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Federal Budget 2016: super tax hit seemed good idea at the time

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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.



The proposed changes are certainly a direct breach of multiple promises by this government not to increase the taxation of superannuation. And worse, they are a major stupidity nestling within an even broader stupidity.

They are, quite simply, a total train wreck. They have become Treasurer Scott Morrison's deficit levy — a measure aimed only at the top end of

town but stoking fear and loathing across Middle Australia.

In 2014 then-treasurer Joe Hockey came up with the “inspired” idea of the tax levy on high incomes to provide political cover for the more substantive cuts across lower incomes. It backfired spectacularly. The Left and crossbench-controlled Senate was more than happy to pass the levy, and essentially only the levy, while it also became the corrosive symbol of a deliberate breach of an election promise. It became Tony Abbott's “no carbon tax under ...”

Two years later, Morrison (and Prime Minister Malcolm Turnbull) have fallen into exactly the same trap: a tax hike aimed at the top end of town is hurting the government badly more broadly.

The fear and loathing is not exactly irrational. If they can do this to high-income earners today, they can do it to lower-income earners tomorrow. Especially, when they are doing it “retrospectively”.

Worse, while Hockey was doing it less than a year after an election, Morrison is doing it not just before an election, but indeed *in* the actual election.

Hockey's tax hike was in the gift of the Senate. Morrison's is in the gift of the very people it is imposed on or believe they will be hit by it: the voters.

This is both the specific and the broader stupidity. For the first time ever, as far as I can judge, we have had a budget essentially kick-off the election campaign. The election hasn't just become a referendum on the budget; it was deliberately *chosen* to be such a referendum.

What political genius, you might ask, would choose to pivot their entire election campaign on a budget mired in permanent \$40 billion deficits and could not but be a budget that was either highly fiscally irresponsible or punishingly tough or indeed, as this budget is, both?

To all but invite voters to immediately and directly reject it? If so, Morrison would go down in history with the unique distinction of being the first and only treasurer to have his first and only budget never even actually make it into the parliament. Further it's all acted like a gift to the opposition, blunting the focus on its own rather similar super proposals — albeit nowhere nearly as tough on higher-income earners (because Labor went first and didn't dare go as far as the government has!) — and the opposition's proposed attack on negative gearing.

Politically, it's irrelevant whether or not the super changes *are* retrospective, it's the belief that matters. But, for the record, the claims are simply ludicrous. The main claim of retrospectivity is the way the new \$500,000 lifetime limit on non-concessional contributions will include any such contributions back to 2007 — producing the simplistic claim that it's being “retrospectively backdated”.

The argument, such as it is, is that if I had put in, say, \$50,000 in 2008, that is now being used to limit me to only a further \$450,000.

No, retrospectivity is to make an earlier action illegal or invalid, which was not illegal or invalid at the time it was done. Nothing in the proposed cap invalidates the earlier contribution or denies the benefits accruing to that contribution.

Retrospectivity would be to now rule the \$50,000 is invalid, or to require it to be undone. The grandfathering of any contributions already made which add to more than \$500,000 is a clear exercise of not acting retrospectively.

Think of it in these terms. What if the government had limited further contributions of this sort to, say, \$200,000, across-the-board, full stop, with no reference to any earlier contributions? Or indeed, banned them entirely from budget night?

To claim either action would have been retrospective would be ludicrous. Consider this non-financial example. Five years ago one couple has one child; another couple has three children. A Chinese-like — or a “save-Gaia” Green government — introduces a blanket two-child maximum going forward.

The first couple can't claim retrospectivity because they can now only “contribute” one more child to the planet. The second couple could only claim retrospectivity if the government required them to now “unhave” the third child.

All this said, unveiling these super proposals in the ultimate pre-election budget — as opposed to the proposals themselves — was not only inept politics but awful policy.

The introduction of some limits on the size of super accounts which are totally tax-free or are taxed at a concessional rate can clearly be justified on policy grounds and is arguably inevitable in the fiscal state of things.

But by doing it in the heated context of an election, it has made it all but impossible to have a reasoned discussion — and reasonable expert input — to make it both more reasonable and actually workable. It might have seemed like “good idea at the (budget) time”, but it really is looking like Morrison's version of Turnbull's “Godwin Grech good idea at that earlier time”