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TAXATION RELIEF FOR MERGING SUPERANNUATION FUNDS

SUMMARY OF CONSULTATION PROCESS

The Government announced on 24 April 2012 that it would reinstate the temporary loss relief for merging superannuation funds with some modifications.

This measure was included in Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Bill 2012, which was introduced into Parliament on 19 September 2012.

Consultation process

Consultation on the policy design was conducted between 18 May 2012 and 8 June 2012. Eleven submissions were received.

Consultation on the draft legislation was conducted between 3 August 2012 and 24 August 2012. Ten submissions were received.

Submissions can be viewed by clicking on the following links.

Policy design
Draft legislation

Summary of key issues

Policy Design:

The key issues raised in submissions on the policy design of the measure were to seek the removal of the 12-month integrity rule that prevented certain realised losses from being transferred, an extension of the taxation relief to various restructures where there is no merger of superannuation funds and the provision of permanent tax relief for mergers and transfers under MySuper.

A number of submissions also suggested that the asset roll-over be extended to all revenue assets, that the tax relief be backdated to apply from 1 October 2011 and that relief be extended to self-managed superannuation funds.

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Several submissions also sought to ensure that a no-Tax File Number contribution offset is still available to members who are transferred as part of a merger or MySuper default member transfer, that members do not lose any ‘tax-free component’ of their account upon transfer, that merging superannuation funds be excluded from the qualified person requirements and from the 45-day holding period rule, that members do not lose the ability to claim a personal tax deduction on personal contributions after a MySuper transfer, and for the entire period of relief for mergers to be treated as a single income year. Other issues that were raised in submissions, which were outside the scope of this measure, included requests for stamp duty relief from the relevant State authorities, permitting access to blackhole expenditure deductions and allowing superannuation funds to carry back losses.

The Government subsequently announced the following extensions to the original measure: removing the 12-month integrity rule which prevents certain losses from being transferred, extending the tax relief to all revenue assets and backdating the relief to apply from 1 October 2011.

Legislative design:

Several submissions advised of an interaction issue with the loss provisions in Division 36 which would inadvertently deny the receiving superannuation fund from being able to utilise the loss in the year of transfer.

This interaction issue was addressed in the legislation to ensure that the policy intent of allowing superannuation funds the ability to use the loss in the year of transfer was met.

A number of submissions raised the concern that tax losses would be wasted against exempt income. It was also submitted that tax relief be extended to members to allow them to consolidate multiple accounts within the same fund without any tax consequences.

Several issues raised in consultation on the policy design were also raised in the consultation on the legislative design.

Submissions on the policy design and legislative design were all generally supportive of the measure.

Feedback

Feedback on the consultation process for this measure can be forwarded to consultation@treasury.gov.au . Alternatively, you can contact Paul McMahon on 02 6263 3385.

Thank you to all participants in the consultation process.