

From: Gareth Jones [REDACTED]
Sent: Monday, 25 July 2022 2:02 PM
To: Superannuation
Subject: Veterans Taxation on Benefits from Super Companies

Good Afternoon

I would hold off on any legislation to amend this indiscretion around Veterans Disability Benefits paid by CSC until the current litigation which is currently at the AAT in regards to the incorrect date of before 20th Sept 2007 as I have included a paragraph from an SCT decision that was for myself that states my benefit should have been taxed as Lump Sum from 11th July 2000, but should have been from 1st September 1997. So you would be advised to hold off until a decision that would affected all Veterans Benefits as should have the Douglas Decision.

Para 54 (Page 49)

The Tribunal notes the view expressed by the Administrative Appeals Tribunal (AAT) in Burns and Commissioner of Taxation (2020) AATA 671 (Burns), that an invalidity pension from the Fund is **not a superannuation income stream benefit under ss307-70(1) of the ITAA97**, because the benefit was not “specified” in the ITAR. In fact, no benefits were originally “specified” in the ITAR (which was clearly unintended, because then there could never have been any superannuation income stream benefits payable by any superannuation fund). Rather, as noted above, the concept of a “superannuation income stream benefit” was merely defined in **reg. 995-1.01**. However, industry practice was to assume that a pension was synonymous with a “superannuation income stream” and that pension payments were therefore superannuation income stream benefits. In this regard, the Tribunal notes that the employer component of the Funds invalidity benefit is required to be paid as a pension under the Fund’s governing rules. **Further, if a purposive interpretation were given to ss307-70(1), then it might be found that the complainant was receiving superannuation income stream benefits from 1st July 2007 (being payments from a pension that commenced before 20th September 2007 that met the standard either in sub regulation 1.06(2) or in sub regulation 1.06(4) from 11th July 2000 when the complainant became Class A invalidity pensioner).**

SCT made mention of **purposive interpretation** in relation to ss307-70 (1) the early years. Section 15AA of the [Acts Interpretation Act 1901](#) of Australia states that the interpretation that best achieves the purpose or object of a Commonwealth act is preferred to all other interpretations. Equivalent provisions are contained in the interpretation acts enacted in most Australian States and Territories. When determining the purpose of a statutory provision, courts ought to keep in mind the contexts for the provision at the outset rather than only when ambiguity or inconsistency exists.

Regards

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