

Exposure Draft

Tax and Superannuation Laws Amendment (2015 Measures No. 1— release conditions for non-concessional contributions) Regulation 2015

Submission:

The main issue I have with this draft is over the proposed release of “associated earnings”.

Whilst the inclusion in a personal tax return of a notional amount representing associated earnings will serve a deterrent, it does not seem reasonable or necessary to me that an amount representing associated earnings would actually be paid out of the superannuation fund.

The proposed refund of associated earnings would effectively result in a superannuation fund member physically getting their hands on preserved superannuation money prior to meeting a standard condition of release. The payment of these funds will create administrative complexities over the apportionment against the tax free/taxable components of a members account, as well as income tax treatment of the payment. It is also worth noting that the proposed treatment of associated earnings attached to excess non-concessional contributions will be inconsistent with the current treatment of excess concessional contributions.

I would therefore propose the following solution:

- **A full refund of the excess non-concessional contributions be made available (as proposed)**
- **A notional amount of associated earnings be calculated (as proposed)**
- **NO release or physical payment of associated earnings be made available**
- **The actual earnings be retained in the fund and treated as taxable income**
- **The notional amount of associated earnings be added to the individual’s personal income tax return with a 15% rebate applied (as proposed)**