

8 April 2014

Senior Adviser
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: superannuation@treasury.gov.au

Dear Sir/Madam,

Re: Sustaining the Superannuation Contribution Concession – Division 293 Tax - Calculating notional contributions for defined benefit interests

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds who manage the superannuation accounts of nearly two-thirds of the Australian work force.

As the principal advocate and peak representative body for the \$600 billion not-for-profit superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training, consulting services and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.

Draft regulations

AIST agrees with the method proposed in the draft regulations that will see the use of Notional Taxed Contributions (NTCs) used for the purposes of calculating the tax applicable to higher income earners. Further, we support the use of this method for the 2013-14 financial year and beyond, as this will provide both superannuation fund trustees and their members with the certainty that this measure requires.

AIST notes that the use of NTCs has been the accepted method of calculating the contributions tax liability for members of defined benefit funds since the introduction of contribution caps in 2007. We believe that the use of this method is the simplest, and believe that calculation of Division 293 tax should be consistent with the way that excess contributions tax is presently calculated.

In our submission on the previous draft of the regulations back in June 2013, we pointed to the cost of compliance which we expected to be large. We believe that the method used in these draft regulations are simpler and more cost effective than the method previously proposed.

A concern that has been raised by our members relates to the definition of *funded benefit interest*, as described in the proposed subsection 293-115.15(2). We note that funds may already use Schedule 1A of the *Income Tax Assessment Regulations 1997* (ITAR 97) for the purpose of calculating concessional contributions. However not meeting the ‘funded benefit interest’ definition would mean that a fund would have to use the proposed Schedule 1AA method in addition and at the same time as Schedule 1A. We are not certain that this is in keeping with the spirit of why this method has been chosen: We believe it is because the taxation basis under Division 293 is conceptually similar (for defined benefit fund members) as excess concessional contribution tax.

In addition, we would prefer a note in the explanatory statement clarifying that a funded benefit interest is intended to capture all private-sector defined benefit funds for clarity.

Outstanding issues

The draft regulations cover a specific situation where member is both in the accumulation phase, and is an accruing member.

We note that there still appear to be a considerable number of complications with regards to members with defined benefits in different circumstances, for example, where members are in the drawdown phase. Whilst we understand that issues relating to defined benefits are seldom simple, we are mindful that these issues have the potential to inconvenience members of funds at a time when complications are least needed. AIST would be willing to discuss these issues with Treasury at any stage.

If you have any further questions regarding this submission, please contact Richard Webb, Policy & Regulatory Analyst on 03 8677 3835 or at rwebb@aist.asn.au.

Yours sincerely,



Tom Garcia
Chief Executive Officer