

## SMSFOA Members' Newsletter

# 5/2016

Dear Members

### In this newsletter:

- SMSF Owners convey their concerns about new tax on retirement savings
- Retrospective? – Yes, we think so
- Our latest media release and Coalition Brief

### Super tax changes key election issue

In the first week of the election campaign superannuation tax policy has been a key issue with argument revolving around whether the proposed changes are retrospective.

Coalition leaders Malcolm Turnbull, Julie Bishop, Scott Morrison, Mathias Cormann and Kelly O'Dwyer are maintaining that their changes to super are not retrospective.

For their part, on the Labor side, Bill Shorten and Chris Bowen are saying the Coalition's proposals are retrospective but theirs are not.

We think the policies of both parties are retrospective and said so in a media release – see below.

It is interesting to look back at what the Treasurer said on this topic not so long ago:

*“One of our key drivers when contemplating potential superannuation reforms is stability and certainty, especially in the retirement phase. That is good for people who are looking 30 years down the track and saying is superannuation a good idea for me? If they are going to change the rules at the other end when you are going to be living off it then it is understandable that they might get spooked out of that as an appropriate channel for their investment. That is why I fear that the approach of taxing in that retirement phase penalises Australians who have put money into superannuation under the current rules – under the deal that they thought was there. It may not be technical retrospectivity but it certainly feels that way. It is effective retrospectivity, the tax technicians and superannuation tax technicians may say differently.”* – Scott Morrison – 18 February 2016

The Treasurer seemed to be saying that taxing super in the retirement phase is “effective retrospectivity”. The above quote is taken from an article – ‘Retrospectivity ain't what it used to be’ – by Graham Hand of *Cuffelinks* here: <http://cuffelinks.com.au/retrospectivity-aint-used/>

## SMSF Owners speak up

Our members have been active in contacting their Federal Members and Senators to voice their concerns and we encourage you all to do so throughout the election campaign.

It's always best to do this in your own words, but here are some key points to make:

- The new tax on retirement savings over \$1.6 million is clearly retrospective in effect because it applies a new tax on the earnings on savings that were not taxed when those savings were made. These 'saved assets' were not previously subject to an earnings tax. Now they will be.
- The new tax changes the goalposts for retirees and those approaching retirement. It affects plans they have already made regarding their pension income in retirement and the quality of life they can afford.
- These unexpected changes are a breach of trust and erode confidence in superannuation as a predictable, long term investment. There is nothing to stop future governments from changing them again to your detriment.
- The new \$500,000 rolling cap on non-concessional contributions is also retrospective. It is back-dated to 2007 so if you've already put in up to \$500,000 of your own after-tax money, you won't be able to put in any more (up to the cap). This again disrupts retirement plans.
- The Budget papers say that if you've already made non-concessional contributions above \$500,000 you don't have to unwind them. But if you make any further contributions that exceed the limit you'll face a penalty tax of 47%.

To find your Member/Senator's contact details, please go to this address:

[http://www.aph.gov.au/Senators\\_and\\_Members/Guidelines\\_for\\_Contacting\\_Senators\\_and\\_Members](http://www.aph.gov.au/Senators_and_Members/Guidelines_for_Contacting_Senators_and_Members)

Or just Google your Member's/Senator's name and this will take you to their own websites where you can leave a message. Politicians tend to be more responsive if their own electors write to them.

### How will it work?

Thank you to members who have written to us raising questions about how the new superannuation tax will apply. We are in the process of collating a list of implementation issues to discuss with the Government. If you have any questions, please let us know: [info@smsfoa.org.au](mailto:info@smsfoa.org.au)

**Here's this week's Coalition Briefing Note:**

## **Superannuation tax briefing note for Coalition Senators and Members**

**#4 - May 2016**

### **New super taxes not retrospective? One million SMSF owners don't believe it.**

We have to report to Coalition MPs and Senators that the reaction of our members to the Budget measures on superannuation has been one of shock and dismay. This has come through strongly in feedback from our members and in online comments

People feel betrayed by a Government that promised no adverse, unexpected changes to superannuation and that respected the principle that tax changes should not apply retrospectively.

Malcolm Turnbull, Julie Bishop, Scott Morrison and Kelly O'Dwyer have all denied that the superannuation tax changes in the budget are retrospective.

We are not convinced.

In our view, both the Coalition's super tax changes and Labor's are retrospective because they apply a NEW TAX on the earnings on superannuation that were NOT TAXED when the savings were made.

While the Government may argue that technically the tax changes are not retrospective, there is widespread belief that they are retrospective in effect.

This is certainly so with the new life-time limit on non-concessional, after tax contributions which is back-dated to 2007. It is also arguably the case with the Coalition's new \$1.6 million cap on superannuation savings and Labor's new tax on retirement earnings over \$75,000. They are applied differently but with the same effect – earnings on saved assets that were never previously taxed now will be taxed.

The Treasurer says the super tax changes will affect only 4% of superannuation savers. This is no justification for retrospective taxation. If it's wrong, it's wrong no matter how many are affected.

Besides, the Treasurer's 4% will grow over time as more people reach the \$1.6 million cap. So this issue is of concern not just for people who have retired with more than \$1.6 million in their super savings account but many who aspire to be able to do so.

The concern about retrospectivity goes much deeper than just paying a new tax. It's about fairness and confidence in the superannuation system. Superannuation is a contract between people and their government. People forego current spending to put additional savings into super so they can achieve financial independence without reliance on a taxpayer-funded pension. In turn, government promised not to tax the income they draw from their savings in retirement.

Superannuation is a life-long investment and people need to be sure the rules under which they make savings are not going to be changed mid-course. While changes may need to be made from time to time, they should not be retrospective and dilute the value of prior savings. Nor should they be made because governments have lived beyond their means and racked up deficits and debt.

### **A message from a member of the silent majority**

This is typical of the response we are receiving from our members – it's from a member in La Trobe to his Liberal MP Jason Wood.

*"I have one BIG complaint and that is the retrospective attack on Super Fund savings. I firmly believe in the policy of "living within our means" and have done so all my life. My father died when I was 17 years old and*

*I worked and supported my mother to raise 4 younger siblings on her own. I am now approaching 72 years of age and through my entire working life I have never claimed unemployment benefits or any other funds from government. I now have a self-managed super fund in my retirement and –guess what – I still don't claim anything from government as I don't qualify for a pension or a PBS health card. The only thing I get from the government is a Commonwealth Seniors Card. Having worked and paid taxes all my life, I find myself being classified as one of the "filthy rich". Well I don't think I am rich, I have just "lived within my means" and provided for my own retirement. I thought that is what governments want us to do? The latest attack on funds accumulated under existing rules is simply a "Double Cross".*

*I urge the government to reconsider this policy because I am sure there are many in the silent majority who feel like I do."*

**SMSF Owners issued the following media statement on 10 May:**



## **A Double R (for retrospective) election**

10 May 2016

Both of the major parties are running to the 2 July election with new and retrospective taxes on superannuation.

The Liberal/National coalition will impose a new tax on earnings on balances above \$1.6 million and limit non-concessional (after tax) contributions to \$500,000 for life.

Labor will impose a new tax on earnings on retirement account earnings over \$75,000.

This is a fundamental change. There has NEVER been any tax on earnings on super balances held by retirees. Tax free earnings for retirees has been an established feature of our tax system since income taxes were introduced.

Both parties claim their new taxes on earnings in retirement are not retrospective.

We don't accept this.

The Coalition's new \$500,000 limit on non-concessional contributions is back-dated to 2007. Any such contributions made since then will count towards the new limit. Some people may not be able to make any more contributions if they have already contributed \$500,000, others will only be able to 'top up' to the cap.

This will disrupt the retirement savings plans of people who were intending to make non-concessional contributions to boost their superannuation savings.

Both the Coalition and Labor plans to impose limits on tax-free earnings in retirement will be retrospective because they will impose a new tax on the earnings on savings that have already been made.

Superannuation is a 'contract' between the government and taxpayers. First, taxpayers agree that they will forego income today in return for tax-free income in retirement. Second, governments commit to delivering in the future on their promise to provide tax free retirement incomes. Based on this contract, people have made life-changing plans for their retirement, including when to stop work, where they will live and the standard of living they expect in their, hopefully, long years in retirement.

The contract has now been torn up by both of the major parties. They are reneging on their promise.

It has long been accepted that tax changes should not apply retrospectively, except when they are needed to deal with tax avoidance. This convention has now been broken by both of the major parties.

There is much to like about the superannuation changes announced in the Budget a week ago. Allowing 'catch up' contributions for people whose work patterns are disrupted is something we have promoted consistently in our submissions to the Government.

Likewise, getting rid of the work test for those under 75 is a good move, though why set any age limit?

Introducing a superannuation tax offset for people on low incomes is fair.

However, these positives are over-shadowed by the proposals to apply a new earnings tax in the retirement phase for the first time and with retrospective effect.

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This briefing note for Coalition Senators and Members comes from the SMSF Owners' Alliance, an independent, not-for-profit advocate for the one million Australians who are trustees and members of self-managed superannuation funds...the people who have grasped the opportunity to secure their financial independence in retirement and not have to rely on a publicly funded pension.

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**The one million Australians in self-managed funds are relying on Coalition Members and Senators to safeguard their retirement savings.** They believe the money they have saved to ensure their financial independence in retirement – doing what the Government wants them to do and meeting the fundamental

objective of the superannuation system – should not be taken from them to pay for Labor’s irresponsible spending in government.

The one million owners of self-managed funds are not the ‘fabulously wealthy’ portrayed by Labor, left-wing think tanks and others who see superannuation savings as a treasure trove to be envied and emptied.

They are hard-working Australians – farmers, small business people, tradesmen, professionals – in cities and regional areas throughout Australia. They have accepted responsibility to take care of the funding of their own retirement and old age, avoiding dependency on the public pension.

SMSF Owners has not taken a dogmatic ‘no change’ approach to superannuation. We believe the system can be improved and made fairer, simpler and more efficient. We have contributed major and submissions to the Tax White Paper process and the Objective of Superannuation review. We believe constructive change to superannuation can be achieved without an overall increase in superannuation taxes, without retrospective tax changes and without placing upper limits on super fund balances.

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