8 May 2013

Manager
Contributions and Accumulation Unit
Personal Retirement and Income Division
The Treasury
Langton Crescent
PARKES, ACT, 2600

Email: superannuation2013bill@treasury.gov.au

Dear Treasury,

AFA Response to the Exposure Draft – Sustaining the Superannuation Contribution Concession

The Association Of Financial Advisers Limited ("**AFA**") has been serving the financial advising industry for over 65 years. Its aim is to provide members with a robust united voice, continually improve practices and focus firmly on the exciting, dynamic future of the financial advising industry. The AFA also holds the client to be at the centre of the advice relationship and thus support policies that are good for consumers and their wealth outcomes.

With over six and half decades of success behind it, the AFA's ongoing relevance is due to its philosophy of being an association of advisers run by advisers. This means advisers set the agenda, decide which issues to tackle and shape the organisation's strategic plan.

Thank you for the opportunity to provide feedback on the draft legislation on the new tax on superannuation contributions for individuals with incomes above $300,000.

The AFA does not support this new tax and puts the view forward that changes to superannuation taxation arrangements of this nature are disadvantageous to superannuation investors and the country as a whole. Changes of this type serve to discourage individuals making personal contributions into superannuation as it highlights the risk of new and increased taxes being added in the future. Changes of this nature also have the flow on consequences of the community moving away from the self-funding of retirement and placing greater pressure on the public pension system.

We further note that the revenue to be gained by this new tax will be quite moderate and when assessed in terms of the cost to achieve, highlights the ineffectiveness of this measure.

Whilst we do not agree with this new tax, we do also believe that it is important for us to provide feedback on the proposed legislation in terms of design and implementation issues.

An effective tax is one that can be applied universally. We recognise that this tax will apply to defined benefit funds and this is a positive factor, however the regulations required to calculate defined benefit based contributions have not been released at this stage. We are concerned that the tax will not cover state public servants and certain judges and justices. The lack of equality and

consistency in application is most unfortunate. Ideally this should be addressed in the future.

We make the further point that the $300,000 cap should be adjusted over time to reflect movements in the CPI Index.

We note a few key points in this legislation about payment of the tax:

- The tax will be applied on the individual rather than the superannuation fund.
- Individuals will have 21 days from the date the notice of assessment is issued to pay the assessed tax.
- Individuals may seek a release of funds from their superannuation fund for payment to either the Commissioner or themselves, and they have 120 days to use the release.
- Superannuation funds have 30 days in which to make the payment.
- Defined benefit members will have the option to pay at the time of assessment or at the time of payment of a superannuation benefit.

These provisions raise a number of issues:

- Clients only have a very limited time to make this payment, and as it is a new tax, many of them are likely to be unaware of the obligation and will need advice in terms of what it is and how they should pay it. We expect that this is likely to result in many clients coming to see their financial adviser and this will become a very time consuming activity for advisers.
- We are also concerned that the very tight timeframe for payment will put extra pressure on advisers to see clients in a very restricted timeframe.
- Individuals have 21 days to pay the Commissioner, yet superannuation funds have been allowed 30 days to pay the Commissioner or the individual. If a client wants to arrange for their superannuation fund to pay the Commissioner directly then there is a fundamental timing problem. This situation is likely to favour SMSF's as the members/trustees will be able to arrange payments on behalf of their own situations in the necessary timeframe. This will work to the disadvantage of members of Corporate, Retail, Public Sector and Industry Funds.
- On the basis of the issues raised above and to enable a better client outcome we would recommend an extension of the timeframe to pay from 21 days to 42 days.
- We would also encourage Treasury and the ATO to arrange a targeted public awareness campaign to ensure that impacted individuals are as aware as possible of this new obligation. The AFA is willing to assist with this by running an awareness campaign for our members.

Conclusion

We remain opposed to this tax, however we have identified some issues above and made some recommendations that we hope will minimise the disruption in the implementation of this new tax.

Should you have any questions, please do not hesitate to contact me on (02) 9267 4003.

Yours sincerely,

Philip Anderson

Chief Operating Officer