



DEFENCE FORCE WELFARE ASSOCIATION

QUEENSLAND BRANCH INCORPORATED

Telephone: 07 2102 9879
Email: qldbranch@dfwa.org.au

Victoria Barracks Brisbane
ENOGGERA MC QLD 4051

19 May 2023

Director
Tax and Compliance Unit
Retirement, Advice, and Investment Division
Treasury
Langton Cres
Parkes ACT 2600

Consultation: Treasury Laws Amendment (Measures for Consultation) Regulations 2023: Military Superannuation Benefits

DFWA has previously provided consultation input concerning the Taxation of military superannuation Invalidation Benefits (IB):

- **Exposure Draft** - *Treasury Laws Amendment (Measures for a later sitting) Bill 2022: Taxation of military superannuation benefits*. DFWA Submission dated 5 August 2022.
(<https://treasury.gov.au/sites/default/files/2022-11/c2022-297409-dfwa.pdf>)
- **Senate Economics Committee Inquiry** - *Treasury Laws Amendment (2022 Measures No. 4) Bill 2022 – Schedule 9*:
(https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/TLABno42022/Submissions)
 - Submission 18 – DFWAQ dated 30 January 2023.
 - Submission 24 – DFWA National dated 31 January 2023.
- **Senate Economics Committee Inquiry** - *Treasury Laws Amendment (2022 Measures No. 4) Bill 2022 – Schedule 9* – Public Hearing 21 February 2023. Hansard pp 18-21.
(https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=committees/commsen/26543/&sid=0000)

DFWA Position. Throughout the consultation process, while supporting some aspects of Schedule 9, DFWA opposed entrenching the exclusion of ADF Cover and other DFRDB/MSBS Invalidation Benefit from the benefits of the Douglas decision. DFWA believes the Douglas tax treatment should be extended to all military Invalidation Benefits regardless of superannuation scheme or date payments commenced.

Legislation. It is noted that Schedule 9 has not yet been voted on in the Senate and that these Exposure Draft documents assume that Schedule 9 will pass unamended by the Senate. Amendments may still be presented. Even if passed, it could still be subject to later amendment.

DFWAQ SUBMISSION

DFWA acknowledges that regulation changes are required as a consequence of changes likely to be implemented as result of the *Taxation of military superannuation benefits* measure that was introduced into Parliament on 23 November 2022 as Schedule 9 to *Treasury Laws Amendment (2022 Measures No. 4) Bill 2022* (the Bill).

SPECIFIC COMMENT ON THE DRAFT REGULATIONS.

Noting the above, DFWA is of the view that any consequential regulations should be fit for purpose should the provisions in Schedule 9 - as passed or as subsequently amended - beneficially include ADF Cover Invalidation Benefits

Part 1 – Components of superannuation benefit.

The outlined approach means the components of the Invalidity Benefit are to be proportioned only once at the time the benefit commenced. This alternative approach preserves the benefits pre-Douglas proportioning rule methodology and ensures the tax-free and taxable components of the Invalidity Benefit are not adversely impacted by the Douglas decision.

DFWA believes provision should be made for the application of the proportioning rule to Invalidity Benefits under DFRDB, MSBS, ADF Cover and any future replacement Invalidity Benefit scheme.

At Schedule 1, Part 1 of ITAA Regs 2021, Section 1, the proposed r 307-125.03(2)(a) refers to ITAA 1997 s 301-275(1)(b)(i),(ii) or (iii), as amended by Schedule 9.

DFWA suggests that this should be changed to reference just ITAA 1997 s 301-275(1)(b), so that should ADF Cover (or any other scheme) be added, there is no requirement to modify the regulation. It reduces complexity. This would also be consistent with the approach taken elsewhere in the draft regulations.

Part 2 – Capped defined benefit income streams and transfer balance cap

The approach will ensure that benefits (other than those affected by the court's decision) that are reverting to income stream treatment due to Schedule 9 to the Bill, continue to receive Capped Defined Benefit Income Stream (CDBIS) treatment if they lost this status due to the Douglas decision.

DFWA notes the provisions are drafted in such a way as to automatically exclude ADF Cover if it were to be beneficially included in an amended Schedule 9.

Part 3 – Cashing requirements

The approach seeks to ensure that death benefits relating to DFRDB and MSB reversionary pensions affected by the Douglas decision retain their status as non-assessable, non-exempt for income tax purposes.

DFWA notes that provisions are drafted in such a way as to automatically include ADF Cover if it were to be beneficially included in an altered Schedule 9. DFWA notes that the drafted SISR 1994 r 6.21(2)(aa) references ITAA 1997 s 301-275(1)(b), which is discussed above in Part 1 comment.

Summary

DFWA is firmly of the opinion that Schedule 9 should be amended to beneficially include ADF Cover Invalidity Benefits and all DFRDB/MSBS Invalidity Benefits. As such DFWA would like to see any consequential regulations drafted in such a way as to allow parliament the flexibility to do so, while meeting legislative objective. DFWA recommends the modification to section 1 of schedule 1 as noted in Part 1 and Part 3.

Thank you for the opportunity to provide a submission to the consultation. If you have any questions regarding our submission, please contact me.



John Lewis
President
DFWAQ

