

Submission re the “Better Targeted Superannuation Concessions” Bill 2023

We are the Trustees of a Self Managed Superannuation Fund which would be impacted in the event that the proposed legislation were to be legislated.

We make the following points in relation to the Bill:

1. The proposal to value “unrealised capital gains” and to impose tax thereon is terrible public policy and inequitable. It is impossible for the same provision to be equally applied to any superannuation structure other than a SMSF and all government pension recipients will not be impacted by this concept.

Similarly, if the concept were to be applied more widely outside of superannuation, the whole of Australia’s Capital Markets would collapse. No one would or could invest in anything other than short term, income-producing assets.

If a bizarre and unacceptable result is produced when applying this concept to the total market, applying it to one investor class is at least equally bizarre and unacceptable.

2. The whole concept of Superannuation in Australia has been since its inception, to encourage individuals to provide for their retirement and to relieve the government from financial contributions to the greatest extent possible. Assets which lend themselves to producing sustainable income over the longer term and best support the policy objectives of superannuation, are generally fixed in nature (eg., dwelling houses or apartments) and whose market value will vary over time.

The other asset class which is attractive to longer-term investors is innovators and start-up ventures, which by their very nature are risky, long-term and which have indeterminant value until, hopefully, a valuation event.

Given that government policy clearly supports both increased dwelling supply and increased levels of innovation in Australia, imposing barriers to investment in these asset classes is perverse.

3. The proposal to tax unrealised capital gains is clearly contrary to the entire taxation system in Australia which is totally based on the taxation of “earnings”, whether of an income nature or a capital nature. The possible precedent that this concept can have to the whole of the Australian Capital Market is incalculable.
4. The proposed valuation system is complicated and will be difficult to administer, both from the perspective of the Fund, and by government.

5. Notwithstanding the obvious clear policy failures, the creation of a whole new system of taxation applicable only to individuals of a certain and limited character and the difficulties of administration, the proposal to impose taxation on unrealised capital gains is unbalanced and inequitable unless a corresponding provision to allow for unrealised capital losses is also imposed.
6. The proposal to impose taxation on unrealised capital gains and to increase taxation on balances above \$ 3 million is clearly retrospective taxation.

If the government wished to change the previously accepted purpose of superannuation to what they are now suggesting (ie., that they will be the sole arbiter of what is a “dignified retirement”), then these new provisions should be of prospective application only and should not impact beneficiaries who have followed clear existing rules and made capital and asset allocations based upon those rules.

Similarly, the fact that Superannuation is compulsory differentiates it from every other investment or fund available and it is appalling public policy to vary the rules applicable to the compulsorily acquired and preserved funds of individuals.

The current government with the introduction of this legislation is adopting a unique system of taxation which would be absolutely unacceptable to the broader investing public or to the Australia Capital Markets, it is contrary to many of its own public policies, and it is poor public policy to continue to interfere with a system designed for long term investment, particularly in a retrospective manner.

DCWR & JF Ritchie