SUPER MEMBERS
COUNCIL OF AUSTRALIA

16 October 2023

Director
Superannuation Tax Unit
Retirement, Advice and Investment Division
Treasury

Via email: Superannuation@treasury.gov.au

Better Targeted Superannuation Concessions – Exposure draft legislation

About the Super Members Council of Australia

The Super Members Council of Australia is the new collective body created by profit-to-member superannuation funds as a strong voice for 10 million Australians who have more than $1.4 trillion in super.

Our primary purpose is to protect and advance the interests of super fund members throughout their lives, while earning superannuation at work and benefitting from it in retirement. The Super Members Council advocates on their behalf to ensure superannuation policy is stable, effective and equitable.

Jointly created by the super funds who were members of the Australian Institute of Superannuation Trustees (AIST) and Industry Super Australia (ISA), the new body builds on their legacies to provide member-centric advocacy. It will work with all political parties to deliver the best possible retirement outcomes for members.

Summary of our submission

The Super Members Council of Australia supports measures to make superannuation more equitable and commends the Government for taking this step toward better targeted tax concessions.

Australia's superannuation system is one of our country's greatest success stories. It is materially improving the lives of millions of Australians, ensuring dignity and security in retirement while also contributing to broader national economic growth.

As superannuation continues to contribute to prosperity, the government must also ensure that the benefits of superannuation tax concessions are equitably available to all Australians, and not disproportionally available to those with high incomes and large balances.

The Super Members Council welcomes the Government's intent for this measure to be consistent with the proposed objective of superannuation, and in light of this, suggests the Government should also review superannuation tax settings to achieve overall alignment with the objective.

Therefore, the Government could also consider implementing other equity measures relating to tax concessions, such as increasing the Low Income Superannuation Tax Offset (LISTO) as a corresponding means of increasing superannuation tax equity for low-income workers.

Equity

The Super Members Council strongly supports the inclusion of superannuation being provided in an equitable way as a key principle of the proposed objective of superannuation.

The proposed measure to reduce the tax concessions by imposing a tax of 15 per cent on certain earnings based on the percentage of the Total Super Balance exceeding the $3 million threshold is consistent with the proposed objective of superannuation to "… preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way."

Under the existing policy settings, the same taxation rates, generally, apply to members equally[1], but not always equitably. Those on high incomes and/or with high accrued balances benefit from the same tax treatment on contributions and earnings as those who are least able to access the favourable tax environment of concessionally taxed superannuation relative to their personal income tax rate.

This creates an imbalance in which the broad pool of tax paying workers is, in effect, subsidising government support by way of tax concessions to those who least need it. Better targeting concessions including moderating concessions available to the most financially fortunate is one way to begin to address this imbalance.

The government recognises in its explanatory materials that its proposal is a modest change. The measure is restricted to a proportion of the earnings on the balances of a small number of high-balance individuals. It does not impact their principal account balance and only applies to the earnings on assets above the $3million cap. As a result, it lessens but does not remove the concessional treatment of superannuation for these members.

The Super Members Council believes this is a step in the right direction.

As an incremental change, further steps should also be considered to increase equity within the superannuation system. For example, for the large pool of low-income and low superannuation balance workers in Australia. Groups, including women, First Nations Australians, young, disabled, part-time and other vulnerable workers would most benefit from additional assistance to increase their retirement savings.

Current superannuation policies to support low-income workers need an update to raise the level of support provided to them.

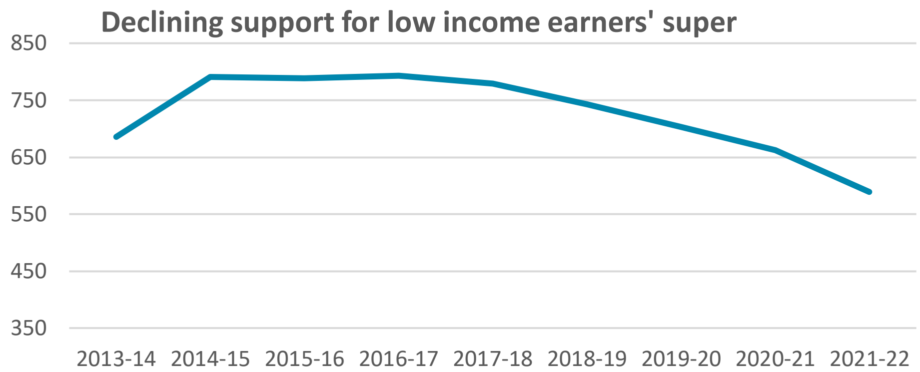
While the Government has expressed in-principle support for the payment of superannuation while on paid parental leave, there has been no specific commitment to address this. We call for the Government to commit to implementation at the earliest opportunity.

Likewise, the Low Income Super Tax Offset (LISTO) thresholds and payable amount have not kept pace with inflation nor changes to the Superannuation Guarantee (SG) rate and tax brackets. Like this measure, the LISTO is a targeted tax concession.

The freezing of the LISTO means that the policy intent behind it (to offset the concessions tax paid by these workers on their accrued amounts) has not been maintained. Consequently, support for low-income workers has continued to decline.

[1] Subject to relevant caps and mechanisms such as Division 293

Chart 1 – Annual expenditure on LISC / LISTO since inception ($m)



Source: ATO Annual Reports 2013-14 to 2021-22

The LISTO has its roots in the former low-income super contribution (LISC), the Explanatory Memorandum to the establishing legislation of which states that:

> *"The low-income superannuation contribution seeks to effectively return the tax paid on concessional contributions by a person's superannuation fund or retirement savings account (RSA) provider to a person who is a low-income earner."*[2]

This rationale was reaffirmed in the establishment of the LISTO in 2016:

> *"The low-income superannuation tax offset compensates low-income individuals for the tax that their superannuation fund or retirement savings account provider pays on concessional contributions to the individual's superannuation."*[3]

At the time that these policies were enacted, SG was 9% of ordinary time earnings - it now stands at 11% and will increase to 12% from 1 July 2025.

Eligibility for the LISTO was tied to the level of the second tax bracket. Prior to 1 July 2020, this was an annual taxable income of $37,000 but has since been raised to $45,000.

The maximum payable LISTO remains at $500 based on these policy settings, leading to an increasingly significant shortfall in both the payment amount and number of low-income workers eligible to receive it.

[2] Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Bill 2012, Explanatory Memorandum
[3] Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016, Explanatory Memorandum

Table 1 – Reduction of LISTO benefit 2012-13 to 2025-26

	Tax bracket upper limit	SG rate	Maximum SG payable	15% contributions tax	Maximum LISTO payable	Shortfall
2012-13	$37,000	9.00%	$3,330	$500	$500	-
2013-14	$37,000	9.25%	$3,423	$513	$500	$13
2014-19	$37,000	9.50%	$3,515	$527	$500	$27
2020-21	$45,000	9.50%	$4,275	$641	$500	$141
2021-22	$45,000	10.00%	$4,500	$675	$500	$175
2022-23	$45,000	10.50%	$4,725	$709	$500	$209
2023-24	**$45,000**	**11.00%**	**$4,950**	**$743**	**$500**	**$243**
2024-25	$45,000	11.50%	$5,175	$776	$500	$276
2025-26	$45,000	12.00%	$5,400	$810	$500	$310

Modelling undertaken by the Super Members Council demonstrates that that if LISTO is increased as suggested, in 2025-26, around 1.2 million people are expected to receive on average $440 extra in super contributions. Over 60 per cent of this will flow to low-and middle-income women. This would increase the retirement balance for a female in the 20th wage percentile by $20,000 (in today's dollars).[4]

Table 2 – Benefit by 2025-26 of increasing LISTO ceiling to $45,000pa

	Population	Median	Mean	$ Millions
Females	718,300	464	423	304
Males	479,100	402	408	195
Persons	1,197,400	440	417	499

If the Government's objective is to ensure concessions are better targeted and support equity and sustainability of the system, then broader changes should be examined consistent with the Government's recently proposed objective.

Calculation methodology

The Super Members Council supports the proposed approach to calculation of the Total Superannuation Balance (TSB) as a simple, efficient and fair methodology.

Any greater complexity introduced into the system will create an undue costly administrative burden that will be borne by the bulk of superannuation members with balances well below the $3m cap through their administration fees.

[4] Additional analysis can be provided to substantiate the role of LISTO in providing equity for women and other low-income cohorts of workers.

The Super Members Council also encourages the equitable application of this measure to members with defined benefit interests. Fund structure should not be a factor in how the cap is applied.

As defined benefit schemes are complex and often unique in structure, we recommend the government convene a working group of subject matter experts from these funds to refine an approach that ensures calculations across the sector are fairly applied while limiting the administrative burden on affected funds. The agreed approach should then be addressed in the regulations supporting the legislation.

Post Implementation Review

The Transfer Balance Cap was introduced at $1.6 million in 2017, and currently stands at $1.9 million.

The relationship between the $3 million threshold for this measure and the Transfer Balance Cap, and to ensure its value is consistent with the appropriate targeting of tax concessions, should be reviewed by the Government in a post-implementation review.

The Bill should be amended to require the Minister to cause an independent review of the threshold following three years of the implementation of this measure, that is, as soon as possible after July 2028.

As retirement projections and calculator tools rely on long-term assumptions, guidance will be required on appropriate calculator settings and assumptions.

Yours sincerely,

Mel Birks
Executive General Manager, Policy
Super Members Council of Australia