Response to the proposed Treasury Laws Amendment (Better Targeted Superannuation Concessions) Bill 2023 by Peter Cass

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WHO AM I

My name is Peter Cass and are a trustee of our self-managed super fund. I am retired and on an allocated pension. I am married with grown up children.

We have always been a single income family and while my income has been a little above average, our family income has only been equivalent to the a average income, with the exception that we were paying a higher than average amount of tax due to marginal tax rates.

When I was working and always contributed through salary sacrifice to ensure we had an adequate income in retirement.

KEY POINTS

1. Effective tax rate of up to 40% on realised capital gains over CPI may drive up house prices.

2. Taxing notional capital gains before the investments are realised is unfair and will result in taxpayers paying excessive tax on income that may never be received.

3. This proposed Bill will increase the significant tax burden super already has

4. The Treasury Laws Amendment should apply to all tax payers.

5. The additional tax on super should apply to accounts with a higher value than $3 Million.

6. The $3 Million balance must be indexed due to the high CPI.

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ISSUES AND SOLUTIONS

1 Effective tax rate of up to 40% on realised capital gains over CPI may drive up house prices

As the additional tax of 15% applies to capital gains in the total super balance with no discount for inflation or CPI, the effective additional tax rate over inflation is higher than 15%.

Currently the discount for CPI for capital gains in super is about 33.3% (a tax rate of 10% in lieu of 15% is applied to capital gains for investments older than 12 months).

I note that the discount for capital gains on investments outside the super system is 50% for investments over 12 months. Considering the high rate of CPI now and the established discount of 50% of capital gains over 12 months to allow for CPI, I consider that a discount of 50% is more reasonable for taxing capital gains.

Where there is no CPI discount applied to capital gains, as proposed in this Bill, this raises the effective tax rate to up to 30 % on capital gains over CPI. Adding the 30% rate to the current 10% rate for capital gains over CPI (for investments over 12 months old), the total proposed tax rate is 40% which compares to the current marginal personal income tax rates. There will be no incentive to have a balance over $3 million in super when effective tax rates in super are the same as marginal rates outside super. In the future, people may not bother saving for retirement and just rely on the old age pension.

For unrealised capital gains, the tax rate is comparable to an effective 30% tax rate on unrealised gains over CPI as there is no 50% capital gains discount for CPI. **Tax should only apply to real realised income over CPI**

This proposed Bill will encourage people to take money out of super and invest elsewhere like their primary residence to avoid capital gains tax. This will reduce investment in our great Australian companies and help drive up house prices.

2 Taxing notional capital gains before the investments are realised is unfair and will result in taxpayers paying excessive tax on income that may never be received.

This proposed Bill includes for taxing notional capital gains in their total super balance that will result in **tax being paid on income that may never be received** by the tax payer. Where the tax payer has equity investments in their total super balance that rise and fall, this proposed Bill will cause the tax payer to be paying tax when their equity investment prices peak in the market.

To see the rise and fall in equity values just look at the history of share prices for the major Australian banks like Westpac, ANZ, Bank of Queensland and NAB. Also mining companies have a very cyclical share price as mineral prices rise and fall. Many super funds will have money in these and other cyclical investments.

While a "tax credit" is proposed to address rising and falling super balances, the tax credit may not be of any benefit to the tax payer. The tax payers super balance will fall as equity prices fluctuate. When tax is paid on notional capital gains and money is withdrawn from super to pay pensions and this additional tax, the tax payers total super balance may never have a capital gain again and this will result in unused tax credits. **The tax credits must be tax refunds with interest** to avoid tax being paid on income that will never be received.

3 This proposed Bill increases the significant tax burden super already has

Contributions to super have already been taxed by way of either 15% on contributions tax or full marginal tax on non-concessional contributions. The tax on super earnings should only apply to earnings over CPI so that the fund can retain its real value to meet the primary aim of super to provide for the retirement of someone who has paid tax up to retirement so they are not a burden on the Government pension. **Do not add any additional tax burden on super.**

4 The Treasury Laws Amendment should apply to all tax payers.

While the explanatory notes include members of APRA regulated funds as being included for the additional tax, currently I understand that APRA regulated funds do not have a mechanism to report the TSB (total super balance) to the tax office to enable the tax office to apply the additional tax. This means APRA fund members will not be subject to the additional tax.

Also there must be no special rules certain Commonwealth judges and justices, certain State higher level office holders, and non-complying funds for the tax system to be fair. **Do not apply any new tax to super unless it applies to all tax payers.**

5 The additional tax on super should apply to accounts with a higher value than $3 Million.

Many people in pension phase will have a lot of their super in fixed interest investment to reduce risk.

For a $3 Million balance at the recent interest rates as low as 0.5%, the resulting income is $15,000 a year, before tax. At 4% the income before tax is $120,000 a year. Tax is applicable to interest and other investment income on accumulation balances.

This level of income is relatively modest and would very likely result in significant capital withdrawals. Adding a further tax burden on super will only cause people to run out of super and end up on the government pension quicker.

The investment income from a $3 Million balance does not provide for excessive income by today's standards and many people with balances over $3 million will rely on reducing the investments in their super for regular expenses. This, combined with the effects of inflation increasing expenses, will quickly cause people to run out of super and end up on the government pension

Any additional tax should apply to balances over $6 Million and only apply to real income not notional unrealised income.

6 The $3 Million balance must be indexed due to the high CPI.

As inflation is eroding the buying power of money, the balance where any additional tax applies must be indexed to the CPI. Failing to do this will destroy incentive for people to save in the super system all their working lives. Relying on future governments to index this amount creates uncertainty and is totally unacceptable. **The total super balance where any additional tax is applied must be indexed to increase with CPI.**

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