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ASFA Pre-Budget Submission for the 2022-23 Budget

February 2022

ASFA is a non-profit, non-partisan national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its $3.4 trillion in retirement savings.

Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing over 90 per cent of the 17 million Australians with superannuation.

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Overview

The objective of compulsory superannuation is about lifting the living standards of Australians in retirement. The Superannuation Guarantee (SG) system is 30 years old this year and getting to the stage where many Australians have benefitted from SG contributions for much or all of their working life. However, it is not only delivering better retirement outcomes for Australians, but also having a positive impact on the whole economy.

With respect to individual's retirement prospects, the compulsory superannuation system underpins higher standards of living in retirement than otherwise would be the case. Compulsory superannuation counteracts people's biases to 'under-save', which leads to higher levels of household savings and improves the distribution of savings across income cohorts. This has helped make Australian households among the world's wealthiest and made wealth inequality in Australia among the lowest in the world.

For workers on low incomes, compulsory superannuation allows the accumulation of superannuation balances that can make a material difference to their standard of living in retirement and ensures that it is better than relying on the Age Pension alone.

For individuals, ongoing saving via superannuation during periods when income is relatively low can have a very favourable material effect on their retirement outcomes. However, retirement outcomes between the cohorts of men and women still differ. When the SG rate increases as legislated to 12 per cent, male workers who enter the workforce today and earn median wages throughout their career would be expected to reach a balance (at retirement) that is consistent with the ASFA Comfortable Retirement Standard (currently $545,000). In contrast, female workers who earn median (female) wages would be around $100,000 shy of this.

This submission puts forward a number of suggested policy changes that would go some way to addressing this imbalance and to improve retirement outcomes for those on low incomes and/or who have time out of the paid labour force. For some groups compulsory superannuation is not in itself enough to ensure adequate retirement outcomes without additional assistance. Those on low incomes often do not have the financial capacity to make voluntary superannuation contributions.

This submission also makes a number of recommendations in regard to limiting superannuation tax concessions that flow to those on high incomes and/or with very high superannuation balances in order to improve equity and to assist in the financing of additional assistance for low-income earners and for those with relatively low superannuation balances.

Superannuation is also having a positive impact on the whole economy and on government finances. Over time, as the compulsory system matures, the proportion of retirees eligible for either a full or part Age Pension is expected to decline – in effect, more people will be drawing a lower Age Pension longer into their retirement. This will counter the pressure of an ageing population on future Age Pension expenditure by government. This means that, in terms of payments to the aged, Australia is better placed than most other advanced economies. Commonwealth expenditure on the Age Pension is expected to remain relatively stable, at low levels, over coming decades. ASFA projects that expenditure on the Age Pension will fall from 2.9 per cent to 2.6 per cent of GDP over the period to 2054-55, assuming the SG rate is increased to 12 per cent. OECD expenditure on public pensions averages 8.8 per cent of GDP and is projected to increase to 9.4 per cent by 2050 and increase further thereafter.

As well as taking pressure off the Commonwealth's finances, compulsory superannuation has broader positive impacts on the Australian economy. Compulsory superannuation has led to higher levels of national saving than otherwise would be the case. Higher levels of national saving facilitate and support higher levels of fixed capital investment in the Australian economy, which in turn results in a larger capital stock and productive capacity. Ultimately, this means higher levels of GDP, higher levels of aggregate productivity and higher living standards for the broader Australian population.

Compulsory superannuation provides stable sources of funding for domestic infrastructure projects. At present, APRA-regulated superannuation funds have investments of in excess of $70 billion in domestic infrastructure. Compulsory superannuation provides stable sources of funding for private equity and venture capital investment. In aggregate terms, superannuation funds are the largest group of investors in private equity in Australia.

The following recommendations if adopted by the Government would lead to better retirement outcomes for Australians and would also strengthen the Australian economy through increased investments by superannuation funds.

The Superannuation Guarantee for gig economy workers and the self-employed

Background

On average, because the self-employed (other than certain contractors who are paid wholly or principally for their labour) are not covered by the SG, they have lower superannuation balances than wage and salary earners across the entire age distribution. Around 20 per cent of self-employed people have no superannuation. While business assets can be a source of retirement savings for self-employed people, some do not own a business with any material goodwill or value other than their labour.

Looking ahead, self-employment will become more prevalent in the Australian workforce with the rise of the gig economy. Most new gig workers will be self-employed contractors. In the absence of reform, this will mean there will be a lower proportion of jobs for which workers will receive compulsory SG contributions, and lower superannuation balances at retirement for affected workers.

The number of gig economy workers has been growing rapidly in recent years. Today in Australia there is likely to be well in excess of 200,000, with over 60,000 Uber drivers alone. While in many cases gig economy workers also have another 'main' job, a substantial number rely totally on their gig economy income.

There are also issues concerning the enforcement of SG obligations in regard to contractors, who are paid wholly or principally for their labour, and regarding employees more generally. ASFA supports measures introduced by the Government and the ATO to bring about greater employer compliance with SG obligations.

Current roadblocks and challenges

Some of the challenges for extending the SG to the self-employed include development of an appropriate payment mechanism and dealing with cash flow issues faced by the self-employed.

One potential mechanism for SG contributions is a scheme similar to the Medicare surcharge, whereby a surcharge amount is payable unless a minimum amount of taxable income is contributed to superannuation for the specific assessment period. Quarterly payments would be practical as it would align with existing business reporting requirements (with an annual reconciliation).

Gig economy workers

With respect to gig economy workers in particular, many new workers are those who could best be described as 'dependent contractors' – that is, workers who are engaged under a commercial contract for services, but who have little discretion in regard to how they carry out their role and have work arrangements that (in a variety of ways) resemble those of an employee. Greater certainty around the application of the legislative framework to gig economy workers could be achieved through legislative change that introduces a new category of worker of dependent contractor which is subject to SG arrangements.

Proposed contribution rate for the self-employed

Although the contribution rate should ultimately be the same as for employees (currently 10 per cent), the contribution rate should be phased in over a number of years—as was the case for the SG rate for employees—to provide self-employed persons sufficient time to adjust to the SG regime. It is suggested that the initial contribution rate should be set at a relatively low level, such as 2 per cent and that the contribution rate should increase incrementally (for example, by half a percentage point per year), until the rate is equivalent to the rate for employees.

> **RECOMMENDATION 1:**
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> ASFA recommends that the Government extend the SG regime to self-employed people and that for workers who are best described as 'dependent contractors' a new category of worker be introduced for whom SG contributions are paid on their behalf.

Review the treatment of superannuation payments owed by insolvent employers

Background

The Fair Entitlements Guarantee (FEG) provides for the Commonwealth to pay an 'advance' on certain unpaid 'employment entitlements' in cases where an individual's employment ended in circumstances connected with the insolvency or bankruptcy of their employer, and the individual cannot obtain payment of their entitlements from other sources. However, the types of 'employee entitlements' currently covered by the FEG are limited and do not include unpaid superannuation contributions. There have been a number of recent high profile cases, including restaurant groups, where businesses have become insolvent and there are unpaid superannuation contributions.

From the perspective of employees, unpaid compulsory superannuation contributions are equivalent to unpaid wages. They are part of an employee's remuneration and are vital for achieving dignity in retirement. Without government assistance in regard to unpaid superannuation contributions due to employer insolvency many Australian employees will have a substantial shortfall in their superannuation savings and lifestyle in retirement.

The Australian Taxation Office (ATO) has indicated that in 2018-19 (the latest year for which data are available) there was a $2,450 million shortfall in SG payment by employers. The ATO has also indicated that in 2020-21 it issued $1,683 million in SG charges with $1,039 million collected. While a significant proportion of the SG shortfalls is owed by employers who are able to pay, a substantial amount of unpaid SG relates to employers that are insolvent or bankrupt.

Addressing the problem

While recent changes to reporting requirements for employers and superannuation funds gives the Australian Taxation Office greater visibility into unpaid employer contributions, and greater attention is being given to contributions in arrears, it is likely that there will be continuing cases of unpaid contributions when businesses become insolvent. In ASFA's view, there is merit in reviewing the treatment of unpaid SG entitlements in insolvency/bankruptcy, with the objective of considering how to achieve the maximum possible recovery on behalf of affected employees.

Unpaid superannuation should be treated the same way for the purposes of the FEG as unpaid wages, as both make up the remuneration of employees. If the ATO is subsequently able to raise an SG charge against an employer this could be used to offset any SG related payments made though the FEG arrangements.

The number of employees benefiting and the budgetary cost

ASFA estimates it would cost around $150 million per year to include unpaid SG in the FEG, with around 55,000 employees a year benefitting.

> **RECOMMENDATION 2:**
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> ASFA recommends unpaid SG entitlements be included in the definition of unpaid ‘employment entitlements’ for the purposes of the Fair Entitlements Guarantee.

Introducing a superannuation baby bonus to reduce the retirement savings gap between females and males

The retirement savings gap between males and females is one that has been well-documented and canvassed for several years now. The median superannuation balance in June 2019 for those aged 60 to 64 was around $178,800 for males and $137,050 for females which equates to a retirement savings gap between women and men of 23.4 per cent. While this figure is down on the equivalent figure of five years earlier, it is still is very substantial.

The reasons for this gap for women are also well documented, including time out of the workforce (predominantly to raise children and care for ageing parents), part-time working hours for at least a portion of their career, and gender segmentation of the labour force with traditionally female jobs receiving lower wages on average.

A number of employers provide superannuation payments in regard to paid parental leave of employees. ASFA supports the extension of superannuation payments to all paid parental leave, including Parental Leave Payments made by Centrelink.

Also, from 1 July 2022 the $450 a month earnings threshold for the payment of compulsory superannuation will be abolished. This will assist around 300,000 low-income earners, around 200,000 of which are women.

Payment of superannuation on paid parental leave together with the removal of the $450 a month threshold for payment of compulsory superannuation (both of which ASFA strongly supports and has advocated for) will go some way to improving the superannuation balances of women. However, ASFA in this submission is putting forward two options that would further assist women and reduce the gap between men and women in the average amount of superannuation held.

The first option is introduction of a superannuation baby bonus. The second option is a aged based superannuation top up for those on modest incomes and with low superannuation balances.

Reducing the retirement savings gap and increasing the living standards of females in retirement

This is an issue that is far bigger than the employer and the individual and one that requires the backing and support of the Government to put women on an equal footing to their male counterparts. With the acknowledgement that compounding is the key to accelerating retirement savings, the earlier the additional funds are contributed the bigger the impact they will have on an individual's retirement savings. We also acknowledge that each additional child further contributes to a woman's time out of the workforce and consequently means less retirement savings.

It is for these reasons that ASFA is proposing a Super Baby Bonus that is payable directly into superannuation following the birth or adoption of a child. No additional Bonus would be paid in the case of twins or other multiple births.

The Super Baby Bonus although targeted at women (as predominant carers) could also be paid to a man where he is the primary carer of the baby.

How many women would benefit and by how much?

There are around 300,000 births a year in Australia, around 175,000 of them first time, and around 80,000 a second child. The average age of women for first birth is around 29, the average age for a second child is 31.

A $5,000 superannuation baby bonus from the Government would be equivalent to the after-tax contribution tax amount that a person would receive from SG contributions on a $60,000 wage for one year.

The median super balance for a female is around $30,000 at age 30, so a $5,000 baby bonus contribution would be a significant boost to the super balance of females who have time out of the paid labour force due to family responsibilities. In today's dollars, each $5,000 contributed on behalf of a 30-year-old leads to a super balance at age 67 being $11,000 higher. For someone on $60,000 a year who has two children, that is an increase from $395,000 to $417,000 using the default settings of the ASIC Moneysmart calculator.

This would lead to a significant reduction in the gap between the average retirement savings of females and males.

RECOMMENDATION 3A:

ASFA recommends the Government introduce a Super Baby Bonus payment of $5,000 for every child a woman gives birth to or is the primary carer for. The payment should also apply to a man where he is the primary carer of a baby.

Note: The maximum payment is one per eligible baby.

Superannuation top-up for those on a low income and with a low balance

Background

There is a need to ensure that low-income earners have security in retirement, with this being a wider issue than women having lower balances because of time out of the paid labour force due to parental responsibilities.

Individuals can have significantly different experiences of super, depending on their pattern of employment and their income. While women are particularly affected by broken working patterns, men too can be affected by this, and both can be affected by periods working in low-income occupations or industries.

Any factor which contributes to relatively low income can result in significantly less super in retirement.

By way of example of the disparities in outcomes in superannuation, in 2016/17:

- the **median** super balance of a 50 to 54 year old male in the $37,000 to $87,000 tax bracket was less than 30% of the balance for a male in the $180,000 plus tax bracket – $116,330 as compared with $408,432
- similarly, the **average** balance for a 50 to 54 year old male in the $37,000 to $87,000 tax bracket was less than 30% of the balance for a male in the $180,000 plus tax bracket – $154,536 as compared with $544,040.[1]

Reducing the retirement savings gap to increase the retirement living standards of low-income earners

There tends to be a direct correlation between the amount of earnings and the amount of superannuation.

Low-income occupations and broken working patterns are reflective of much broader, systemic, societal and cultural factors that affect:

- the remuneration of workers in certain occupations and industries; and
- the balancing of caregiving responsibilities and work, including the availability and affordability of third-party care for children, the disabled and the elderly.

1 ASFA, *Better Retirement Outcomes: a snapshot of account balances in Australia*, July 2019, Pages 12 & 13

The design of the super system cannot address the effect of low incomes and broken working patterns directly, other than requiring the payment of super on any form of paid leave from the workforce. Indirectly, super can look to address some of the inequities that result from low incomes and/or broken working patterns.

The proposal – a low balance, low income 'lump sum' super contribution at age 30 and 50

Under this proposal an individual who:

- is **30**, with a balance less than **$25,000** and an Adjusted Taxable Income[2] (ATI) less than $90,000, would receive a contribution of **$3,000**
- is **50**, with a balance less than $85,000 and an ATI less than **$90,000**, would receive a contribution of **$5,000**.

The balances at age 30 and 50 have been determined by reference to the approximate median balance for women at those ages in 2019[3].

The ATI has been determined by reference to Average Weekly Earnings in May 2021, which was $1737.10.[4]

Eligibility for the 'lump sum' super contribution would be determined by the ATO and paid directly to the individual's superannuation account.

Consideration may need to be given to introducing a 'phasing out' approach for those individuals whose balance or income just exceeds the eligibility limit.

How many low balance individuals would benefit and by how much?

There are around 170,000 individuals aged 30 in Australia who have a super balance below $25,000, while there are around 125,000 individuals aged 50 who have a super balance below $85,000.

A contribution of $3,000 to individuals aged 30 with an account balance just less than $25,000 would represent a boost to the super balance of a low balance individual. In today's dollars, $3,000 contributed to an individual at age 30, with an account balance just less than $25,000, and who is earning $60,000 a year, would result in their super balance at age 67 being $6,500 higher, that is an increase from $383,600 to $390,100.

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2 LISTO uses 'adjusted taxable income', which includes an adjusted fringe benefit amounts, tax free government pensions, target foreign income, reportable superannuation contributions and net investment loss, less child support paid.

3 Chart 12: Individuals – median super balance, by age and sex, 2018–19 financial year https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Taxation-statistics/Taxation-statistics-2018-19/?anchor=Individualsstatistics#Chart12Individuals

4 https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release

For somebody aged 50 with an account balance just less than $85,000 and who is earning $60,000 a year, a contribution of $5,000 would result in their super balance at age 67 being $7,190 higher, that is an increase from $243,995 to $251,185 in today's dollars.[5]

This proposal would lead to a reduction in the gap between the average retirement savings of higher paid individuals and those of low-income earners, including those who have experienced broken working patterns.

RECOMMENDATION 3B:

ASFA recommends the Government introduce a low income, low balance 'lump sum' super contribution at age 30 and 50.

5 Using the default settings of the ASIC Moneysmart calculator

Removing tax impediments to superannuation funds merging

Background

ASFA acknowledges that a number of taxation provisions have been adjusted by the Government in order to support merger activity and consolidation of superannuation products within funds.

The tax impediments

However, ASFA members have identified several taxation provisions, some of them quite technical, which have the potential to impede or delay fund merger activity and/or consolidation of products within a superannuation fund. A number of them relate to capital gains or investment income which accrue or are brought forward when a successor fund transfer occurs or when product consolidations take place. Trustees are under obligations not to take actions which would disadvantage the members in their fund.

It would also be unfair for fund members if the investment return on their account balance is lower after a fund merger or product consolidation because of taxation provisions compared to what would have been the case if no merger or product consolidation had occurred.

How the tax impediments can be fixed

The impediments in many cases require detailed examination and subsequent careful legislative drafting to address. Generally their removal comes at modest budgetary cost or are budget neutral relative to the revenue collected if no fund merger occurred.

The appropriate way forward would be for the Treasury and the Australian Taxation Office to consult with relevant practitioners within the superannuation sector in order to identify and remedy remaining tax impediments to fund mergers and rationalisation of superannuation products.

RECOMMENDATION 4:

ASFA recommends that the Government direct Treasury and the Australian Taxation Office to consult with the superannuation sector on the removal of any remaining tax impediments to the merger of superannuation funds or the consolidation of products within a superannuation fund.

Improving equity of superannuation by reducing the amount of tax concessions going to individuals with a relatively high income and/or account balance

Background

Because tax on concessional contributions and on investment earnings is generally levied on the superannuation fund at a flat rate of 15 per cent, those members on higher marginal tax rates and/or with very high superannuation balances enjoy a greater tax concession than those members on lower marginal tax rates or who have relatively modest superannuation balances.

Reducing the tax concessions for those on a high income and/or with a high account balance

ASFA has identified three priority areas for adjusting current tax settings for superannuation:

- the threshold for the imposition of the additional Division 293 tax on concessional contributions
- the earnings tax concession for very large balances
- simplification of the transfer balance cap (TBC).

In regard to the threshold for the additional Division 293 tax on concessional contributions, ASFA is proposing that the threshold be linked to the threshold for the top personal marginal income tax rate plus an additional amount to take into account compulsory superannuation contributions. For financial year 2022-23 it is proposed that the threshold for the Division 293 tax be $200,000, that is the threshold for the top personal tax rate of $180,000 with a further $20,000 allowance for compulsory superannuation contributions. In later years the threshold for the Division 293 could be adjusted in line with any changes to the threshold for the top personal tax rate and for changes in the rate of compulsory superannuation.

Linking the Division 293 threshold in this way would mean that no further indexation arrangements would be required.

One of the concerns in relation to the sustainability of tax concessions within superannuation is the tax concession enjoyed in relation to investment earnings for high-balance members. This tax concession can be substantial for large accounts. There are at least 11,000 superannuation fund members with balances within superannuation of over $5 million according to the Retirement Income Review report. While the current caps on superannuation contributions limit the ability for members to build up excessive balances in the future there is a real question regarding the appropriate treatment of high balances that were achieved in the context of more generous contribution caps in the past. The transfer balance cap regime limits the amount a member may take into pension phase. However, 'excessive' balances may still be present in accumulation accounts and therefore subject to a tax concession of up to 30 per cent of the tax on earnings (that is, 45 per cent personal tax rate less 15 per cent tax on fund earnings). A balance of $5 million in concessionally taxed superannuation cannot reasonably be justified as necessary to support a comfortable lifestyle in retirement.

The TBC is a limit on the total amount of superannuation that can be transferred into the retirement phase. It was introduced with effect from 1 July 2017 at $1.6 million, with indexation tied to movements in the Consumer Price Index (CPI). The indexation adjustment means that there is no single TBC across the community, every individual will have their own personal TBC depending on their circumstances. With each indexation adjustment the range of transfer balance caps increases and the number of individual specific TBCs also increases.

Given the complexity of having multiple TBCs and to ensure the system remains equitable, future indexation of the cap should be removed.

RECOMMENDATION 5:

ASFA recommends that:

- the Division 293 tax on superannuation contributions apply to individuals who have taxable income plus superannuation contributions equalling the threshold for the top marginal personal tax rate plus $20,000 (which is equal to $200,000 in 2022-23) or more a year
- those members aged 65 or older with a total superannuation balance as at 1 July 2023 in excess of $5 million, whether in accumulation, pension phase or a combination, should be required to withdraw the excess out of superannuation
- future indexation of the transfer balance cap be removed to reduce complexity and to maintain equity in the system.

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