SUBMISSION

Pre-Budget Submission

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The Association of Superannuation Funds of Australia Limited
Level 11, 77 Castlereagh Street
Sydney NSW 2000

PO Box 1485
Sydney NSW 2001

T +61 2 9264 9300
1800 812 798 (outside Sydney)
F 1300 926 484
W www.superannuation.asn.au

ABN 29 002 786 290 CAN 002 786 290

Overview

The superannuation system is working well on behalf of the 17 million Australians with superannuation accounts, and delivering strong retirement outcomes for millions of Australians. **Therefore, ASFA is calling for stability with regards to the overall tax and policy settings for superannuation**.

The compulsory superannuation system has now been delivering better retirement outcomes for the Australian population and the economy for well over 30 years. Through delivering investment returns for fund members it is having a positive impact on the broader economy from the listed and unlisted investments that superannuation supports, and through improving private retirement savings pressure is taken off the Age Pension.

With respect to the retirement prospects of individuals, the compulsory superannuation system underpins higher standards of living in retirement than otherwise would be the case.

The March 2025 Budget will be important to build on the strengths of Australia's compulsory superannuation system and to acknowledge its goals. As well, it will be an opportunity to further improve retirement outcomes for those individuals who have not had continuous periods of involvement in the paid labour force. Noting the importance of maintaining stability in relation to superannuation policy settings, there is both scope and need to make marginal, but still important, changes.

The recommendations in ASFA's submission if adopted would lead to greater equity and financial security in retirement:

- Equity issues should be at the forefront, with measures to improve the position of those on low incomes and/or interrupted time in the paid labour force, especially women
- Employees should receive the superannuation contributions that they are entitled to and in cases where an employer becomes insolvent unpaid superannuation is dealt with in the same way as unpaid wages
- Innovation in regard to superannuation products in the retirement phase should be supported by appropriate government programs and policy settings
- Financial security and affordable housing should be supported - by the investment returns to fund members and increased housing supply that would flow - from tax and other policy settings that are supportive of greater investment in additional housing supply

In particular, a matter of priority should be an increase in the upper threshold for the Low Income Superannuation Tax Offset (LISTO) in order to provide a more appropriate tax incentive for low-income earners, of which women are a major component.

The following recommendations, if adopted by the Government, would lead to better retirement outcomes for Australians, particularly low- and middle-income earners. Importantly, such reforms would align with the recently legislated objective of superannuation, which enshrines the purpose of superannuation as to preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way

Supporting low-income earners by increasing the upper threshold for the Low Income Superannuation Tax Offset

Background

The Low Income Superannuation Tax Offset (LISTO) is a government superannuation payment of up to $500 that helps people earning $37,000 or less a year save for retirement. Until 2019-20, the $37,000 ceiling for LISTO corresponded with the top of the second lowest tax bracket. However, the top of the second lowest tax bracket was increased to $45,000 for 2020-21 and following years.

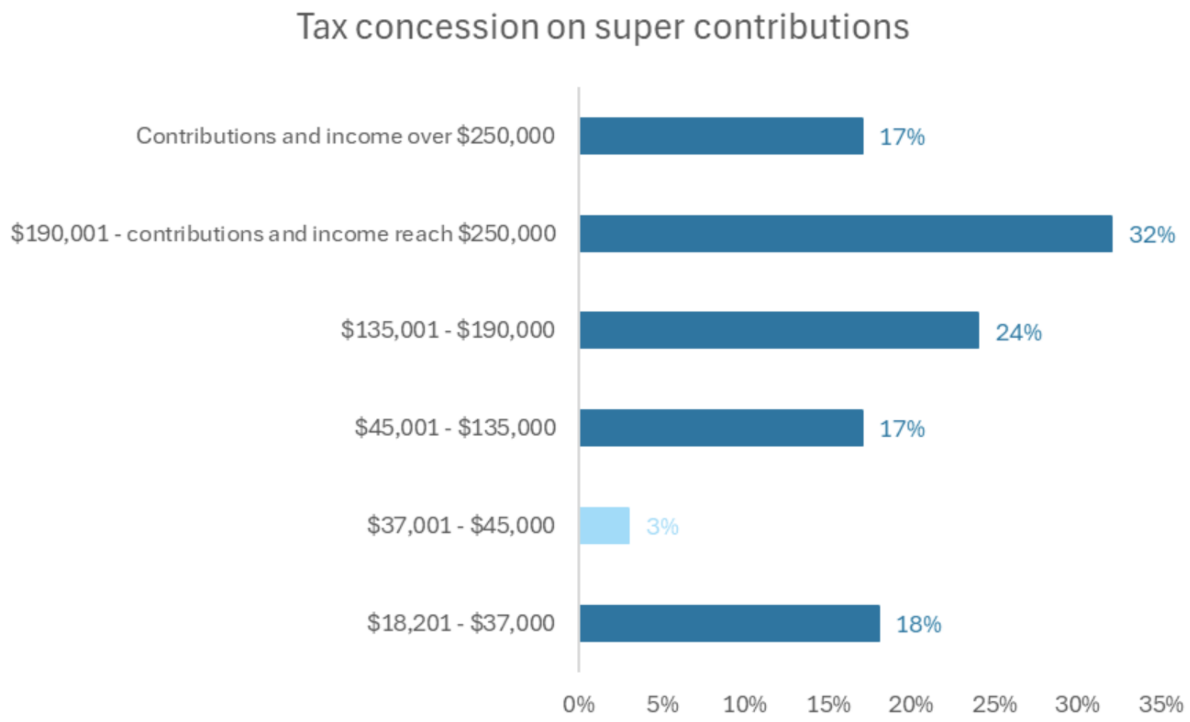
The maximum amount of $500 is equivalent to 15 per cent of 9 per cent of $37,000, which was in line with the 9 per cent SG when the LISTO was introduced and the 15 per cent concessional tax rate on contributions.

The first tax bracket ($0-$18,200) incurs a zero per cent rate of tax and the second ($18,201- $45,000) currently incurs a 16 per cent rate of tax. For those on the 16 per cent rate there is also the 2 per cent Medicare levy. Individuals in these income bands can also derive benefits from superannuation payments rather than wages, such as favourable impacts on family tax payments and higher childcare rebates.

Addressing the problem

It is equitable that individuals on the lowest tax bands receive concessional tax treatment for superannuation that is commensurate with the rate of assistance for higher income earners. With the increase in the upper threshold on equity grounds it is reasonable to provide those earning between $37,000 and $45,000 with a tax concession in line with what they received prior to the change in the taxation rate structure. Otherwise those falling within that income band receive a tax concession of only 3 per cent of contributions, which is lower than for any other income group paying tax. Individuals with incomes under $18,200 pay no income tax and in effect pay no tax on their superannuation contributions given the impact of LISTO. The 19 per cent rate personal income tax rate was reduced to 16 per cent from 1 July 2024. There also is the Medicare levy applying. The change to the tax rate reinforces the need to adjust the LISTO upper threshold as otherwise the tax concession for superannuation in the relevant income band is negligible.

The following Chart illustrates the current inequity applying to individuals on incomes between $37,000 and $45,000 compared to other taxable income ranges.



Increasing the upper threshold for LISTO would have implications for the maximum amount payable. The rate of the SG has also increased.

ASFA therefore recommends that the ceiling for LISTO payments be increased to correspond with the top of the second lowest tax bracket and that the maximum value of the LISTO payment be increased correspondingly to $810 in line with that tax threshold and with the increase in the SG since the LISTO was first introduced. If at any stage in the future the upper threshold of the tax bracket is increased the upper threshold for LISTO should also be increased accordingly.

For a person aged 35 and retiring at age 67 who is on a wage of $44,000 a year, receiving a LISTO payment to their superannuation account of $790 a year would lift their superannuation balance at retirement in today's dollars from around $293,000 to $342,000, a substantial increase.

The number of employees benefiting

In 2023-24 around 2.5 million individuals received a total of around $670 million from LISTO, down from 2.7 million individuals the previous year. Based on ATO data, increasing the upper threshold to $45,000 would lead to around 1.2 million additional individuals receiving LISTO with expenditure on LISTO increasing by about $800 million a year in 2025-26 if the measure were in place. There are a considerable number of part--time workers who have income in the $37,000 to $45,000 range. Around 55 per cent of those who would benefit are women.

Recommendation 1:

ASFA recommends that the upper threshold for the LISTO be increased to the upper threshold for the second lowest income tax rate (currently $45,000 a year) and the maximum amount increase to $810 a year based on the current tax threshold.

Review the treatment of superannuation payments owed by insolvent employers

Background

The Fair Entitlements Guarantee (FEG) provides for the Commonwealth to pay an 'advance' on certain unpaid 'employment entitlements' in cases where an individual's employment ended in circumstances connected with the insolvency or bankruptcy of their employer, and the individual cannot obtain payment of their entitlements from other sources. However, the types of 'employee entitlements' currently covered by the FEG are limited and do not include unpaid superannuation contributions. There have been a range of high-profile cases where businesses have become insolvent with unpaid superannuation contributions.

Compulsory superannuation contributions are part of an employee's remuneration and are vital for achieving dignity in retirement. Without government assistance in regard to unpaid superannuation contributions due to employer insolvency many Australian employees will have a substantial shortfall in their superannuation savings and lifestyle in retirement.

Addressing the problem

While recent and proposed changes to reporting and payment requirements for employers give greater visibility to the ATO for unpaid employer contributions, and greater attention is being given to contributions in arrears, it is likely that even after the implementation of Payday Superannuation there will be continuing cases where there are unpaid contributions when businesses become insolvent.

Unpaid superannuation should be treated the same way for the purposes of the FEG as unpaid wages as both make up the remuneration of employees. If the ATO is subsequently able to raise an SG charge against an employer this could be used to offset any SG related payments made though the FEG arrangements.

The number of employees benefiting and the budgetary cost

ASFA estimates it would cost around $150 million per year to include unpaid SG in the FEG, with around 55,000 employees a year benefitting.

Recommendation 2:

ASFA recommends unpaid SG entitlements be included in the definition of unpaid 'employment entitlements' for the purposes of the Fair Entitlements Guarantee

Providing more resources for the Australian Taxation Office to pursue unpaid Superannuation Guarantee contributions

Background

The non-payment and underpayment of superannuation by employers risks the retirement income of millions of Australians. Non-payment and underpayment of superannuation is equivalent to wage theft and has significant impacts on retirement outcomes.

For 2021–22 the ATO has estimated a net super guarantee (SG) gap of around $5.2 billion or 6.3 per cent of estimated theoretical SG liability.

In 2021–22, the ATO undertook around 670 audits and reviews across a representative sample of the active employer's population. Employers considered at higher risk of shadow economy behaviour were represented as well as employers with lower risk of shadow economy behaviour. Given the number of employers active in Australia relatively few audits and reviews are being undertaken.

In the sample, the incidence of adjustment was 41 per cent. The median increase to employers' SG contributions was approximately $8,000. While individually this amount may not be large, it is extrapolated across a population of over 1 million employers. As well, there would be shadow economy employers not captured by the ATO SG review activity. Therefore, further compliance activity is likely to uncover unpaid or under-paid superannuation contributions, with with those contributions then being made to employees.

From 1 July 2026, employers will be required to pay their employees' super at the same time as their salary and wages. Payday super will also make it easier for employees to keep track of their payments, and harder for ongoing under-payment or non-payment to occur. The change will particularly benefit those in lower paid, casual and insecure work who are more likely to miss out when super is paid less frequently, predominantly women.

Addressing the problem

Payday super will make non-payment of SG more visible in cases where wages are being paid, with the ATO being provided with additional funding to collect and match relevant data. However, there will be ongoing issues relating to superannuation contributions in regard to employees who are either not being paid their due wages or wages are not being reported by employers to the ATO (such as in cash economy employment arrangements). As well, once contributions shortfalls are identified there is a need for the ATO to take action to recover unpaid superannuation.

The number of employees benefiting

In 2023-24 ATO SG compliance activities led to around 15,500 employers being checked with around 280,000 employees having SG entitlements increased as a result. An increase in compliance and recovery activity could result in up to an additional 100,000 or more employees benefitting, depending on the increase in compliance activity and the targeting of that work.

Recommendation 3:

ASFA recommends that the Australian Taxation Office be provided with additional support to undertake greater compliance activity in regard to employer Superannuation Guarantee obligations

Expanding Superannuation contributions to all under 18 employees

Background

Employees aged under 18 currently do not have an entitlement to Superannuation Guarantee contributions if they work less than 30 hours a week. However, some employers pay SG contributions in regard to all employees as a matter of policy both on equitable grounds or to minimise the administrative burden of separating payments for under 18s.

Census data for 2021 indicates in the week prior to Census night there were 18,250 full-time individuals aged under 18 working full-time with a further 228,711 employed part-time. ATO data indicate that in 2021-22 143,735 individuals aged under 18 had employer contributions made in regard to their employment, with total contributions of $85 million, an average of $590 per employee.

Addressing the problem

Removing the exclusion from compulsory superannuation of those aged under 18 and working less than 30 hours a week would remove a current inequity in the system. Given the long period until retirement the benefits from compound investment returns would be significant. Protection from fees for accounts under $6,000 would protect individuals from erosion of account balances. Default insurance arrangements also do not apply to those aged under 18.

The removal of the $450 a month wages threshold for SG contributions reflected the equity of applying compulsory superannuation to all wages.

The under-18s exclusion pre-dates the creation of digital payroll software. Its intent was to stop fees and insurance premiums from eroding low-balance accounts. However, today there are strong protections applying to low-balance accounts, so continuing to exclude under-18s who work less than 30 hours a week from SG contributions now lacks justification.

The number of employees benefiting

Around 200,000 employees would benefit from SG obligations applying in regard to all employees aged under 18, this would provide additional superannuation contributions averaging $800 or more a year for those employees.

Recommendation 4:

ASFA recommends that Superannuation Guarantee obligations apply in regard to all employees aged under 18, beyond those who work more than 30 hours a week

Reducing the superannuation tax impact on individuals claiming hardship or compassionate release of superannuation

Background

Early release of superannuation before preservation age is allowed in certain limited circumstances. Hardship release is available to individuals who have been on specified government payments for the previous 26 weeks or more. Compassionate release is available to individuals for certain medical or related expenses or in order to avoid foreclosure on a mortgage on their home. The Australian Taxation Office administers compassionate release applications while individual funds administer hardship applications.

There is evidence that some individuals rollover amounts between superannuation funds in order to obtain more than one hardship release in a year although the arrangements are designed to allow only one release a year. Currently there is no central register of hardship releases made to individuals.

Any super withdrawn on hardship or compassionate grounds can be subject to tax with the tax amount deducted from the lump sum payment. For those aged under 60 years old, tax at the rate of 22 per cent is deducted when the payment is made. When the individual lodges their tax return tax on the payment is assessed at the lower of the individual's marginal tax rate or 22 per cent, whichever is less. Many recipients of such payments are in difficult financial circumstances and do not anticipate that there will be tax deducted and/or eventually paid.

Addressing the problems

If the Australian Taxation Office was responsible for vetting hardship release applications then it would not be possible for individuals to make multiple withdrawals across multiple funds. Reducing the current maximum amount of tax payable on hardship and compassionate releases would strike an appropriate balance between compassion and the purpose of superannuation tax concessions.

The number of individuals benefiting

In 2022-23 around 53,000 individuals had a total of $845 million in compassionate release payments with a further 77,000 receiving $604 million in total in hardship releases.

Recommendation 5:

ASFA recommends that the tax rate for superannuation payments made on hardship or compassionate grounds be reduced and that responsibility for determining eligibility for hardship releases be moved to the Australian Taxation Office

Further expanding information and guidance on superannuation

Background

On 20 November 2024 the Treasurer announced that the Government will expand and refresh resources on the Moneysmart website, ensuring retirees have easy access to independent, reliable information on superannuation and retirement options. This will include new and updated resources, such as guides and calculators, which will help Australians understand key decision points when planning for retirement.

ASIC will also undertake a consumer education campaign targeted at Australians approaching retirement and in retirement to boost their engagement with retirement planning.

Given the number of Australians with superannuation, including the substantial number entering into retirement in the next few years, compared to the number who make use of personal financial advice, there is a scope for even more information and guidance on superannuation to be provided. Given the need for financial information and guidance ASFA suggests that additional funding be provided for such government programs.

Addressing the problem

Provision of relevant and accessible information and guidance on the websites such as the ASIC Moneysmart together with targeted media campaigns has the potential to provide relevant and useable information for hundreds of thousands, if not millions, of Australians.

Greater consumer awareness and knowledge in regard to superannuation and investment matters will also help mitigate risks for superannuation fund members and consumers more generally in areas such as cyber risks, fraud, and financial abuse. To help reduce the incidence of scams, ASIC should apply their knowledge and understanding of these risks to educate consumers about scams. ASIC should also regularly monitor and measure the effectiveness of their scam awareness and education activities, and use the results from their reviews to inform their approach to future scam awareness and education activities.

As well, ASFA has supported reforms announced by the Government which would make high-quality financial advice more affordable and accessible, ensuring Australians receive the guidance they need to achieve better retirement outcomes. These include modernising the Best Interests Duty, introducing a New Class of Advisers expanding the supply of financial advice, particularly through financial institutions, allowing superannuation funds to provide helpful ‘nudges’ to improve member engagement at key life stages, and clarifying the rules on what advice topics can be paid for through superannuation

The number of individuals benefiting

All of the 17 million Australians with superannuation could potentially benefit from additional superannuation information and guidance being provided.

Recommendation 6:

ASFA recommends that ASIC be provided with further funding for an information campaign on superannuation

Enabling a superannuation account that works for life

Background

There currently are nearly 700,000 Australians aged 65 and over who hold accumulation superannuation accounts and who have employer or personal contributions made to their accounts. Such individuals automatically qualify to open a retirement income account but they need to maintain an accumulation account as well for contributions to be made. Some individuals will retire and move their savings into pension phase, but then return to work. Also, there are individuals aged under 65 who have a pension account after establishing a condition of release but who subsequently have contributions being made in regard to them.

Addressing the problem

The overall cost and complexity for individuals of superannuation arrangements would be reduced by allowing individuals to have a superannuation account that works for life (subject of course to individuals being able to exercise choice of fund). This would include allowing individuals to make contributions directly into a pension phase superannuation product. Such a change would be much simpler for members compared to the current requirement for a member to close a pension account and then start a new account if they want to top up their pension account.

The number of individuals benefiting

Initially over 700,000 individuals might benefit from there being only one superannuation account for life. Eventually all of the 17 million Australians with superannuation could potentially benefit from a single account.

Recommendation 7:

ASFA recommends that regulatory settings for superannuation accounts be changed to allow contributions to be made to a pension account

Taking steps to improve housing supply through greater institutional investment

Background

The current shortfall in housing supply means that there are opportunities for greater institutional investment in housing, such as in relation to Build to Lease or Build to Lease to Purchase projects, with associated investment returns for fund members. The increased supply resulting from superannuation fund investment in housing will lead to greater housing affordability.

As an emerging asset class, Build to Lease is witnessing significant growth in Australia, with plans to construct over 7,400 units supported by institutional capital within the next three years. Government support to establish this asset class may be needed initially but over time it is likely to become a standard part of superannuation fund investments.

Compared to other countries, investment in Australian Build to Lease comprises a modest fraction—less than 1 per cent of institutional real estate portfolios—while in some other countries it exceeds 20 per cent.

In Australia, the development of new housing has traditionally been funded mainly by the private sector, with limited contributions in recent decades from public financing for public and community housing.

Addressing the problem

Policy frameworks are critical in drawing institutional investment into further improving supply. Effective government funding and supportive policy and tax measures are essential to stabilise and grow a market for institutional investment in residential property. Additional government support on top of this would allow superannuation funds to investment in developments focused on low-to-moderate income groups, ensuring that additional investment can contribute effectively to addressing Australia’s housing affordability crisis for low and middle-income earners.

Tax and policy settings should be supportive for investment in Build to Lease developments rather than requiring every supported Build to Lease development to have an affordable housing component. Institutional ownership of rental accommodation can provide greater security of tenure for renters and this should be made available for renters generally.

A number of measures are available to the Federal and State governments that would provide institutional investors with appropriate risk adjusted returns in their portfolios. Recommended State and Territory measures largely relate to planning and land supply, while Federal measures largely relate to tax and superannuation policy settings:

- the streamlining of planning processes through quicker decisions and more timely consideration of feedback
- fixed and predictable planning processes
- density and floor space bonuses in return for greater supply of affordable housing
- greater collaboration between landholders and institutional investors in order to encourage to large scale residential developments
- appropriate disclosure arrangements for the transaction costs associated with residential property purchases
- consideration of residential property specific benchmarks for the performance test for superannuation funds when the performance test is next reviewed
- consideration of a different GST treatment for dwellings that meet set criteria for delivering affordable housing

The number of individuals benefiting

All of the 17 million Australians with superannuation could potentially benefit from superannuation funds being able to obtain better risk adjusted investment returns from investing in residential real estate. More generally, those in private rental would benefit through greater availability of rental housing and greater security of tenure.

Recommendation 8:

ASFA recommends that the Australian government support tax and regulatory settings that would encourage greater institutional investment in residential real estate

Reducing the superannuation tax impact on those employed under the Pacific Australia Labour Mobility (PALM) scheme and facilitating transfer of superannuation to those employees

Background

The Pacific Australia Labour Mobility (PALM) scheme allows eligible Australian businesses to hire workers from 9 Pacific islands and Timor-Leste when there are not enough local workers available. Through the PALM scheme, employers can access both short-term workers (up to 9 months) and long-term workers (between one and 4 years). As at November 2024 there were around 31,000 PALM workers in Australia, mostly in jobs in agriculture and meat processing.

Individuals who have worked in Australia on a temporary visa who have accumulated superannuation that has been paid by their employer are eligible to have their super paid to them (less tax) as a departing Australia superannuation payment (DASP) after they have left the country.

The tax on DASP payments is 35 per cent, bringing the total effective rate on superannuation contributions to around 45 per cent. This is much higher than the marginal personal income tax rate applying to PALM workers, which is generally only 16 per cent income tax rate with relatively few PALM workers on a 30 per cent marginal tax rate.

A number of major Australian superannuation funds have been pursuing policy options to make payment of superannuation to departed PALM workers much easier. Options being pursued relate to facilitating payments to the home countries of PALM workers and also in regard to reducing the tax imposed on such payments.

Addressing the problem

One method for addressing the problem of excess taxation on these low-income workers would be to allow transfer of superannuation without any tax imposed to a fund in the home country of the worker. Such arrangements are being put in place for Cook Island citizens. However, implementation will take months if not years and arrangements in regard to other countries covered by the PALM scheme have not even commenced.

A quicker approach would be to facilitate payments to home country bank accounts of PALM workers and also to reduce the DASP tax rate for individuals covered by the PALM scheme to zero, or at the very least to 10 per cent.

The number of employees benefiting

Around 30,000 individuals a year would benefit from a reduction in the tax rate for superannuation payments for PALM scheme workers.

Recommendation 9:

ASFA recommends that the tax rate for superannuation payments made to PALM scheme workers when they have departed the country be reduced to zero and that the ATO pay unclaimed superannuation amounts to foreign bank accounts when there is no evidence of an Australian bank account still being held