at a State level. Perhaps this would be a matter for consideration through the COAG forum. This will ensure that there are neutral tax consequences on both a State and Federal level.

In summary, the SME Committee supports the reforms outlined in the Proposals Paper but submits that the reforms should also consider the State tax implications of the mergers that will result from the "Stronger Super Reforms".

The SME Committee would be pleased to address further any of the matters that are raised in this Submission. In this regard please direct enquiries to Mr Jon Clarke on 08 8228 1111 or email [jclarke@cowellclarke.com.au](mailto:jclarke@cowellclarke.com.au)

Yours faithfully

A handwritten signature in black ink that reads "Margery Nicoll." The signature is written in a cursive, slightly slanted style.

Margery Nicoll  
Acting Secretary-General