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Commonwealth Government of Australia
Re: Think
Tax White Paper Task Force
The Treasury
Langton Crescent
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I hereby make the following submissions with respect to Re:Think, the Tax Discussion Paper.

SUBMISSION TOPICS

My submission addresses the following specific and policy matters raised by the Discussion Paper:

- Superannuation: The 90/10 Rule – An Anti-Women Anomaly
- Taxing Superannuation Income
- Tax Incentives/Disincentives For 'Providing' For Own Retirement: Minimum Withdrawal Amounts / $35,000 Concessional Contribution Limit – Ridiculous.
- Media And Political Misunderstanding Of Superannuation Balances - After Tax Contribution Components
- CGT: 50% Allowance, Or, Revert To The Complicated Old Ways?
- Franking Credits – The Best Thing Keating Ever Did – Don't Tax Profits Twice!

1. THE 90/10 RULE – AN ANTI-WOMEN ANOMALY IN SUPERANNUATION LAWS

By far the silliest and most unfair rule, in my opinion, in current superannuation legislation, and one which serves to discriminate against women more than any other, is the "90/10" rule.

This rule, in plain English, says that any individual, who earns more than 10% of their income from employment, is not entitled to make any personal concessional (tax deductible) contribution to superannuation. The rule requires that for a person to be able to make a personal concessional tax contribution they must be 'substantially' self-employed and 90/10 is the measure. So, if just 11% of a person's income comes from employment then they are deemed to not be substantially self-employed! This is ridiculous. Surely the measure should be 50%: if a person earns more than 50% of their income from sources other than employment then prima facie they should be deemed substantially self-employed

Why should this rule apply at all? In any event, what is the point of the 10%? What is the magic in 10%? This is unfair!

A self-employed person, including an investor earning all, or nearly all (more than 90%), of their income from investment, can claim a deduction for a concessional contribution (up to their applicable limit). But, a person working even just a few hours a week to supplement their family income or family savings cannot make any personal concessional contribution.

In many cases women, but it could also be men, who are working as casuals or part-timers, and who are looking after their young or not so young dependent children, may well be earning as little as $10,000 -$20,000 and certainly typically less than $30,000 per annum from their part-time or casual employment. Almost in every such case they will be earning more than 10% of their total income from that employment source. So for such affected persons, the only superannuation incentive/benefit they might utilise is through their employer's superannuation contribution on their behalf, which for a part-time or casual employee will not be a lot, almost certainly less than $2,000 per annum.

In many cases the amounts involved in this issue, both the gross income and the potential tax deduction for making a concessional contribution, if it were allowed, would be relatively minor across the Australian economy – so why not remove the anomaly / inequity?

It should be no surprise that the superannuation balances for women are so much smaller than those for men when this disincentive for investment in superannuation exists throughout the working lives of women who are mothers with dependent children.

This seems to be yet another brick in the wall for women.

The 90/10 rule should, simply, be abolished or replaced with a 50/50 rule.

2. TAXING SUPERANNUATION INCOME

Reading 'between the lines' in the Tax Discussion Paper, it would seem that the Federal Government is considering, and certainly the Opposition has announced it will, tax some or all superannuation income, either in the fund itself or in the hands of the retiree.

There are many potential issues with this proposition: issues which are fundamental, political, and economic and issues of equity/fairness associated with changing rules adversely and retrospectively that affect the lives of many Australians. They key issues I see here are:

- Many retirees, me included, have planned carefully and retired at a point in time on the basis of existing superannuation legislation. These retirees have assessed their potential to fund a retirement from their existing superannuation funds and have elected to retire and live a lifestyle compatible with their limited resources.

  To suddenly start taxing these retirees, all aged persons, who have retired on the basis of one set of rules, persons who have contributed as taxpayers to Australia over many years, most of who cannot readily return to the work-force would be totally unfair and inequitable. The incomes and lives of these valuable contributors to our society and economy would be severely and detrimentally impacted by further taxing.

Any changes to tax superannuation income should be 'grandfathered' so that existing retirees, or those close to retirement, are not unfairly impacted with no real opportunity to make changes to offset the negative impacts of any unfavourable changes.

(Any other proposal would be a political landmine for any Government.)

- To tax 'pension phase' superannuation income, being income earned from assets which have previously been set aside after paying taxes (either in the hands of the worker for non-concessional contributions (at up to nearly 50%), or 15% tax for concessional contributions) and where the income of the fund has already been taxed at 15% before the retiree enters the pension phase, seems like **taxation overkill**: **tax the funds first (on contribution - concessional, or before contribution – non-concessional), tax the funds twice (fund income before pension phase), then tax the funds again (in pension phase)!?**

  Income earned by superannuation funds should not be taxed where the person is in the pension phase

3. TAX INCENTIVES/DISINCENTIVES FOR 'PROVIDING' FOR OWN RETIREMENT - MINIMUM WITHDRAW AMOUNTS / $35,000 CONCESSIONAL CONTRIBUTION LIMIT - RIDICULOUS

There can be little argument that it is in the interests of Australia that as many people as possible fund their own retirement.

It is not a huge leap of logic to expect that all of the people who can fund their own retirement are people who have paid significant taxes through their working lives. And then when it comes to retiring, they do not rely on or expect the government to give them back any of their past paid taxes as a Commonwealth pension. They contribute when they worked **and** they contribute after they retire (by not taking a pension, when others who have contributed less by way of taxes do so).

It has been reported in the media, interpreting the underlying objectives of the Tax Discussion Paper, that the Government is looking to increase the taxes on retirees with superannuation balances. To seek to tax, again, those people in retirement with personal superannuation and who have paid higher rates of taxes while working, and who have set aside their after-tax savings to fund their retirement, is unjust, inequitable, unfair.

How much retirees will need in retirement is a critical issue, which ought to be addressed on a multi-partisan basis by all political parties, with superannuation and the Commonwealth pension considered together. Numerous articles in the financial literature, and the financial planning guideline information available from the websites of many commercial superannuation managers, regularly quote a required superannuation balance for a 'comfortable retirement' (assuming mortality in the 80's) in the vicinity of $1,000,000. (For someone to live to 100 would require much more, around $2,000,000.)

Working against the achievement of this 'comfortable' balance for many on the workforce are two current legislative forces:

- **The concessional contribution limits of $30,000 (under 50's)/$35,000 (over 50's)**

  To set aside a superannuation fund balance of $1,000,000, in today's / constant dollars, would require 15 years of contribution at $35,000 plus 16 years contributing at $30,000. This means the person would have to be contributing (themselves and/or by way of an employer) at the maximum concessional rate starting at the age of 34.

  For the 'average' worker, this is totally unrealistic!

  At the age of 34 many people, men and women, have dependent children – these days they may indeed only be just starting their family at that age. Those same persons are also those most likely to have a substantial house mortgage to fund. House prices in Sydney, in particular, are simply, crazy. Mortgages are massive.

  Only recently, on Sunday, April 26, a major Sydney newspaper included an article where highly respected financial adviser Darryl Dixon recommended couples should pay off their mortgages before they top up their superannuation. It makes sense. But this means people in their 20's, 30's and even 40's cannot pay more than the minimum into superannuation.

  So, it should be the case that those who are nearing retirement, and who only then have the best capacity to save for their retirement, should be incentivised to do so by way of substantially higher concessional contribution caps.

  The concessional contribution limits for persons over 50 years of age, persons who are then at the peak of their income and savings potential, should be increased dramatically – to say $100,000 per annum – to give those nearing retirement a chance to accrue $1,000,000, if they can.

- **The minimum withdrawal limits**

  The minimum withdrawal limits, which progressively rise from 4% for those below age 65 to 7% for those aged 80 - 85 (and up to 14% for older persons) simply serve to force superannuation balances to be reduced to levels which cannot sustain a person who lives beyond the age when they are 'actuarially scheduled' to die!

  The 7% iminumum withdrawal amount at 80-85 does not sound, of itself, to be a problem - but when the 7% applies year after year (and increases again at age 86) while the fund might only be earning (in today's financial environment) a net 4%, then the fund is really going backwards by 3%, every year. It does not take many years of this for the fund to be severely diminished and its capacity to sustain the ageing retiree is irreparably damaged.

  The minimum withdrawal limits should be stepped down by 1 or 2% in each age band.

4. MEDIA AND POLITICAL MISUNDERSTANDING OF SUPERANNUATION BALANCES - AFTER TAX CONTRIBUTION AND INCOME COMPONENTS OVERLOOKED!

It is annoying, indeed offensive, and **100% wrong**, when financially half-educated (or uneducated) media journalists, with potential to wrongly influence both politicians and the community, attack self-funded retirees with a conclusion, for example, that if a self-funded retiree has for example $2,000,000 in their superannuation fund then they must have received an ‘unfair’ tax break of $750,000 when that money was submitted.

This conclusion is wrong because it fails to recognise:

(a.) Possibly all, and certainly a proportion, may have been contributed as a ‘non-concessional’ contribution - i.e. no tax deduction was claimed, the funds were contributed out of after tax income, with tax paid at the top marginal tax rate!

(b.) The fund balance will include income earned within that fund and in respect of which tax has been paid.

and

(c.) There was nothing ‘unfair’ about any concessional contributions made. If a tax advantage was obtained because the taxpayer was paying the top marginal tax rate, then their income was being taxed at a rate up to and including a top marginal rate of nearly **50%** (marginal tax + Medicare levy). Further, this tax deduction is available to all taxpayers. There was nothing unfair involved.

Politicians (and the media) need to understand the truth, and communicate the truth, about superannuation balances and taxes, and not be swayed by ill-informed journalists and Opposition members seeking to distort the truth. Treasury should take an active role in educating politicians (on both sides of the House), journalists and the community and in correcting the misunderstandings and/or misrepresentations by journalists or politicians.

5. CGT: 50% ALLOWANCE, OR, REVERT TO THE COMPLICATED OLD WAYS?

When capital gains tax was introduced in 1985 there was recognition that normal inflationary increases in value really did not amount to a fundamental economic gain to the asset owner. Their economic purchasing power has not been enhanced if the value of an asset just tracks inflation. There is no real economic gain. For this reason, when CGT was first introduced, capital gains were adjusted for annual published inflation rates for determining the real economic gain for taxing purposes. This was equitable, however it was very complicated to calculate and administer. It remains an (unappealing) option under current CGT law.

Then came the simple 50% capital gain adjustment allowance, which took into effect inflation and simplified the calculation, and assumed (in effect) that the underlying asset would typically be held for several years, and the gain calculated this simple way, after allowance for 50%, would be ‘close enough’ to the cumulative impacts of inflation.

Any proposal by the Government to remove the 50% allowance should also, in any fairness, allow the adoption of the complicated, but equitable, CPI adjustment allowance calculation.

6. FRANKING CREDITS – THE BEST THING KEATING EVER DID – DON'T TAX PROFITS TWICE!

Companies pay tax, currently at 30%, on the income they earn before paying dividends. When they pay a dividend out of the profit that is left after paying tax, a credit for the tax paid by the company goes to the shareholder. The gross dividend (in effect the before-tax income of the company) plus the tax credit to the shareholder is then subject to tax in the hands of the shareholder at their own marginal tax rate. The shareholder might pay more tax, no tax, or get a tax refund depending upon how their own marginal tax rate compares to the company tax rate. This is absolutely fair.

To remove franking credits, introduced under the leadership of the former Treasurer and Prime Minister Paul Keating, would be for the company to pay tax and then whatever they pay way of dividend would result in the same net (after tax) profits being taxed again, a second time, in the hands of the shareholder. This would be absolutely unfair.

To remove franking credits would not only be unjust, but could do massive damage to the income of millions of Australian taxpayers - both retirees and non-retirees - who are also shareholders. It would also serve to damage greatly the Australian share market and all its investors, including 'mums and dads' and of course all the superannuation funds for millions of Australians - all of who are voters.

Frankly, any proposal to remove franking credits could only be seen as naive at best, certainly a stupid political move, and at worst would be potentially damaging if not catastrophic for the Australian economy and retirees.

Your consideration of these submissions is appreciated. Thank you.

Yours faithfully
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