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PORTABILITY OF SUPERANNUATION BETWEEN AUSTRALIA AND NEW ZEALAND

SUMMARY OF CONSULTATION PROCESS

The Government announced on 16 July 2009 that it would establish a scheme to permit the portability of superannuation between Australia and New Zealand. The scheme will enable Australians and New Zealanders to transfer their retirement savings across the Tasman when they move.

This measure was included in *Superannuation Legislation Amendment (New Zealand Arrangement) Bill 2012*, which was introduced into Parliament on 11 October 2012.

Consultation process

Consultation on the draft legislation was conducted between 18 September and 28 September 2012. Treasury received eight submissions in response to this consultation. Of these submissions, one was confidential.

The opinions expressed in the submissions are those of the authors and do not necessarily reflect the view of the Government or the Treasury.

The Treasury requests submissions are received in an accessible format. If you are having difficulty with the accessibility of any of the submissions below please contact webmaster@treasury.gov.au.

Submissions can be viewed on the [Treasury website](#).

Summary of key issues

Most submissions received were supportive of the trans-Tasman portability scheme.

A number of issues raised in the submissions related to matters for the regulations, for example changes to the preservation rules and conditions of release for New Zealand-sourced amounts. Once draft regulations are available, they will be open for public consultation, when these issues can be considered.

A number of submissions raised issues that relate to the terms of the Memorandum of Understanding (MoU) and are therefore outside the terms of the consultation. The MoU was released with the consultation documents. In particular:

- Two submissions raised concerns about the exclusion of self managed superannuation funds (SMSFs) from the portability scheme, and one submission raised a concern about the exclusion of exempt public sector superannuation schemes. The MoU signed by the two countries specifies that New Zealand-sourced retirement savings cannot be transferred to or



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held in an SMSF, and Australian-sourced retirement savings from an untaxed source or a defined benefit scheme cannot be transferred to a KiwiSaver account.

- Two submissions recommended changes to treating New Zealand-sourced amounts as non-concessional contributions that are subject to the cap. The MoU specifies that New Zealand-sourced amounts are non-concessional contributions and are subject to the non-concessional contributions cap at their initial point of entry into the Australian superannuation system.

One submission recommended that New Zealand-sourced amounts not be kept separately from other amounts in the member's account. The MoU specifies that transferred retirement savings must be separately identifiable within the account established in the host country, to allow source country rules to apply.

- One submission recommended that the MoU with New Zealand be renegotiated, to allow the application of Australian conditions of release to New Zealand-sourced retirement savings, and to permit the transfer (and rollover) of New Zealand-sourced amounts to SMSFs and exempt public sector superannuation schemes.

A number of further issues were raised. One submission included a recommendation that the current rollover benefits statement be used for all transfers between the two countries. The legislation provides for a separate statement, recognising the different information required for transfers between the two countries. The new statement would also provide evidence of the tax status of amounts previously held in Australian superannuation funds.

One submission noted a potential interaction with the departing Australia superannuation payment (DASP) provisions. DASP does not apply to Australian and New Zealand citizens and permanent residents. It is unlikely that a temporary resident, to whom DASP applies, would choose to transfer their benefits to New Zealand.

Several submissions noted implementation issues, such as necessary systems changes and their costs; treatment of rollovers of benefits containing New Zealand-sourced amounts between Australian funds; disclosure and reporting obligations; interaction with other superannuation reforms such as MySuper and SuperStream; and industry implementation of a large number of superannuation reforms. These concerns, while valid, did not require changes to the draft Bill.

Several minor amendments were made to the draft Bill, including the insertion of several definitions into the draft Bill and a change to the provisions relating to capital gains tax. The Explanatory Memorandum was amended to provide further explanation and clarification in response to issues raised in submissions.

Feedback

Feedback on the consultation process for this measure can be forwarded to consultation@treasury.gov.au. Thank you to all participants in the consultation process.