COTA
For older Australians

Australian Council of Social Service
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2 June 2016

Hon. Bill Shorten, MP
Leader of the Opposition
Parliament House
Canberra ACT 2600

Dear Mr Shorten,

On behalf of Australia's peak seniors' and community sector organisations, we have welcomed your early advocacy of equitable superannuation reform, and the steps you have proposed to address serious weaknesses in the superannuation system that are widely acknowledged.

In this year's Federal Budget, the Treasurer announced a set of policies to deal with the problems you had already identified, as well as additional ones. We write to urge you to extend your superannuation policy to deal with those issues also, as described below. By this stage it should be possible, in the interests of equitable retirement incomes and budget repair, for the major parties to agree to modest bipartisan action to curb excessive superannuation tax concessions for people who do not need more public assistance to achieve an adequate retirement income.

We have been strong advocates of superannuation reform for some years. We are strong supporters of the positive contribution Australia's compulsory and voluntary superannuation system can make to the retirement incomes of most Australians. We want to ensure it is a fair, effective and sustainable system.

We have therefore been very concerned that the tax treatment of superannuation is not 'fit for purpose' if the purpose of superannuation concessions is to "to provide income in retirement to substitute or supplement the Age Pension" as recommended by the Financial System Inquiry and adopted by the government. Instead superannuation has become a wealth and estate management tool, especially for those with the highest incomes, and this has been having a seriously negative affect on the integrity, credibility and cost of our superannuation system.

Labor's proposals to increase the tax rate on contributions for people with very high incomes and to limit the fund balances that attract a zero tax rate on fund earnings in retirement are good first steps in superannuation reform. The Budget measures to limit the amount of accumulated superannuation on which earnings will be tax free and to reduce the threshold at which employer contributions are taxed at a higher rate, address the same problems in a different way.

These measures are also vital steps in a budget repair strategy that is fair: in this case reducing excessive tax concessions enjoyed by those with plenty of capacity to absorb the changes rather than imposing the burden of restraint on those who are financially vulnerable. They are key positive alternatives to the regressive approach pursued in the 2014 Budget.

At the same time, the existing tax system offers too little support for retirement saving by people with low incomes, most of whom are women. We opposed the abolition of the Low Income Superannuation Contribution. If this was restored, or the Government's proposed tax offset were introduced, then at least the tax system would not penalise the superannuation contributions of

people on the lowest incomes. We will continue to argue for stronger measures to achieve an even greater impact.

The Budget also takes a few steps further towards superannuation reform. These include new measures to place a lifetime limit on the level of non-concessional contributions; to lower the annual limit on concessional contributions; and to reduce the concessionality of the Transition to Retirement arrangements. Over time, further reform will be needed but these are good early steps.

While there are varying views on the detailed policy solutions to the problems with our superannuation system, most stakeholders and experts agree that:

- Tax exemptions for earnings from superannuation in the retirement phase must not extend to everyone in an unlimited way – i.e. regardless of the value of superannuation assets or the level of fund earnings obtained from them. There must be limits on the quantum of tax concessions for superannuation consistent with its purpose.
- The 'Transition to Retirement' concessions are being used to avoid personal income tax by 'churning' taxable income through super accounts. It is not fair to levy income tax at full marginal rates on workers below 55 years while allowing a minority who can take advantage of the these concessions to effectively reduce tax on part of their earnings from paid work to 15%. The proposed extension of the standard 15% fund earnings tax to these accounts is both reasonable and necessary to help curb personal tax avoidance and further action could no doubt be taken.
- The limits on non-concessional contributions must be tightened.
- Tax concessions for contributions must be less generous for people whose incomes are substantially above average earnings.
- In the absence of more thorough-going reform of the taxation of contributions, a scheme along the lines of the LISC should be reinstated, as proposed, so that people whose incomes fall below the tax free threshold are not be subject to a higher rate of tax on employer contributions than they would otherwise pay on their wages.

A limited number of examples of stakeholder and expert views are attached.[1]

We have noted with concern claims by some prominent commentators that the changes proposed in the Budget are retrospective, and the suggestion by the Institute of Public Affairs (IPA) that it will run a campaign on this issue in the Federal Election designed to convince the government to abandon or water down the reform package.

While we recognise that concerns will be raised by people with very substantial assets or income about tax changes that impact on the treatment of savings they have already accumulated, a change to the taxation of *future* super fund earnings is not 'retrospective' as we and other superannuation experts have argued elsewhere[2].

The Budget proposals relate to the tax treatment of superannuation after 1 July 2017. They allow a continuing preferential tax rate for earnings on balances over $1.6 million and they provide tax preferential transition arrangements for people who have exceeded the new lifetime non-concessional cap. They are not retrospective.

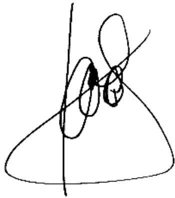
If all changes that directly or indirectly affect the tax treatment of existing superannuation assets were 'grand-parented' this would greatly increase the complexity of superannuation along with the costs of administration, and give rise to serious equity concerns. By the same principle, if this

proposed treatment was to be followed then the removal of taxation for most fund benefits for people 60 years and over in 2007 should have been 'grand-parented'. It cannot be claimed that tax increases on high level super are retrospective but tax reductions on super are not.

In summary while some might have made different calls on levels of caps and some other provisions, both Labor's policies and the Budget superannuation package take important and significant steps in the right direction towards a fairer and more sustainable superannuation system; and are not retrospective in nature. The tax treatment of superannuation would remain highly concessional even if all of these measures were implemented.

The Budget superannuation package presents an opportunity for Labor to extend its early commitments to superannuation. We strongly urge you to incorporate further action along the lines discussed above to reduce tax concessions for people who do not need them to achieve an adequate retirement income, and to avoid ruling out further changes to superannuation should you win government. Even with these measures in place, there would be much left to be done.

Yours sincerely,



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Attachment

[1] Examples include (from Budget Media Releases unless indicated):

- **National Seniors Australia** said "Older Australians are broadly satisfied with the superannuation reform package in this year's federal budget … The Turnbull Government has taken a measured but fairly comprehensive approach to superannuation reform …The mix in terms of fairness and sustainability seems pretty good"
- **The Grattan Institute** observed that "Superannuation tax concessions have been absurdly generous to older people on high incomes for over a decade. They have not served the purposes of the system". (Article in The Conversation)
- **Industry Super Australia** said "the government has rightly wound back $4.5 billion in overly generous super tax concessions benefiting high income earners with large super balances needing no help to save for retirement" and went on to welcome the contribution caps that "will go some way to limiting the exploitation of super for tax minimization and wealth accumulation"
- **The Australian Institute of Superannuation Trustees** commented that "key superannuation measures announced in (the) Federal Budget are a necessary step toward a fairer and more sustainable super system" and "Reducing tax concessions for those earning over $250,000 recognizes that a retirement income system where the top spectrum of income earners receive the greatest benefit is neither fair nor sustainable".
- **The Business Council of Australia** said "The tightening and better targeting of superannuation concessions is a sensible approach to finding savings while ensuring the system remains focused on reducing reliance on the age pension and providing comfortable retirement"
- **ANU's Tax and Transfer Policy Institute's** Professor Miranda Stewart and Dr David Inglis wrote "The government's decision to cap tax-free accounts at $1.6 million is, in effect a decision to levy a 15 per cent tax on superannuation pension savings above that high threshold. … The framing of the government's policy appears to be an attempt to differentiate itself from Labor's approach, which is to tax, at 15 per cent, earnings in excess of $75,000 per annum from retirement accounts. In practice Labor's approach will impact accounts in excess of $1.5 million (assuming a five per cent rate of return), so the difference in effect is minuscule. …In our view the government's proposal on both caps is effective in improving fairness and fiscal cost of the system." (Opinion piece Australian Financial Review)

[2] By way of example only:

- **Professor Miranda Stewart and Dr David Innes of the ANU Tax and Transfer Policy Institute** have written "… the first $1.6 million of funds face a zero rate, and above that are taxed at 15 per cent. It's clear on this framing that there is no retrospectivity; the new charge of 15 per cent applies to future earnings" … "the $500,000 lifetime ceiling only affects future contributions. The budget explicitly states that contributions made before announcement cannot result in an excess. Moreover, if this cap didn't take account of prior contributions and only had prospective effect for future contributions, it would take up to 40 years to fully phase in. The full budgetary savings would not be realized until 2056. We would never change policy if this view of "retrospectivity" was taken." (Opinion piece Australian Financial Review)
- **Professor John Daley of the Grattan Institute** wrote "…they are wrong to claim the government's proposed superannuation changes are retrospective simply because they adversely affect the future return on their savings. …The mere fact that no tax was paid on earnings in the past does not imply that earnings in the future are entitled to be tax free. … The retrospectivity argument is even weaker for the new cap on post-tax contributions. The only constraint is on additional contributions in the future." (In The Conversation)
- **Terry McCrann, News Ltd Economic Commentator** wrote in The Australian: "The government's – rather importantly, *proposed* – changes to superannuation are not retrospective. To claim they are requires a suspension of reason or a simple failure to understand the meaning of the word."