



SUBMISSION

REFUND OF EXCESS CONCESSIONAL CONTRIBUTIONS REGULATIONS

29 June 2012

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About ASFA

ASFA is a non-profit, politically non-aligned national organisation whose mission is to protect, promote and advance the interests of Australia's superannuation funds, their trustees and their members. We focus on the issues that affect the entire superannuation industry. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90% of the 12 million Australians with superannuation.

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Refund of Excess Concessional Contributions Regulations

1. General comments

The Association of Superannuation Funds of Australia (ASFA) would like to provide this brief submission with respect to the exposure draft regulation material on the refund of excess concessional contributions measure which will operate with respect to contributions made after 1 July 2011.

It is noted that the proposed regulations will amend the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations) and the *Retirement Savings Accounts Regulations 1997* (RSA Regulations) and that the legislative goal is to support the contributions refund measure by enabling superannuation providers to comply with the release authority issued by the Commissioner of Taxation and removing the effect of certain cashing restrictions that would otherwise apply to the payment.

The draft regulations, as presented, appear to be effectively drafted, however ASFA would like consideration as to whether some additional regulations are required with respect to pension accounts.

We note that, in implementing this process funds will need to amend their benefit payment systems to recognise a new benefit payment type and some funds may also need to amend their trust deed.

2. Specific comments

The SIS and RSA Regulations impose limitations on regulated superannuation funds and eligible rollover fund cashing benefits in favour of persons other than members or their legal personal representatives. The amendments to regulations 6.22, 6.26 and 6.27, as drafted, appear to be effective in amending the payment standards to permit the payment to the Commissioner of Taxation in response to the receipt of a release authority issued under subsection 292-420(1) of the income Tax Assessment Act 1997

ASFA requests that consideration be given to the need for similar changes to the commutation rules for pensions and annuities in Subdivision 1A.1 of the SIS Regulations. The concern is that a member may have converted their accumulation benefit into an income stream prior to receiving an offer from the Commissioner of Taxation. To address this, ASFA requests that consideration be given to amending SIS Regulations:

- 1.07A, 1.07B, 1.07C and 1.07D so as to enable a pensioner member to authorise the issuance of a release authority to their pension provider by the Commissioner of Taxation.
- 6.01(2) - the definitions of *non-commutable allocated annuity* and *non-commutable allocated pension* (which contain the permitted commutations for transition to retirement income streams).

3. Additional matters for consideration

When reviewing regulations 1.07A, 1.07B, 1.07C and 1.07D, should consideration be given to also enabling payment with respect to a release authority issued under section 292-410(1) of the *Income Tax Assessment Act 1997*?

ASFA requests that, should a similar administration process be used for the proposed reduction of higher tax concession for contributions of very high income earners measure, consideration be given to the matters raised above with regards to pension accounts when drafting the regulations.

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If you have any queries or comments regarding the contents of our submission, please contact Robert Hodge on 02 8079 0806 or via email on rhodge@superannuation.asn.au.

Yours sincerely

Margaret Stewart

A handwritten signature in black ink, appearing to read 'M Stewart', with a long, sweeping underline that extends to the left.

General Manager, Policy and Industry Practice