

Submission to:

21 June 2013

Charter of Superannuation Adequacy and Sustainability and Council of Superannuation Custodians

Dear Panel

I have been an SMSF Trustee for 4 years and am now doing all my administration.

My submission is in regard to “Fairness” or rather “unfairness” of the Superannuation system as it now stands.

Although the majority of the Sis Act is fair and reasonable the interpretation by the Treasury and the ATO definitely is not.!

There are 3 areas of major conflict:-

1) ‘Landmine’ Taxes used as penalties for small mistakes.

a) Eg Massive ECT levied against mistaken contributions

These are unfair, unjust and been suggested illegal.

It is seen as pure money raking

The Law of “Restitution of Unjust Enrichment” protects people making accounting mistakes and allows them to rectify them.

In the same way if a bank gives you an extra \$1M interest by mistake you can’t keep it- it was a mistake.

The ATO ignores this law and applies ECT even if is rectified 1 minute later. The ECT has several landmine features, the worst one is that an excess of 1c can trigger a tax of \$69,750 !!! – which the ATO are forced to levy against you as ‘that is the law’.

NB this has recently been partially rectified by Mr. Shorten for Concessional Excess Contributions.

Unfortunately he has forgotten about the Non-Concessional excess mistakes, which are much more unjust. This needs sorting out urgently

Solution -Allow ALL mistakes to rectified –that is the only fair solution

b)Eg Massive Tax penalties if pension minimum payment not made correctly - has been rectified slightly- needs more attention.

All penalties should be:-

a) Fair – ‘the penalty should fit the crime’..

And it certainly doesn’t in many cases.

b) Penalties should be decided by a judge in court and appealable

– definitely NOT by the ATO commissioner who is the judge, jury and executioner!

2) Many ambiguities in the SiS Act cause big arguments between accountants.
This causes very high fees for SMSFs
Causes very high professional Indemnity insurance for Super accountants

3) Huge inefficiencies causing high administration costs

E.g. The Member can only ever make one deposit into a Pension Fund
(who thought of that one!)

Think what would happen if when you open a bank account you can only ever put **one** deposit in and that's when you open it. The bank wouldn't last for long.

This means a new pension must be started every time you wish to add new money to the pension. Each pension can cost up to \$1K to set up. Plus all the costs of admin and auditing each year.

What a crazy situation! Totally unnecessary. Get rid of it

All the above is just the tip of a very expensive iceberg.

There should be one set of unambiguous clear rules that everyone can follow.

These problems create a big 'leaky bucket' for the members funds, which just go to support the financial industry and the ATO.

At the same time creating fear and loathing with the public.

Not the best method for getting higher contributions into the bucket

Auditing – should be done by the ATO.

This is very ineffective and expensive done privately.

-Often there is no real audit at all.

Overall Superannuation is over regulated.

Although it catches a few crooks, the admin costs are levied at all members mostly who are honest.

The admin costs are much more than the money saved by regulation. This rather defeats the main reason for doing it.

If Super regulation was so effective why don't they apply it to Income Tax as well?

I think there would be rioting in the street!

Regards

Paul Simpson