SMSF Owners' Alliance
Limited ABN 96 161 052 464
Not-for-profit public company

10 Things Wrong with Labor's New Superannuation Earnings Tax

1. Premature

It pre-empts the outcome of the Taxation White Paper. One of the recommendation of David Murray's Financial System Inquiry was that the Government should commit to a legislated and formal statement of the guiding principles and objectives of superannuation. These should be achieved, with bipartisan agreement, as part of the Tax White Paper process. When these are agreed, decisions on the structure of the superannuation system and appropriate taxation can be made. By announcing tax changes now and saying no further changes will be made for five years, Labor is sidelining a major policy review of the taxation system which should lead to a more effective superannuation system, just as it shelved most of the recommendations of the landmark report it commissioned from Ken Henry when last in Government – except the mining tax.

2. More tax

Labor say this 'policy' in intended to "improve fairness and sustainability" of the superannuation system. In reality it's just another way of raising money from taxpayers. The degree of 'unfairness' in the system has been widely exaggerated as has the size of the so-called tax concession. Even after taking into account the contributions into super, Australia has one of the most progressive tax systems in the world. Over half of Australians pay no tax net of welfare receipts and are supported by the other half. 20% of Australians pay 63% of all income taxes even after the current super system is taken into account.

The often quoted total tax concession figure of $32 billion has now been discredited and dismissed by informed commentators. In reality the total tax concessions are less than $10bn and therefore much less than concessions from other quarters. Even Treasury says the $32 billion number carries no policy message.

This is just another tax….and like the mining tax – not very well thought out!

3. More "fiddling"

This 'policy' is yet more knee-jerk "fiddling" with superannuation in the guise of taxing the rich but which raises more uncertainty with a consequential impact on people's – and particularly young people's – confidence in superannuation as a long term investment.

A tax which requires a $150 million payment to the ATO to make it work is clearly not simple or efficient. The cost is likely to be much higher as significant costs will be imposed on mainstream funds to identify members with multiple accounts, a cost that will be passed on to their members. SMSF members will be affected as well as many of them also have accounts with mainstream funds.

4. More people will pay

The number of people who will have to pay the earnings tax will be more than the number quoted by Labor and will include people with balances far lower than $1.5m.

The proposed earnings threshold of $75,000 is not to be indexed for inflation. This means that from year to year, more people will be drawn into this sneaky tax net as their superannuation earnings and their fund earnings grow.

Another factor is that the income of peoples' super fund accounts can vary dramatically from year to year depending on the performance of their fund. Labor assumes, simplistically, that the $75,000 earnings will be generated by an account of $1.5 million yielding a 5% return and this will affect 60,000 people. Fund earnings vary significantly from year to year depending on market conditions. In years when funds perform better (such as the 15% return achieved in 2012 as share markets rose after the GFC), more people will be caught. In such a good year for returns, balances of as low as $500,000 would be caught, drawing up to 420,000 people into the tax net.

Worse, the taxable income in someone's super fund may bear no relationship to the pension they are withdrawing from it. In particular, if this is structured like Labor's earlier failed attempt to tax super, then the sale of shares in a fund with balances as low as $100,000 could realise a capital gain that is caught by Labor's so-called tax on the rich.

5. More uncertainty

Labor has not explained how the earnings tax will work. For example: How will 'earnings' be defined? Will members of an SMSF – typically a couple – be able to average their accounts so each of them can stay under the threshold? Can capital gains be averaged over a period so they do not cause a spike in earnings in one year which would trigger the tax? Will capital gains triggered by selling shares or a property to meet care costs towards the end of life or even just to make the mandatory minimum withdrawals each year be taxed? In years in which fund earnings are below par, can one carry forward such 'deficit' to be offset against the years it is above? For SMSFs with more than one member, both in pension phase, can the tax be applied to one member if the other member (or even the whole fund) is below the threshold?

6. Doesn't improve super

This extra tax does nothing to improve superannuation for the many Australians who don't have enough. Indeed, due to the extra complexity and cost, this idea would probably lower returns and reduce the chances for all Australians to save enough in their super.

Instead of worrying about curbing success, Labor should be focussed on making superannuation better for all Australians so more people have the opportunity to save for a comfortable and financially independent retirement. The Intergenerational Report predicted that by 2050 the majority of Australians (67%) will still be dependent on the age pension. This is the real policy challenge for both the Government and the Opposition.

If one wants to spread the tax concessions more widely, there are ways to do this that will help more Australians achieve a healthy superannuation balance on retirement. Labor's 'tax on the rich', supported by a campaign by left-wing think tanks, is clearly using the politics of envy to cut down 'tall poppies' rather than trying to help more Australians become taller poppies. We, and other organisations, have been acting in good faith in looking at ways to achieve a better superannuation system. In keeping with its commitment to achieve a bipartisan approach to defining the objectives of superannuation, Labor should await the outcome of the Tax White Paper before locking in tax changes.

7. Penalises success

Economists agree that systems that penalise success – such as higher earnings that may arise from successful investment policies – are economically inefficient. They distort investment behaviour and will therefore lead to lower than optimal long-term returns from super. Over the course of a working life, the returns from super savings is the most important factor in helping all Australians amass enough in savings for an independent retirement, as recognised by David Murray in his Financial System Inquiry.

There are other, more effective, ways of improving the effectiveness of super for all Australians.

8. Unfair to the elderly

Labor's policy does not appear to recognise that superannuation must last for a lifetime and that in the end pensions paid from superannuation savings are not funded just by the earnings. Their pensions are paid from capital as well as regular earnings.

As self-funded retirees get older, many will have to sell investments in order to fund their own pension and to meet minimum withdrawal requirements. Assets, such as shares or property, will usually have been held for long periods and give rise to a capital gain when sold. Even Australians with just $100,000 in super would have to sell these assets towards the end of their life to pay out a modest pension from capital and could easily be caught by what Labor calls a new "tax on the rich" but one that will hit older Australians.

9. Unsustainable

Every time the benefits of saving into superannuation are limited, such as through new taxes or lowering rigid contribution caps, the potential of the system to deliver better outcomes is curbed. Over time the superannuation system as we know it will fail to fulfil its purpose and the number of people needing to draw on the Age Pension in retirement will increase at a huge cost to the Budget.

10. Retrospective

Making tax retrospective is unfair and bad policy in principle. The earnings tax will have retrospective effect because it will reduce the value of super savings which were made legitimately on the basis that no earnings tax would apply to super savings in the retirement phase. This has applied for nearly a decade since 2006, including during the six years of the Rudd-Gillard Labor governments.

It also appears not to differentiate between earnings from contributions that have borne a tax concession and contributions which have been made using after tax dollars.

In that time, many people made important lifetime decisions about how much to save and when to retire in the expectation that income drawn from their super fund in retirement would be tax free.

Contact:

Duncan Fairweather
Executive Director
SMSF Owners' Alliance
dfairweather@smsfoa.org.au
0412 256 200

.