UNITING CHURCH SUPERANNUATION PLAN

BY EMAIL

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

5 June 2012

Dear Sir/Madam

SUBMISSION ON PROPOSED TAX RELIEF FOR MERGING SUPER FUNDS

The Uniting Church Superannuation Plan (UCSuper or the Plan) commends the Government on the initiative to provide taxation relief for APRA regulated funds that merge. UCSuper welcomes the opportunity to make this submission to address concerns relating to the new measures proposed to apply from 1 June 2012.

The key points of this submission are:

UCSuper supports the measures being proposed.

UCSuper believes that the implementation date of 1 June 2012 should be amended to 1 October 2011.

Facts Specific to UCSuper

UCSuper is an APRA regulated fund that was formed in 1988 to provide superannuation benefits for employees of the Uniting Church Organisation.

The Plan merged with NGS Super on a successor fund basis on 1 March 2012.

Prior to the merger, UCSuper had approximately 12,000 members and $300million under management.

Following the Governments endorsement of the Stronger Super reforms and in particular the requirement for funds to offer a MySuper product, the Board of UCSuper undertook a strategic review of the Plan's ongoing viability. At a minimum, the MySuper reforms would have required UCSuper to carry out the following:

- Modification to the Plan's existing benefit structure
- Change of investment options and arrangements
- A new trust deed
- Modified insurance options to those currently offered
- Significant additional member communications

The UCSuper board also considered the Plan's scale and concluded that there were limited opportunities for significant future growth in the Plan either from increased member numbers or investment performance.

It therefore followed that in 2011, UCSuper initiated discussions with NGS Super with a view to merging.

NGS Super is an APRA regulated industry fund with 100,000 members and $4billion in assets.

UCSuper considered other potential successors before finally settling on NGS Super as the most suitable. The decision was attributed to a number of factors including NGS's strong links to education and the existence of schools within the Uniting Church Organisation.

At the time of the merger discussions and subsequent due diligence, both UCSuper and NGS Super were aware of the loss relief that was available for funds that merged between 24 December 2008 and 30 September 2011.

The viability of merging before 30 September 2011 was seriously considered, but unfortunately this was impossible as the administrator of NGS Super had no capacity to complete the merger of member records prior to that date.

Like most Australian superannuation entities at that time, UCSuper had incurred both realised and unrealised capital losses due to the poor performance of global and domestic investment markets. The tax impact of these losses had been brought to account in the audited financial reports of UCSuper in the years prior to the proposed merger.

Having completed appropriate due diligence the UCSuper board made a decision to proceed with the merger effective from 1 March 2012.

This meant that members ceased to be members of UCSuper on 29 February 2012 and commenced (with the same account balance) as members of NGS Super on 1 March 2012.

The Financial Impact of the Merger on Members

UCSuper's investment losses and tax impact on members at 30 June 2011 and 1 March 2012 is summarised below.

	30 June 2011		1 March 2012	
	Value $'000	Tax Asset $'000	Value $'000	Tax Asset $'000
Realised Losses	24.0	2.40	24.0	2.40
Unrealised Losses	11.4	1.14	16.4	1.64
Total Losses	35.4	3.54	40.4	4.04

As the position with the loss relief was not certain at the time of the merger, the successor fund, NGS Super required UCSuper write back the value of the tax assets relating to investment losses prior to transferring member entitlements at 1 March 2012.

The successor fund has a mechanism for doing this, having instructed their Custodian to load the tax packets for each investment transferred from UCSuper to NGS Super based on the original UCSuper cost base details.

The Board of UCSuper has withheld finalising the audited financial statements for the Plan pending resolution of this matter to allow the final member entitlements to be recorded.

The tax assets represented $4million at the date of the merger, being approximately 1.3% of member entitlements transferred. If the successor fund is unable to carry forward these losses, earnings credited to UCSuper members will be reduced by approximately 1.5% for the 2012 year. The average accumulation member (pensioners were not affected by the losses) in the diversified investment option has an average balance of $25,000 reducing their account balance by around $325 each.

The percentage of the UCSuper tax assets is within the acceptable range of the NGS Super tax policy and therefore the full value of the transfer would be accepted by the successor fund without write down or further discounting.

Whereas the adjustment for the tax losses was notionally made at the time the members were transferred, NGS Super is in a position to credit the benefit to members as soon as the position is clarified.

Historically UCSuper has experienced exceptional member retention and this position does not appear to have altered since the merger. Therefore both the UCSuper and NGS Super Boards are confident that the original tax benefit rightly accrued to the UCSuper members can be efficiently and equitably repatriated to the majority of the UC accumulation members.

Arguments for Change of Implementation Date

We commend the Government for recognising the importance of providing loss relief for merging superannuation funds. This initiative allows trustees to make informed decisions regarding the impact of the Stronger Super reforms on their fund and to consider the advantages of potential mergers without the need to consider investment markets and the potentially devastating impact to members earnings should tax losses not be available to be carried forward.

To ensure that the GFC did not unduly delay mergers, the Government introduced temporary loss relief measures that applied to funds that merged between 24 December 2008 and 30 September 2011. The recent developments in Europe and the US have resulted in highly volatile investment markets demonstrating that the impact of the GFC remains ongoing and certainly did not cease on 30 September 2011.

The recent announcement extends loss relief between 1 June 2012 and 1 July 2014 as a result of the large number of mergers expected due to the Stronger Super reforms.

It is our firm view, that there is no valid reason why there should be an eight month period between 1 October 2011 and 1 June 2012 where loss relief is not available.

Our view is strengthened by the “integrity measures” announced in the Proposals Paper dated May 2012 which add further validity to our position by preventing realised capital losses from being transferred where there was a sale of assets between the parties within 12 months of the merger.

UCSuper believes that we are the only APRA regulated fund that merged during the period between 1 October 2011 when the previous loss relief was available and 1 June 2012 when the new measures will take effect.

The board of UCSuper believed that we were acting in the best interests of our members when we agreed to merge with NGS Super effective from 1 March 2012.

Contact Details

Thank you for considering this submission and should you have any questions or require any additional details, please do not hesitate to contact the following.

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Yours sincerely

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Chairman