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6 January 2017

Budget Policy Division
Department of the Treasury
Langton Crescent
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Dear Sir/Madam

Please find attached the Superannuated Commonwealth Officers' Association (SCOA) Budget Submission for 2017-18.

SCOA represents the interests of retired Australian and territory government employees and their families in areas that affect their lifestyle in retirement.

SCOA's current priorities include:

- Fair indexation of Commonwealth superannuation pensions;
- Resetting of the taper rate for the age pension income test;
- Fairer taxation of Commonwealth superannuation pensions;
- Repeal of the Social Services Legislation Amendment (Defined Benefit Income Streams) Act 2015;
- Lowering the PBS safety net limits for singles;
- Reducing the age pension income test deeming rates; and
- Removing the restrictions on contributions to superannuation

All the issues in our submission should be regarded as having equal priority, regardless of the order in which they have been presented.

I would be happy to elaborate further on any of SCOA's recommendations if required.

Thank you for your consideration.

Yours Sincerely

Dr Annette Barbetti
FEDERAL PRESIDENT



2017-18 pre-Budget submission

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Executive Summary

The Superannuated Commonwealth Officers' Association (SCOA)

SCOA represents the interests of:

- Retired Australian and Territory Government employees and Government business enterprise employees;
- People in the public service who will receive a Commonwealth superannuation benefit or lump sum on retirement;
- Former employees who have deferred (preserved) their pension entitlement; and
- The dependants of all of the above.

SCOA's current priorities include:

- Fair indexation of Commonwealth superannuation pensions;
- Changes to the taxation of superannuation pensions to remove discrimination against public sector pension and other defined benefit recipients;
- Increase in and continuing indexation of the income thresholds for the Commonwealth Seniors Health Card (CSHC);
- Lowering the single-person Pharmaceutical Benefits System (PBS) and Medicare safety nets to 65% of the family safety nets
- Repeal of the 10% cap on the percentage of a defined benefit pension that can be excluded from the age pension income test.

SCOA participates in Government reviews and committees and makes submissions regarding legislative reform on retirement income, compensation, taxation, concessions, health and ageing.

SCOA assists individual Commonwealth Superannuation Corporation and Comcare clients to receive their correct entitlements. As public sector superannuants, we also pursue broader issues affecting ageing Australians, including access to dental care, improved aged care accommodation and home care service issues.

SCOA has made a number of submissions to Government inquiries, notably to:

- The Matthews Review of Pension Indexation Arrangements in Australian Government Civilian and Military Superannuation Schemes;
- The Harmer Pension Review;
- The Henry Tax Review;
- The Cooper Review of Superannuation;
- The Tax White Paper Task Force (2015); and
- The Senate Inquiry Into the Taxation of Superannuation 2016.

All SCOA's submissions have pointed out the need for the Government to develop a comprehensive and coherent retirement incomes policy to simplify current arrangements and to ensure that those receiving the age pension and public sector superannuation pensions are able to maintain their purchasing power by having a pension index that reflects the real movements in the actual prices of goods and services.

Key messages

The key messages that SCOA wishes to be reflected in the budget outcomes for 2017-2018 are:

A Government that has committed itself to:

- Maintaining the purchasing power of retirement incomes to keep pace with increases in the real cost of living;
- Indexation which retains the value of Commonwealth superannuation pensions;
- Equitable tax treatment. No discrimination against people according to the source of their pension;
- Equity in assessing income. Those on similar incomes should be able to access the same benefits.

We wish to point out that:

- Our requests are affordable.
- We are not seeking special treatment for our constituents.
- We are asking for the removal of anomalies that result in discrimination.

SCOA's Recommendations

SCOA recommends that:

- 1) The Government should ensure that all Commonwealth and Defence Superannuation pensions are indexed by an index that reflects movements in street prices.
- 2) The taper rate for the age pension income test should be reset to the former rate of forty cents in the dollar, and the taper rate for the age pension assets test should be reset to the former rate of \$1.50 per \$1,000 of assets.
- 3) Superannuation pensions paid from an "untaxed source" should be paid as after tax non-assessable income and not added to non-superannuation income to determine the marginal tax rate to be applied to that non-superannuation income.
- 4) The superannuation pensions paid from an "untaxed source", where superannuation benefit accruals commenced before 1 July 1988, be treated for tax purposes in the same manner as superannuation pensions paid from a "taxed source" that commenced before 1 July 1988.
- 5) The Social Services Legislation (Defined Benefit Income Streams) Act 2015 should be repealed.
- 6) That the PBS Safety Net limits for single persons aged over 65 should be 65% of the PBS Safety Net limits for couples or families.
- 7) The deeming rates for the age pension income test should be reviewed annually to take into account changes in the relevant interest rates.
- 8) Retirees aged over 65 should be able to transfer funds into superannuation, at the prescribed contribution levels, without having to satisfy any work test; and the age limit for non-compulsory contributions (currently 75) should be removed.

Recommendations in detail

Recommendation 1 – Indexation of pensions

The Government should ensure that Commonwealth and Defence superannuation pensions are indexed by an index that reflects the real movements in the actual prices of goods and services. Recipients of Government pensions, allowances, and health cards have many things in common such as low incomes and increasing need for health and aged care services. Yet the indexation applied to the range of pensions, allowances and thresholds is inconsistent, resulting in inequity across the senior community.

For example, age, service and war widows pensions are indexed in line with the greater of the CPI or the Pensioner and Beneficiary Living Cost Index (PBLCI), benchmarked to Male Total Average Weekly Earnings (MTAWE). However Commonwealth superannuation pensions are indexed to the CPI only, an indexation methodology abandoned for the age pension in 1998 when it became apparent that CPI indexation was insufficient to maintain pensioners' living standards. Furthermore, the military's DFRB and DFRDB pensions are indexed to the highest of CPI, PBLCI and MTAWE, whereas MSBS pensions are only indexed to the CPI.

Further, the fees levied in retirement villages are increased in line with increases in the age pension, whereas Commonwealth superannuation pensions are indexed by usually smaller increases in the CPI; that is discriminatory.

Commonwealth superannuation pensions are usually the main source of retirement income for Commonwealth superannuation pensioners and their spouses/partners. Due to the inadequate indexation of those pensions, most Commonwealth superannuation pensioners will eventually need to receive a part age pension as well. Since 1998, increases in Commonwealth superannuation pensions have not maintained parity with the age pension, as the graph at Attachment A indicates. If the present method of indexation of the age pension were continued beyond 2017, within ten years the age pension for a couple could reasonably be expected to be about 20% higher than the average Commonwealth superannuation pension, if the latter remained indexed by the CPI.

Recommendation 2 – More Realistic Taper Rates

The taper rate for the age pension income test should be reset to the former rate of forty cents in the dollar, and the taper rate for the age pension assets test should be reset to the former rate of \$1.50 per \$1,000 of assets.

SCOA opposes the changes to the taper rate for the age pension assets test, due to come into effect from 1 January 2017. It has been estimated that they will affect as many as 300,000 pensioners. The change will cause unnecessary hardship for many of our members, and elderly citizens generally, while interest rates remain low.

It is widely reported that people are reducing their assets in order to retain their part age pension. In the long run, this would have a significant adverse effect on savings in general which would have flow on effects to the entire economy, and would eventually lead to increased expenditure on the age pension.

SCOA recommends that the taper rates be reset to their former values as outlined above.

Recommendation 3 – Fairer Taxation of Commonwealth Superannuation Pensions

That superannuation pensions paid from an “untaxed source” be paid as after tax non-assessable income and not added to non-superannuation income to determine the marginal tax rate to be applied to that non-superannuation income.

The tax treatment of additional non-superannuation taxable income received by a person receiving an element untaxed superannuation income stream (from an “untaxed source”) is inequitable when compared to that of a person receiving an element taxed superannuation income stream (from a “taxed source”).

The following example illustrates this.

Assumptions: Taxpayers are over 60 with private health insurance.

Type of income	Superannuation income stream element taxed	Superannuation income stream element untaxed
	Pensioner A	Pensioner B (CSS/PSS/1922 Act)
Superannuation pension	\$40,000	\$40,000
Non-superannuation income	\$20,000	\$20,000
Total income	\$60,000	\$60,000
Tax on Total Income	\$0	\$7,747
Medicare Levy on Total Income at 2%	\$0	\$1,200
Tax plus Medicare Levy	\$0	\$8,947
Net Total Income	\$60,000	\$52,153
Effective Tax on \$20,000 additional income (non-superannuation)	\$0	\$6,800
Medicare Levy on \$20,000	\$0	\$400
Total tax and Medicare Levy on \$20,000	\$0	\$7,200

The additional \$20,000 non-superannuation income for Pensioner B is taxed at the rate of 36%. The effective tax paid is as follows:

32.5% marginal tax rate (\$20,000 x 32.5%)	\$6,500
1.5% tax rate for loss of low income tax offset (\$20,000 x 1.5%)	\$300
2% Medicare Levy (\$20,000 x 2%)	\$400
Tax on additional \$20,000 non-superannuation income	\$7,200

On the other hand, the additional \$20,000 non-superannuation income received by Pensioner A is not taxed.

The calculation is as follows:

0% marginal tax rate for \$18,200 (\$18,200 x 0%)	\$0
19% marginal tax rate for \$1,800 (\$1,800 x 19%)	\$342
Less low income tax offset	-\$342 ¹
Net tax before Medicare Levy	\$0
No Medicare Levy (taxable income less than \$20,542)	\$0
Net tax plus Medicare Levy on additional \$20,000 non-superannuation income	\$0

The \$7,200 difference between the two outcomes stems from when the employer chose to pay superannuation contributions for their employees. Former Commonwealth employees should not be penalized because the Commonwealth chose to defer payment of employer contributions until the person applied for a pension instead of paying contributions when the person was employed. This is inequitable, especially in regard to the marginal tax rate applied to non-superannuation income and the reduction in the low income tax offset (LITO).

No other employer could do this under existing superannuation laws.

We suggest that the income stream from an untaxed superannuation source be separated out as special income and taxed separately, as is the case with income from a taxed income stream. This would be more equitable. All other non-superannuation income should be assessed as normal assessable income.

The Senate Economics Committee report of February 2007 on the review of “Tax Laws Amendment (Simplified Superannuation) Bill 2006 (Provisions and related bills)” supported this change (Recommendation 4 of the report).

Recommendation 4

The superannuation pensions paid from an ‘untaxed source’, where superannuation benefit accruals commenced before 1st July 1988, be treated for tax purposes in the same manner as superannuation pensions paid from a ‘taxed source’ that commenced before 1st July 1988.

To accomplish this, the Government should make regulations in accordance with Division 307 of the Income Tax and Assessment Act 1997 to specify that CSS and PSS benefits that accrued before 1 July 1988 be treated as element taxed in the fund.

Before 1 July 1988, superannuation funds did not pay tax on earnings or on employer contributions. Accordingly, before 1 July 1988, there was no difference between a taxed and an untaxed superannuation scheme, as all pension benefits paid from superannuation schemes and funds were taxed at marginal tax rates.

Under “Better Super”, benefit recipients aged sixty and over do not pay tax on superannuation benefits paid from a taxed source. This means that from 1 July 2007 no tax has ever been paid (by the taxed superannuation fund or its benefit recipients) on superannuation benefits that accrued before 1 July 1988. Commonwealth (CSS and PSS) superannuation pension recipients, however, still pay tax on Pre-1 July 1988 benefit accruals.

¹ The balance of the low income tax offset is non-refundable.

It is inequitable that tax is applied to unfunded CSS and PSS pensions that have an accrual period before 1 July 1988, when pension recipients from other non-Commonwealth unfunded superannuation schemes pay no tax at all on their superannuation pensions (including the Pre-1 July 1988 component) once they have reached sixty years of age. The inequity arises out of the inability to apply Pre-1 July 1988 Funding Credits to CSS and PSS superannuation retirement benefits.

The *Income Tax Assessment Act 1997* contains a provision to allow unfunded superannuation schemes to utilise Pre-1 July 1988 Funding Credits. However, with regards to CSS and PSS superannuation benefits, there is no mechanism to ensure equity with funded superannuation schemes for benefit accruals before 1 July 1988.

Attachment B provides more detail about the tax inequity applying to Commonwealth superannuation scheme pensions with benefit accruals before July 1988.

A possible solution to correct the inequitable tax treatment applied to CSS and PSS benefit recipients with accruals before 1 July 1988 would be for the Government to make regulations in accordance with division 307 of the *Income Tax Assessment Act 1997* to specify that CSS and PSS benefits that accrued before 1 July 1988 be treated as element taxed in the fund. This would have the same effect as applying Pre-1 July 1988 Funding Credits to the CSS and PSS in respect of benefits that accrued before 1 July 1988. This would then enable a fair and equitable tax treatment for CSS and PSS pension recipients.

Recommendation 5 – Repeal of 10% Cap

The Social Services Legislation Amendment (Defined Benefit Income Streams) Act 2015 should be repealed. It applies a cap of 10% on the proportion of a defined benefit pension that can be excluded from the income test for the age pension, and it applies to all defined benefit income streams, whether taxed or not, other than military defined benefit income streams.

The legislation unfairly penalises many people who have purchased additional tax-free pension using their own member contributions. Although the alleged rationale for the legislation was the excessive benefits enjoyed by those with no pre-1 July 1983 service, as a result of the 2007 changes to the tax treatment of superannuation, many of those affected by the new legislation had no such service, and the government has admitted that it has not attempted to identify and exempt them, although it could have identified such CSS and PSS pensioners using APSED data obtained from the Public Service Commission.

Moreover, since that part of a 1922 Act, CSS or PSS defined benefit income stream that was funded by the employer contribution is also subject to income tax, it is particularly unfair that those 1922 Act, CSS and PSS superannuation pensioners who have purchased additional pension using their own contributions should be subject to the 10% cap.

Furthermore, unlike some State superannuation pensioners, they were compelled to make their member contributions out of their after tax income. When they purchased a tax-free defined benefit pension with their member contributions, they irretrievably relinquished their ability to access any part of the lump sum used to purchase that pension.

SCOA recommends that this legislation be repealed.

Recommendation 6 – Lower PBS Safety Net Limits for Singles

That the Pharmaceutical Benefits Scheme (PBS) limits for single persons aged over 65 should be reduced to 65% of the PBS Safety Net limits for couples or families. Due to the removal of the net medical expenses tax offset, life is becoming more difficult for older persons with chronic health conditions.

Low-income older single people with multiple conditions often have difficulty paying for their prescriptions, particularly in the cold winter months when they also have to contend with big electricity and gas bills. Typically, they do not reach the applicable PBS Safety Net limit until towards the end of the calendar year.

It is inequitable that single people should have the same safety net limits as couples or families. SCOA is recommending that the PBS limits for single persons over 65 be set at 65%, which is similar to the surviving spouse rate of a single age pension or the reversionary benefit of a CSS or PSS primary pensioner (67%).

Recommendation 7 – Reduction of the age pension Income Test Deeming Rates

The deeming rates for the age pension income test should be reviewed annually to take into account changes in the relevant interest rates. The deeming rate has not been changed since March 2015, which means that part-pensioners' age pensions are smaller than they ought to be, considering their reduced earnings from money in fixed deposits and bank accounts.

Recommendation 8 – Removal of Restrictions on Contributions to Superannuation

Retirees aged over 65 should be able to transfer funds into superannuation, at the prescribed contribution levels, without having to satisfy any work test; and that the age limit for non-compulsory contributions (currently 75) should be removed.

Retirees aged between 65 and 74 who wish to contribute to a superannuation fund are required to pass a work test before they are permitted to do so. In order to qualify, this test requires them to be gainfully employed for a minimum of 40 hours in any consecutive 30-day period throughout the relevant tax year. SCOA believes that this test is an outdated, arbitrary hurdle of little practical value, and we therefore request that it be abolished.

Currently, anyone over the age of 75 is prohibited from contributing non-compulsory funds into a superannuation fund.

Many retirees over the age of 75 did not have the benefit of being able to contribute to superannuation during their working lives. They had to accumulate their retirement assets under various policy settings that could be restrictive and subject to change. Consequently (where they could), they invested in other assets such as property and shares, but now they find that they are denied the benefits from receiving a concessional income from a superannuation fund.

It is noted there are statutory limits on the amounts that a person can contribute to superannuation in any tax year. This request does not attempt to circumvent this requirement. It

simply seeks to allow those over 75 years of age to be allowed to contribute funds into superannuation, in the same manner as a younger person.

It should be noted that the abolition of the restriction on those retirees over 75, in regards to their being allowed to contribute to superannuation, was a recommendation of the report “Australia’s Future Tax System” (the Ken Henry report) in 2009 (recommendation 20). We should not be encouraging discrimination against fellow Australians based purely on age.

The *Superannuation Guarantee (Administration) Act 1992* was amended by the *Superannuation Guarantee (Administration) Amendment Act 2012* by repealing paragraph 27(1)(a) of that Act which removed the age cap of 75 years for the payment of superannuation guarantee contributions. Consequently, since 1 July 2013, an employer must pay employer contributions even if the employee is over the age of 75 years.

Rule 4.1.5 of the PSS Trust Deed does not allow members to make contributions to the PSS once they turn 75 years of age. As the member is not permitted to make contributions, there is also no matching employer contribution and no increase accruals of the ongoing multiple.

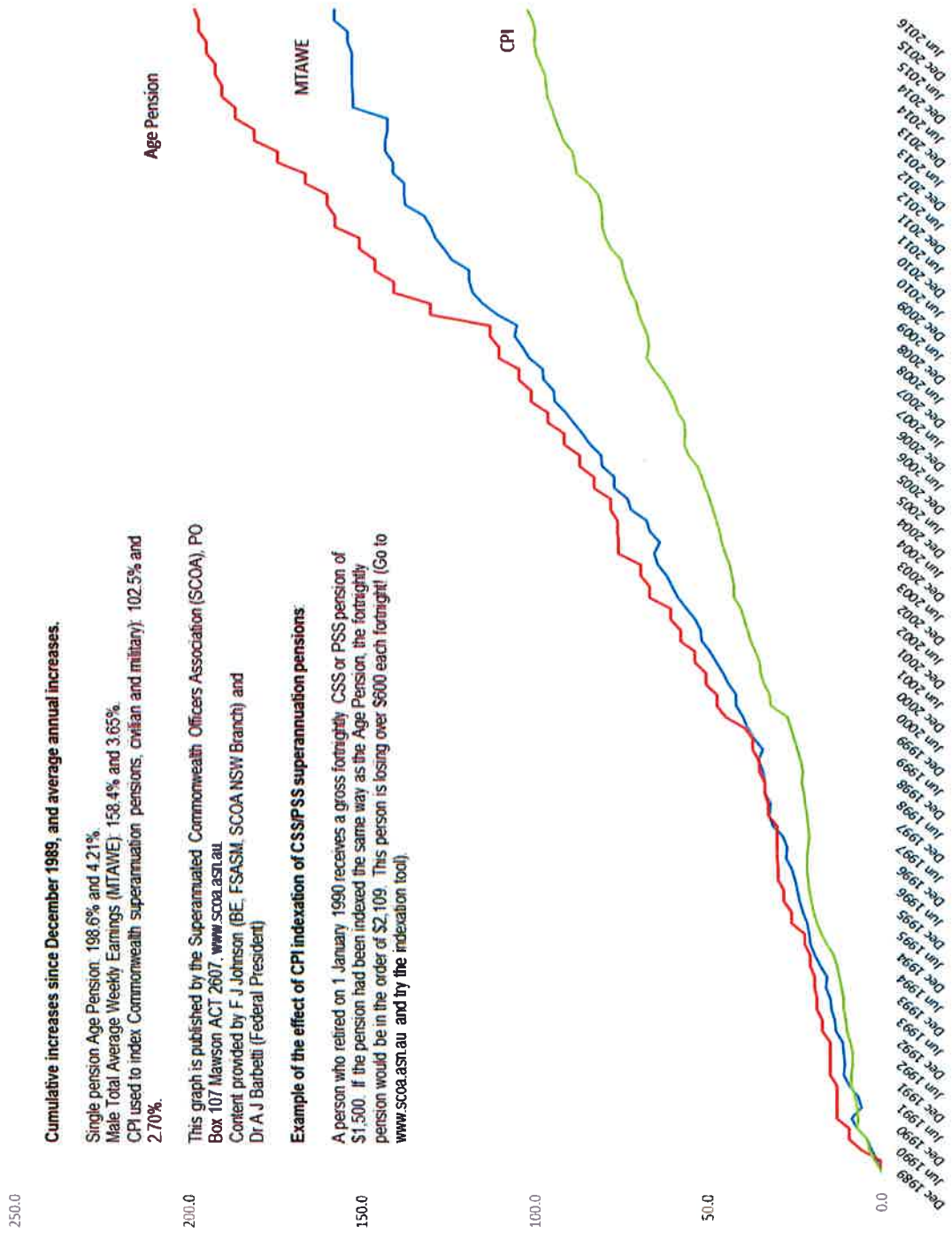
In order for the PSS defined benefit plan to be consistent with the Government’s objectives regarding superannuation for Australian employees, it is requested that the Government remove the age 75 cap from the PSS Trustee Deed and allow members over age 75 years to contribute to the PSS defined benefit plan from 1 July 2017.

Attachment A: Cumulative percentage increase in: age pension, Commonwealth superannuation pensions and MPs' pensions (to end September 2016)



Superannuated Commonwealth Officers' Association

Cumulative percentage increases in the age pension, MTAWWE and CPI from January 1989 to end September 2016



Cumulative increases since December 1989, and average annual increases.

Single pension Age Pension: 198.6% and 4.21%.

Male Total Average Weekly Earnings (MTAWWE): 158.4% and 3.65%.

CPI used to index Commonwealth superannuation pensions, civilian and military: 102.5% and 2.70%.

This graph is published by the Superannuated Commonwealth Officers Association (SCOA), PO Box 107 Mawson ACT 2607. www.scoa.asn.au
 Content provided by F. J. Johnson (BE, FSASM, SCOA NSW Branch) and Dr A. J. Barbetti (Federal President)

Example of the effect of CPI indexation of CSS/PSS superannuation pensions:

A person who retired on 1 January 1990 receives a gross fortnightly CSS or PSS pension of \$1,500. If the pension had been indexed the same way as the Age Pension, the fortnightly pension would be in the order of \$2,109. This person is losing over \$600 each fortnight! (Go to www.scoa.asn.au and try the indexation tool!)

Attachment B: Elaboration on the tax inequity applying to Commonwealth Superannuation Scheme pensions with Benefit Accruals before July 1988

The tax inequity applying to Commonwealth Superannuation Scheme pensions with benefit accruals before July 1988 arises through the inability to apply Pre-1 July 1988 Funding Credits to CSS and PSS superannuation retirement benefits.

The *Income Tax Assessment Act 1997* contains a provision to allow unfunded superannuation schemes to utilise Pre-1 July 1988 Funding Credits. This mechanism is designed to ensure that superannuation benefits that accrued before 1 July 1988 in an unfunded superannuation scheme are regarded as if they were funded from a taxed source and accordingly taxed as element taxed. This saves benefits that accrued before 1 July 1988 from being taxed as untaxed benefits once the recipient reaches 60 years. This is necessary as tax was not applied to contributions to or earnings of superannuation funds before 1 July 1988 and accordingly no taxes were applied to such accruals in funded or unfunded superannuation schemes.

A good description of Pre-1 July 1988 Funding Credits and their purpose is provided at paragraph 9.2, Chapter 9 of the Explanatory Memorandum to the *Tax Laws Amendment (2006 Measures No. 3) Act 2006*.

The paragraph states:

“9.2. Since 1 July 1988 most contributions (e.g., employer and other deductible contributions) to superannuation schemes have been subject to a 15 per cent tax. Funding credits were granted to unfunded superannuation schemes so that contributions made after 1 July 1988 to fund benefits that accrued prior to 1 July 1988 are not taxed. This ensures equity with funded superannuation schemes which only pay tax on contributions from 1 July 1988.”

However, with regards to CSS and PSS superannuation benefits, there is no mechanism to ensure equity with funded superannuation schemes for benefit accruals before 1 July 1988. Pre-1 July 1988 Funding Credits cannot be used by the CSS and PSS Trustee. As a result, when benefits are paid out of the CSS or PSS, the component of the payment that accrued before 1 July 1988 is taxed as if it were paid from an untaxed superannuation scheme. Unfunded State Public Sector superannuation schemes were able to utilise Pre-1 July 1988 Funding Credits to ensure that tax is applied equitably against the payment of their superannuation benefits, that is, no tax paid on benefit accruals before 1 July 1988.

The reason why Pre-1 July 1988 Funding Credits cannot be applied in the CSS or PSS appears to be due to the way the Commonwealth chose to pay CSS and PSS retirement benefits. The Trustees of unfunded State Public Sector superannuation schemes chose to pay their superannuation benefits out of their respective superannuation funds after receiving unfunded contributions from the employer at the time of retirement or benefit payment. When the unfunded employer contribution is paid into the superannuation fund at the time of benefit payment, no contributions tax is effectively paid on that part of the employer contribution that is funding accruals before 1 July 1988, as the tax that would have been paid on those employer contributions is offset by Pre-1 July 1988 Funding Credits.

Therefore, even though benefits that accrued before 1 July 1988 were not funded until the time of retirement or benefit payment, and with no contributions tax effectively being paid on those

employer contributions (similar arrangement to the CSS and PSS), the benefit payment is regarded as being paid from a taxed source and is taxed accordingly.

The difference between the CSS and PSS and other unfunded superannuation schemes that are entitled to utilise Pre-1 July 1988 Funding Credits is that the Commonwealth chose to pay CSS and PSS retirement benefits out of Consolidated Revenue rather than out of the CSS superannuation fund. That is, when a benefit becomes payable the member's accumulated member and productivity contributions in the CSS or PSS superannuation fund are paid out of the CSS or PSS superannuation fund and into Consolidated Revenue.

The Commonwealth then adds employer contributions to the benefit payment and pays the CSS or PSS superannuation benefit to the benefit recipient out of Consolidated Revenue. This process is prescribed in section 112 of the *Superannuation Act 1976* and section 16 of the *Superannuation Act 1990*.

The Commonwealth's method of payment of unfunded superannuation benefits (as opposed to the States' method), has resulted in no employer contributions actually being paid by the Commonwealth into the CSS or PSS superannuation fund. The result is that the Commonwealth generates no contribution tax liability to enable Pre-1 July 1988 Funding Credits to offset any tax liability. This means that unfunded pre 1988 accruals in the CSS and PSS are element untaxed, and taxed accordingly, while unfunded pre 1 July 1988 accruals in other unfunded superannuation funds are regarded as element taxed, and not subject to tax where the recipient is aged 60 and over.

The method of paying CSS and PSS superannuation benefits is grossly unfair, especially as the Commonwealth Government has set up a mechanism for benefit recipients of other unfunded superannuation schemes to receive equitable tax treatment with funded superannuation schemes. CSS and PSS superannuation scheme benefit recipients miss out on equitable tax treatment of their superannuation benefits only because the Commonwealth Government chose to pay superannuation benefits through the Consolidated Revenue Fund rather than through the CSS or PSS superannuation fund.

There is no cost difference in the end result irrespective of the payment mechanism other than the loss of the application of Pre-1 July 1988 Funding Credits and CSS benefit recipients paying tax on Pre-1 July 1988 accruals, which is tax free for everyone else. Accordingly, SCOA believes that CSS and PSS benefit recipients should be taxed the same way as other recipients of unfunded superannuation scheme benefits in respect of their unfunded superannuation benefits that accrued before 1 July 1988.
