From: Duncan Fairweather [redacted]
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To: Superannuation
Subject: Comments on draft superannuation tax legislation

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Treasury Laws Amendment (Better Targeted Superannuation Concessions) Bill 2023.

Thank you for the opportunity to comment on the draft legislation.

1. The proposed new tax on superannuation is described as a tax on 'earnings'. But it isn't. It is a tax on capital. It would be better described as an imputed capital gains tax. It proposes a different method of taxing balances above $3million than the method used to tax balances above $1.9million, without explaining why.

2. The new tax will apply to unrealised capital gains, setting a bad precedent for Australian taxation. Taxing unrealised gains is inherently unfair.
While capital losses can be carried forward to offset against future tax liability, in the meantime account holders will be paying more tax than necessary while also reducing the value of their retirement savings and the income derived from them.

3. It can't be assumed that capital will produce a consistent gain for all investors or even within the portfolio of a single investor. The yield from capital will vary depending on investment strategy, asset allocation, timing, market and economic conditions.
The owners of capital that returns a lower yield, because they carefully chose a conservative risk-averse investment strategy in retirement, will pay proportionally more tax than the owners of capital that produces higher returns. This is inequitable.

4. The tax is not indexed to inflation, contrary to another widely accepted tax principle. It is in contrast to the indexation of the transfer balance cap introduced in 2017 to achieve the same policy objective; differential taxation of superannuation based on the amount of earnings derived from savings.

5. The rationale for setting the higher tax threshold at $3million is not explained.

6. The tax is effectively retrospective - another unfair concept - because it changes the taxation of retirement savings that were made under the tax rules that applied at the time the savings were made.

7. The new tax will be complicated to administer, imposing significant new administrative costs on government on one hand and compliance costs on superannuation fund members on the other. There needs to be a regulatory impact statement in the legislation weighing up administrative and compliance costs. The overall economic impact of the measure should be assessed, including the effect of reducing the consumer spending power of the growing numbers of retirees who are living for longer.

8. Rather than create a new, different method of taxing superannuation savings over $3 million, with consequent extra administration and compliance costs, it would probably be simpler to extend the transfer balance cap introduced in 2017 to progressively apply to amounts from $1.9 million at 15% to $3 million at 30% at a phase-in rate consistent with the government's revenue objective. Of course, this gap will be reduced over time anyway as the transfer balance cap is indexed and the $3 million higher tax threshold is not.

9. Finally, the obvious point that continual changes to the superannuation rules & taxation undermine confidence

in superannuation as a long-term retirement savings investment vehicle for which the rules are often changed to the disadvantage of account holders. This applies not just to the minority who will be affected at the outset but for many more Australians who aspire to an independent, self-funded retirement without having to rely on taxpayer support.

Duncan Fairweather
SMSF Director & Member