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2020-21 Pre-Budget Submission

Topics: Superannuation, SMSFs

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Thank you for the opportunity to make a submission in relation to the 2020/21 Federal Budget. This submission will cover five topics:

- Responding to the Productivity Commission report into superannuation
- Providing superannuation policy clarity
- Removing the \$450 Super Guarantee threshold
- Repealing the 'work test'
- Indexing the LISTO to increases in the Super Guarantee rate

Respond to Productivity Commission inquiry into super system

In February 2016 then-Treasurer Scott Morrison released the Terms of Reference for the first stage of an inquiry by the Productivity Commission into the efficiency and competitiveness of the superannuation system.

The Productivity Commission spent almost three years conducting this inquiry, producing a 700 page report containing 31 recommendations.

While the Government responded to the recommendations of the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry* over a weekend, it has had the Productivity Commission report since December 2019 and has yet to make a substantive response to the recommendations. At the time of writing, the Commission's website still says: "There has not been a government response to this inquiry yet."

The Government has adopted some of the recommendations – the Retirement Income Review, for example – and pointed to the Productivity Commission report when the recommendations matched already announced policies, such as the ‘Protecting Your Super’ reforms from the 2018/19 Budget. However the core recommendations remain unaddressed.

Recommendation number one calls for default superannuation accounts to only be created once, and for the system to support this to be in place by the end of 2021. A similar recommendation was made by the Royal Commission, for the development of a mechanism to ‘staple’ a person to a single default super account. The Government’s implementation plan for the Royal Commission recommendations gives no date for this measure, only saying it “will be considered in the context of the findings and recommendations” of the Productivity Commission – which the Government already had when it received the final report of the Royal Commission.

Recommendations two and three of the Productivity Commission report call for a ‘best in show’ shortlist of super funds for new entrants to the workforce.

If there hasn’t been a substantive response early in 2020, the Government should use the Budget as an opportunity to respond to the recommendations of the Commission.

This is not a call, necessarily, to adopt all the recommendations of the Productivity Commission, but instead – as will be expanded on in the following recommendation – a call for clarity and proper process in the development of superannuation policy.

Provide superannuation policy clarity

The Government should provide policy clarity on its agenda of superannuation policies by either committing to a timetable to implement announced policies (and moving to implement them), or otherwise announce that the policies will not proceed.

The status of a number of Government superannuation policies is not currently publicly known, to the extent that I have begun maintaining a list to track the policies¹. This includes policies from the 2019/20 Budget: streamlining ECPI, raising the age for the non-concessional contribution bring-forward, raising the work test age, and raising the age limit for spouse contributions.

The status of older policies is also unknown. In the 2018/19 Budget the Government announced the maximum number of members an SMSF could have would be increased from 4 to 6 – this was also an election promise – and allowing some SMSFs to only be audited every three years. Industry members are currently speculating if these measures will actually be implemented.

There is also other legislation which lapsed at the election, which appears to remain Government policy, but has yet to even be reintroduced to Parliament: requiring at least one-third independent directors and an independent chair for large super funds, and setting objectives for superannuation in legislation.

1 <https://www.solepurposetest.com>

In November 2018, the Government announced, as part of the Women's Economic Security Package, that victims of domestic violence would be able to access a portion of their superannuation early. The Government also started another round of consultation on changes to the rules around the legal early release of superannuation. There does not appear to have been any progress on these changes, at least publicly.

The Government should provide clarity to the superannuation industry and broader public by either moving to implement its superannuation policies, or dropping them.

Remove \$450 Super Guarantee threshold

The Government should remove the \$450 monthly threshold which workers are required to reach with each employer in order to receive Super Guarantee contributions.

This threshold, which has remained at the same level since its introduction in 1992, limits the contributions of those on low incomes and particularly punishes those working multiple jobs.

The administrative difficulties of making small super contributions in 1992 have been removed by modern payroll software, and even micro-businesses will be required to report electronically under Single Touch Payroll.

Removing the \$450 threshold has been a frequent topic of pre-budget submissions, but it also appears to have the support of the Assistant Minister for Superannuation, Financial Services and Financial Technology, Jane Hume.

The Senate Economics References Committee completed an inquiry into the non-payment of Superannuation Guarantee in May 2017, releasing the report titled: *Superbad – Wage theft and non-compliance of the Superannuation Guarantee*². One of the recommendations of this inquiry was to remove the \$450 monthly threshold for Super Guarantee.

Senator Jane Hume, who was Deputy Chair of the Committee, issued a Dissenting Report which said that this recommendation was outside the scope of the terms of reference of the inquiry, but also that it was an important recommendation and that the Government “should examine it in the near future”.

In a public hearing of the Committee, Senator Hume said the \$450 threshold is “a dinosaur”, “archaic”, and “ridiculous”.

The Government should remove the \$450 threshold for Super Guarantee contributions.

Repeal ‘work test’ for superannuation contributions

I recommend the Government repeal the so-called ‘work test’, which restricts the ability of people aged 65-74 to contribute to superannuation.

A full repeal of the work test was proposed in the 2016/17 Budget, but dropped as part of the changes to the non-concessional contributions cap.

2 https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/SuperannuationGuarantee

The 2016/17 Budget papers say repealing the work test would: “...simplify the superannuation system for older Australians and allow them to increase their retirement savings...”

The 2019/20 Budget included an exemption from the work test for people aged 65 or 66 from 1 July 2020. Though this has yet to be legislated.

The reasoning for the repeal of the work test from 2016 stands, and I encourage the Government to expand upon the unlegislated 2019/20 measure in the 2020/21 Budget.

Index Low Income Superannuation Tax Offset (LISTO) to increases in Super Guarantee rate

The Low Income Superannuation Tax Offset (LISTO) should be increased and indexed so that it keeps pace with increases to the Superannuation Guarantee rate.

The Explanatory Materials to the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Act 2016*, which introduced the LISTO, says:

“The low income superannuation tax offset seeks to effectively return the tax paid on concessional contributions by an individual’s superannuation fund...”

However the fixed maximum amount of the LISTO - \$500 – does not fully offset the contributions tax of low-income earners at a 9.5% Super Guarantee rate. When the preceding Low Income Superannuation Contribution (LISC) was introduced the SG rate was 9%, and so \$500 fully offset the contributions tax (9% of \$37,000 equals \$3,330, \$3,330 at 15% equals \$499.50). But no provision was made for the scheduled increases in the SG rate.

As the Super Guarantee rate increases to 12% - as is legislated – the gap between the contributions tax paid by low-income earners and the LISTO will continue to grow.

The LISTO should be indexed to increases in the Super Guarantee rate, so that it fully offsets the contributions tax on the compulsory employer superannuation contributions for low income earners – as was intended.