Submission to Productivity Commission

Review of Certain Superannuation Legislation

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The following areas need to attention.

1. Penalties charged by superannuation funds for withdrawals or transfers of superannuation money by members can be inequitable to members, anti-competitive and inefficient. The same applies to the vesting of superannuation (i.e. with balances dependant on period in the fund, period of employment, or age). These arrangements should be considered.
2. Some funds offer ‘free’ investment advice with specific `in-house' or contracted advisers. Some funds, or related companies, remunerate in-house advisers to the exclusion of other advisers. These arrangements are anti-competitive, reduce choice and increase the chance for compromised advice.
3. The presence of two regulators of superannuation (APRA and the ATO), both who have major roles outside of the superannuation industry, does not appear appropriate. It would appear preferable to have one specialist superannuation regulator covering all superannuation entities.
4. Public offer, industry and employer funds should disclose all costs and charges on a consistent basis. All costs and charges would include all fund management, other management, administration and transaction costs, and enable transparent comparison between providers.
5. All public offer, industry and employer funds should be required to provide information on a like-for-like basis of returns on funds before and after all costs.
6. It should be mandatory for all funds to offer binding nomination of beneficiaries. Variations between funds result in inequities.
7. The definition in the SIS Act of ‘self-employed’ creates inequities (refer below).

Other issues that appear to be outside the Productivity Commission's terms of reference, but also needing attention include:

1. Self-employed persons are currently not required to make superannuation contributions. This appears inequitable, particularly to some employees and employers subject to the SGC. It also appears anti-competitive as business costs are influenced by business type (eg company/sole proprietorship).
2. On the other hand, self-employed persons can claim as a tax deduction only 75% of contributions exceeding $3,000 to super. This is inequitable to some self-employed persons. Moreover, persons who receive more than 10 per cent of their assessable income from an employer are not able to make tax deductible contributions to superannuation. This again is inequitable.
3. The age-based deductible limits on deductible contributions apply to individual employers. Inequities can arise where a person has more than one employer, hence allowing an employee to benefit from more than one aged-based limit.
4. There appear to be inequities relating to persons aged over 55 years who have superannuation and cannot access unemployment benefits.
5. The contributions surcharge creates inequities for persons whose income is volatile from tax year to tax year.
6. The exemption of the principal home from the asset test when calculating Social Security appears fine up to a point. However, to protect to Social Security and Tax system, when values of principal homes exceed a certain threshold, the excess should be included in the asset test. Consideration could also be given to inputing an amount to be included in taxable income for values exceeding the threshold.

Yours faithfully
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