COTA
For older Australians

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2 June 2016

Hon. Malcolm Turnbull
Prime Minister
Parliament House
Canberra ACT 2600

Dear Prime Minister,

On behalf of Australia's peak seniors' and community sector organisations we write to urge you to hold firm in resisting calls to weaken, defer or abandon the key features (described below) of the superannuation reform package contained in your recent Federal Budget.

Both your Budget proposals, and Labor's previously announced reforms, take modest steps to address serious weaknesses in the superannuation system which are widely acknowledged. It should be possible in the interests of equitable retirement incomes and budget repair for everyone to at least agree on the key features described below as modest steps on the path to reform.

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 prior to this Budget was 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 had 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.

The Budget measures to limit the amount of accumulated superannuation on which earnings will be tax free; to place a lifetime limit on the level of non-concessional contributions; and to lower the annual limit on concessional contributions; all go a significant way to addressing those concerns. Some would argue the changes should have gone further in that direction.

At the same time, the existing tax system offers too little support for people with low incomes, most of whom are women. The proposed tax offset for low income earners in your package will have a positive impact in this regard and must be pursued. We will continue to argue for stronger measures to achieve an even greater impact.

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

- Tax exemption for earnings from superannuation in the retirement phase must not extend to everyone in an unlimited way – i.e. regardless of the value of their 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 and the proposed extension of the standard 15% fund earnings tax to these accounts is both reasonable and necessary to help curb this practice.

- 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.
- 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.

The superannuation reform package has been very broadly welcomed including by those (including our organisations) who would have preferred the government go further. A limited number of examples 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, the Budget Superannuation Reform package takes important and significant steps in the right direction; creates a fairer and more sustainable superannuation system; and is not retrospective in nature. The tax treatment of superannuation will remain highly concessional once these measures are fully implemented.

We strongly urge the government to not step back from this important policy initiative.

Yours sincerely,

Ian Yates AM	Dr Cassandra Goldie
Chief Executive	**Chief Executive**
COTA Australia	**Australian Council of Social Service**

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."