

Attention: Retirement, Advice and Investment Division

The Treasury

CC: CEO-APRA, CEO-ASIC, CEO-CSC

Consultation on Australia's Superannuation System

Submission from [REDACTED] CSS Retiree

[REDACTED]
[REDACTED]

30 Jan 2024

Background and a few facts

I am a CSS retiree, having worked as a public servant in various Federal Departments from the age of 17 to the age of 55. The last 13 years as an SES. I was on the Executive of [REDACTED]

[REDACTED]. I would say that I have a better understanding of superannuation than the average Australian.

I considered moving to the private sector several times during my APS career (especially when I was in the role of [REDACTED]) as I could earn 3x the salary in the private sector for the same role. I remained in the APS because I saw the benefit if being in CSS once I retired. This was the same for many senior public servant executives – we accepted salaries that were 20%+ less than the private sector.

It was a condition of my employment to be able to contribute to the CSS scheme. The various Departments I worked in were required to pay employer contributions on behalf of CSS members to the Consolidated Revenue Fund (CRF). It also sat as a liability against the Department. Later in my career (while an SES), this was even raised as a reason not to give me an increment when other executive peers (who were in different schemes) were given one. They quoted my total remuneration package and said that my being in CSS made me a “more expensive employee”, so my take home salary was kept lower.

TRANSFER BALANCE CAP (TBC)

On 1 July 2017, the ATO introduced the TBC.

For CSS retirees – the Transfer Balance Cap is a notional amount (a lifetime limit) calculated by the ATO (completely independently of the Super Fund) and is based on 16 x gross pension. If a retiree had a TBC over \$1.6M in 2020 (it is now \$1.9M) then they are subject to additional tax. For CSS retirees over 60 who have a pension above \$118,750 gross pa (the defined benefit income cap), they must pay an additional tax – at the marginal rate. Only \$40k is tax free for a CSS retiree. I will be significantly impacted by this when I turn 60.

My biggest concern is the complete lack of information to be able to make an informed decision at the time of my retirement in late 2020.

LACK OF INFORMATION

Despite my strong knowledge of superannuation, I was **totally unaware of the Transfer Balance Cap**.

The Transfer Balance Cap calculation process, and the notional value assigned to my super by the ATO, were not included/mentioned in any of the following communications:

- **one-on-one financial advice session with the CSC-approved financial advisor** prior to making my retirement decision,
- my **retirement options** paperwork, (which I read thoroughly including all linked documents),
- my **claim/benefit documentation**,
- my superannuation **statements**,
- my **first letter** from the Fund after retiring,
- in my **CPI increase letters** each 6 months,
- or in any of my **taxation documentation** (eg Tax Returns).

I assumed the value of my superannuation (*even if I had even become aware of the TBC*) was as per the valuation on my statement issued by the fund, and further “confirmed” when I went through a divorce in 2017 and paid for an actuarial valuation of my superannuation and was told it was \$1.3M.

I was therefore unaware that, on retirement, the ATO would undertake a calculation that notionally valued my super at \$2.6M – increasing the value OVERNIGHT by over \$1M.

This process was never communicated to me prior to my decision as to how to take my super, nor since becoming a retiree. Because I am under 60 years old, I found out about this purely by chance when my accountant asked me about it when we she was viewing my ATO transaction list (something I have no access to).

Had I known about this tax, I would have chosen a part-lump/part-pension. This would have made an enormous impact on my life and living standard. *See Personal (Confidential) Information at the end of my submission.*

INEQUITY VERSUS OTHER SUPER FUNDS

I note in the Treasury consultation paper on **Better Targeted Superannuation Concessions** (which I didn't write a submission to as I wasn't aware of the TBC at that time) that:

This consultation also seeks views on how a broadly commensurate treatment can be applied to defined benefit superannuation accounts. Individuals have the option to choose a superannuation arrangement that best suits their personal circumstances. This policy is designed to ensure that flexibility and choice is maintained.

For CSS retirees, the TBC has no flexibility and no choice as the Scheme rules do not legally allow it. Once we have elected to get a pension (eg at 54/11), **we cannot commute any part of the pension** (or any part of the notional TSB). Other funds are able to commute part of their Total Superannuation Benefit and reduce their pension to a level it is tax-free. Even though this tax is imposed by Treasury and the ATO, it in effect changes my scheme benefits.

Based on the scheme rules, if my husband and I were to die in a car crash tomorrow, a total of \$0 would go to my children or to my Estate. Not a single dollar. I also cannot transfer it to another fund. It ceases when we cease.

As other super funds' pay the retiree a pension each year, the Total Superannuation Balance

declines. The pension doesn't decline, but the TSB does. For CSS retirees, **the ATO never reduces the Total Superannuation Balance** - so the CSS retiree forever pays the additional tax (at the marginal tax rate). We cannot commute any portion of it, and it doesn't go down as we get older.

INEQUITY FOR SPOUSES UPON DEATH

For the spouse (when a CSS pensioner dies) the TBC is not reduced. This is despite the fortnightly pension paid to the Reversionary (spouse) reducing to 2/3 of the pensioner's pension. Surely it would make sense to recalculate it to 16 x gross pension (ie 2/3 of prev gross pension) at the time it reverts to the widow/widower?

PURCHASING POWER

[REDACTED], I am acutely aware of the arguments regarding CPI versus AWOTE pension increases. I understand the increased cost to Consolidated Revenue were this to be changed, and I understand why consecutive governments have remained with CPI. Yes, this does amount to a **declining purchasing power** over the longer term, however it is the TMC that really escalates this issue for those in CSS who aren't able, under scheme rules, to commute their (notional) Total Super Balance with the ATO.

BROADER FINANCIAL CONSIDERATIONS

This TBC tax is a very 'blunt instrument' and doesn't take account of broader assets and wealth. Retirees in other schemes can commute (draw down) their balance - so they don't have to pay the additional tax. In my circumstance, I could pay down some of my large mortgage and save interest. This tax is applied to individuals and does NOT take into account their broader financial circumstances – like what other assets they have (eg do they own a home or other property or shares or, like me, have no other assets).

Since 1 July 2022, superannuation trustees have had an obligation under the retirement income covenant to formulate, review regularly and give effect to a retirement income strategy. The strategy must help members achieve and balance the following three objectives: maximise retirement income, manage risks to the sustainability and stability of that income, and maintain flexible access to capital. These are the characteristics that define a well-rounded retirement product.

I do question - How are the CSC Trustees supposed to meet their obligations under the Retirement Income Covenant when this TBC tax undermines their ability to do so?

THOSE WHO ARE EXEMPT

The TBC (and also Div293) are considered "taxes on the rich" yet **they do not apply to politicians and their staff, Judges, and Heads of Department**. I don't like to include any 'divisive' content, but I do also wonder: isn't it a **potential conflict of interest** for a Treasurer (as a **Head of Department**) to put forward legislative changes (like Div293 and the Transfer Balance Cap) to Parliament (ie **politicians**) that affect other Australians who earn the same or less than them, but from which they themselves are exempt?

SOLUTION

Taxation is not an area of speciality for me, and I'm sure others could come up with a more elegant and equitable solution than I could. I do feel that, **at the very least**, CSS (and PSS members) who are considering 54/11 or retirement in any other form, are given the information to make an informed decision. There appears to be no communication with respect to the **connections between the**

scheme rules and the taxation rules – and how these affect CSS members' decisions.

Conclusion

Thank you for taking the time to read my submission. I have just started a small business and I don't have a lot of spare time so taking the time to put this information on paper and expose my personal finances (albeit to a subset of people for a particular purpose) was not something I have taken lightly.

However, after decades of working in service to the Australian public, I feel an obligation to hopefully ensure that other APS Executives who have given years of service, often in challenging, demanding roles, might not be subject to these challenges in their later life when they had hoped to have a comfortable retirement.

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