



The Manager
Contributions & Accumulation Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600
Email: over50supercap@treasury.gov.au

Dear Sir/Madam,

SISFA SUBMISSION IN RELATION TO THE CONSULTATION PAPER “CONCESSIONAL CONTRIBUTIONS CAPS FOR INDIVIDUALS AGED 50 AND OVER” RELEASED FEBRUARY 2011 (THE CONSULTATION PAPER)

SISFA is an association that has represented the interests of the self managed superannuation fund (SMSF) sector for over 12 years and is currently the only SMSF industry body solely representing all service providers in the sector including administrators, accountants, auditors, lawyers, actuaries and advisers. SISFA welcomes the opportunity to make this submission in response to some of the issues raised in The Consultation Paper.

However, as submitted to the Cooper Review Panel, SISFA remains of the view that the best and most efficient way to tackle the proliferation of excess contribution assessments and the associated administrative difficulties without compromising the integrity of the superannuation system is to restore the concessional contributions cap back to \$50,000 for all individuals, similar to the position in 2008 before the caps were subsequently halved by the Rudd Government.

However, in relation to issues raised in The Consultation Paper, SISFA submits the following:

OPTION 3.1 – ADD WITHDRAWALS TO ACCOUNT BALANCE

SISFA is concerned the administrative costs of implementing a system of tracking and reporting withdrawals may well exceed or negate the perceived loss to revenue (such as was the case with the implementation of the former superannuation surcharge & Reasonable Benefit Limit (RBL) systems).

SISFA considers the loss to revenue with this option may not be significant after taking into account the 15% “contributions tax”, the recently lowered marginal tax rates and the finite time period within which contributions can be made.

SISFA is also concerned about the additional layers of complexity and costs this option would entail.

For example:

- If financial hardship payments are excluded then consistent with that payments under compassionate grounds should also be excluded;

- It would also be appropriate to exclude certain disability payments and/or certain insurance payments passed onto members;
- Should minimum pension draw-downs also be excluded where the payments are necessary and relied on?
- The Consultation Paper has also indicated it will provide exclusions for rollovers, super splitting and family law splits;
- How would pension commutations/rollbacks to accumulation phase be treated?
- How are benefit payments and expense payments made out of the reserves of a superannuation fund to be treated?

It seems inequitable to SISFA that withdrawals are to be subject to indexation particularly when the \$500,000 account balance threshold is not indexed. In this regard, SISFA submits that, at a minimum, the \$500,000 threshold should be indexed if withdrawals are indexed.

The withdrawal and reporting tracking mechanisms required to detect draw-downs earlier than the date of legislative change would increase administrative costs significantly in SISFA's view. To SISFA's knowledge, there is no current withdrawal and reporting tracking device since the RBL reporting system was abandoned in 2007.

Assessing withdrawals from 1 July 2012 would appear most viable commencement date for assessing withdrawals to allow the industry and regulators time to put systems in place.

OPTION 3.2 – NOT ADD WITHDRAWALS TO ACCOUNT BALANCE

SISFA favours this method but recognizes the need to mitigate abuse.

Some options to consider include:

1. Progressive reduction of the threshold with age (SISFA's preferred position):
 - From age 50 - \$500,000
 - From age 65 - \$450,000
 - From age 70 - \$400,000

This would offset the need to develop a costly and complex system for tracking and calculating all benefit payments;

2. Only add to the account balance lump sum withdrawals/cash commutations in excess of \$50,000 per annum from 1 July 2012;
3. Only add to the account balance lump sum withdrawals/cash commutations but exclude regular minimum pension payments to maintain consistency with retirement income policy of not discouraging members from drawing an income stream in retirement;
4. Combination of (2) and (3) above.

SISFA believes that using the account balance assessment date of 30 June two years prior to the time of contribution would mitigate opportunities for abuse such as the concern raised on page 3 of The Consultation Paper (ie, withdrawing to below the \$500,000 threshold and then re-contributing). Using

30 June two years prior as the time of taking the account balance would mean withdrawing well in advance and is therefore less prone to manipulation.

OPTION 3.3 – EXCLUDE “WITHDRAWERS” ALTOGETHER

Arguably, this option is discriminatory towards those aged 55 or more.

SISFA contends this measure should not be limited to members in accumulation phase as a high proportion of income stream recipients (such as transition to retirement pensioners or those with multiple accounts) maintain the primary objective of building up their retirement savings.

This option may also be perceived as a back-down on earlier commitments made by the Government.

OPTIONS 4.1 & 4.2 – PROCESS OF ASSESSMENT

SISFA is unable to comment on these options without understanding the costings associated with the ATO assessment model, but does believe the self assessment model would be most desirable should the costs of the ATO assessment model not be established.

In this regard, SISFA recommends that the costs be determined first to then gauge the risk to revenue of the self assessment model.

Consistent with our comments in Option 3.1, SISFA is concerned the additional costs and complexities with the ATO assessment model may outweigh the perceived “risk” to revenue of self assessment.

OPTION 5.1.2 – ACCOUNT BALANCE DETERMINED 30 JUNE TWO YEARS BEFORE CONTRIBUTIONS

SISFA has a strong preference towards this option for the reasons mentioned in The Consultation Paper.

In addition, this option allows employer concessional contributions to be made on a regular basis throughout a year of income with some certainty that the contributions cap would not be inadvertently breached.

Also, as indicated previously, this option would help mitigate any abuse of the account balance threshold by adopting a re-contribution strategy.

OPTION 5.3.1 – WITHDRAWAL BENEFIT

SISFA agrees with this approach.

OPTION 6.1 –ACCOUNT VALUATION FOR SMSFs

SISFA agrees the threshold ought to be based on the withdrawal benefit and net market value reporting.

SISFA also submits that should SMSF reserves be included in the member account balance calculation, it would only be fair and equitable that the reserves maintained by Small APRA Funds and Large APRA Funds should also be included in the account balance calculation. If a trustee pays a fund expense or liability out of the reserves of a superannuation fund it is indirectly augmenting the member’s benefit, regardless of the type of fund involved.

Small Independent Superannuation Funds Association Ltd ACN 088 181 980
GPO Box 3315 · Sydney · NSW · 2001 · **Tel (02) 9230 0177 · Fax (02) 9230 0188**

If you require further clarification regarding any of these matters, please do not hesitate to contact me on (07) 3211 1132 or email me at dkingdon@planwealth.com.au.

Regards,

A handwritten signature in black ink, appearing to read "Darren Kingdon". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Darren Kingdon
Director, SISFA