

Submission to The Treasury on
Work test exemption for recent retirees
– Draft legislation and regulations

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CPSA receives funding support from the New South Wales and Australian Governments



CPSA is a non-profit, non-party-political membership association founded in 1931 which serves pensioners of all ages, superannuants and low-income retirees. CPSA has 95 branches and affiliated organisations with a combined membership of over 23,000 people living throughout NSW. CPSA's aim is to improve the standard of living and well-being of its members and constituents. CPSA receives funding support from the NSW Government Departments of Family & Community Services and Health and the Australian Government Department of Social Service.

CPSA welcomes the opportunity to comment on the *Work test exemption for recent retirees – Draft legislation and regulations*.

CPSA notes that the Work Test exemption measure appears to be related to a Budget 2017-2018 measure (Budget Paper No. 2 p28 – Reducing Pressure on Housing Affordability – contributing to the proceeds of downsizing to superannuation). This Budget measure refers to (1) a maximum non-concessional contribution equal to the current non-concessional contributions brought-forward cap of \$300,000; (2) where the non-concessional contributions are sourced from the proceeds of the sale of the owner-occupied house of a person aged 65 or over if that house has been owner-occupied for a period of ten year; (3) an exemption from the work test and the age test that apply to non-concessional contributions.

CPSA notes that the *Work test exemption for recent retirees – Draft legislation and regulations* proposes significant changes to this Budget measure: (1) The maximum non-concessional contribution remains \$300,000 – no change; (2) the non-concessional contribution can be sourced from anywhere – significant change; (3) an exemption from the work test only applies – significant change; (4) specifically, only one non-concessional contribution can be made – significant change, because the Budget measure promised an exemption from the age test, so that retirees could benefit from the Budget measure multiple times provided they occupied a residence for a minimum of ten years; (5) the *Work test exemption for recent retirees – Draft legislation and regulations* proposes an asset test on the assets held by retirees to be under \$300,000 on 30 June of the last year retirees satisfied the work test; (6) the explicit policy goal of contributing to overall housing affordability has been excised – a minor or significant change, CPSA will not quibble.

It would seem therefore that both the content and intent of the Budget measure have changed considerably.

The intent of the Budget measure was clearly to allow retirees to benefit regardless of their wealth or the balance in their superannuation accounts. The *Work test exemption for recent retirees – Draft legislation and regulations*, on the other hand, appear to target the measure more closely at low- to mid-wealth retirees. CPSA welcomes this change of focus.

However, CPSA is concerned that the conditions imposed by the *Work test exemption for recent retirees – Draft legislation and regulations* unnecessarily restrict the ability of low- to mid-income retirees to properly benefit.

CPSA is not concerned about any work test exempt contributions being limited to the ordinary non-concessional contributions caps, but would argue that multiple contributions should be allowed provided: (1) a retiree's superannuation balance on 30 June of the last

year the retiree satisfied the work test was lower than \$300,000; (2) if at any subsequent point in time the retiree's notional superannuation balance exceeds \$300,000, eligibility to make further work test exempt non-concessional contributions lapses, with the notional superannuation balance to be calculated as (a) the retiree's superannuation balance on 30 June of the last year the retiree satisfied the work test (initial balance) plus (b) any contributions made since 30 June of the last year the retiree satisfied the work test but (c) disregarding any withdrawals made in this calculation.

Simply put, if the initial superannuation balance plus subsequent contributions exceed the non-concessional contributions brought-forward cap, the retiree is not eligible. The retiree is also ineligible if they are 75 or over.

While the *Work test exemption for recent retirees – Draft legislation and regulations* in their current form may benefit those who want to make a non-concessional contribution, they must time it to within a year from the end of the financial year in which they last satisfied the work test. This seems an entirely arbitrary period.

Assuming that the proceeds of the sale of owner-occupied housing would be the most prevalent source work test exempt non-concessional contributions, by limiting the eligibility period to a maximum of two years, the *Work test exemption for recent retirees – Draft legislation and regulations* reduce (1) the period during which retirees might be encouraged by this measure to downsize and (2) the incentive to downsize and use excess proceeds for the purpose of retirement funding. Amending the *Work test exemption for recent retirees – Draft legislation and regulations* as outlined in this submission would maximise that incentive.

As to other sources of work test exempt non-concessional contributions, income received as part of redundancy arrangements can obviously be put into super within the period stipulated in the *Work test exemption for recent retirees – Draft legislation and regulations* and mostly even within the financial year the retiree last satisfied the work test.

However, other sources of work test exempt non-concessional contributions, such as inheritances, gifts, proceeds from gaming and the proceeds from the sale of assets outside super cannot be timed or cannot be timed as easily, while downsizing might not be immediately attractive when a person retires.

In addition, given that the *Work test exemption for recent retirees – Draft legislation and regulations* clearly targets low- to mid-wealth retirees, the level of tax expenditure involved is low. Arguably, eligible retirees would pay no income tax on investment income from sources of potential non-concessional contributions as a result of the operation of the Seniors and Pensioners Tax Offset (SAPTO). Making a non-concessional contribution would be mainly motivated by having savings in a single place,

their superannuation account, rather than have to make a decision about where to invest outside super, where additional investment management fees would eat into returns.

The level of tax expenditure involved would be the same under *Work test exemption for recent retirees – Draft legislation and regulations* in their current form or as amended according to recommendations made in this submission.

Recommendations:

1. To be eligible for making a work test exempt non-concessional contribution a retiree should meet the relevant age test.
2. To be eligible for making a work test exempt non-concessional contribution, a retiree's notional superannuation balance (see recommendation 3) should not exceed the non-concessional contributions brought-forward cap.
3. A retiree's notional superannuation balance (see recommendation 2) should be calculated as (a) the retiree's superannuation balance on 30 June of the last year the retiree satisfied the work test (initial balance) plus (b) any contributions made since 30 June of the last year the retiree satisfied the work test plus, but (c) disregarding any withdrawals made in that calculation.
4. For clarity, a retiree meeting the criteria set out in recommendations 1 – 3 should be able to make a limitless number of work test exempt non-concessional contributions.