

14 September 2012

Manager  
Benefits and Regulation Unit  
Personal and Retirement Income Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [strongersuper@treasury.gov.au](mailto:strongersuper@treasury.gov.au)

Dear Sir/Madam,

**Re: Penalties for promoters of Illegal Early Release Schemes**

The Australian Institute of Superannuation Trustees (AIST) is an independent, not-for-profit professional body whose mission is to protect the interests of Australia's \$450 billion not-for-profit superannuation sector. AIST's members are the trustee directors and staff of industry, corporate and public-sector superannuation funds, who manage the superannuation accounts of two-thirds of the Australian workforce.

This exposure draft ("the ED") introduces penalties to deter people who illegally promote early release schemes. AIST supports the measures introduced in this ED.

**Chapter 1**

AIST supports the imposition of civil and criminal consequences for persons promoting early release schemes. We believe this will help to discourage the promotion of early release schemes, therefore maintaining people's quality of retirement.

**Chapter 2**

AIST supports the implementation of a 45% tax on unlawful early payments. This position is consistent with recommendation 8.25 of the Cooper Review<sup>1</sup> which AIST supported.

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<sup>1</sup>[http://www.supersystemreview.gov.au/content/downloads/final\\_report/part\\_two/Part\\_2\\_Chapter\\_8.pdf](http://www.supersystemreview.gov.au/content/downloads/final_report/part_two/Part_2_Chapter_8.pdf)

However, we believe that an additional penalty based on a sliding scale of penalties, which takes into account an individual's circumstances should be imposed. This was recommended in the Cooper Review.

In the ED, a person on the highest marginal tax rate will only be taxed at the superannuation non-compliance tax rate, which is the same rate of tax. This could lead to a situation where a beneficiaries of such schemes, promoters or otherwise will only be taxed at their marginal tax rate. We believe that additional penalties should be implemented to discourage illegal early release promoters.

If you have any further questions regarding this submission, please contact Richard Webb, Policy & Regulatory Analyst on 03 8677 3800 or [rwebb@aist.asn.au](mailto:rwebb@aist.asn.au).

Yours sincerely,

A handwritten signature in blue ink that reads 'Fiona Reynolds'.

Fiona Reynolds  
**Chief Executive Officer**