



Superannuated
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The Hon Malcolm Turnbull MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

Repeal of the 10% cap legislation

I am writing to seek the repeal the *Social Services Legislation (Defined Benefit Income Streams) Act 2015*, because it was a defective piece of legislation based on inadequate research and rushed through both houses of Parliament with undue haste. It has already caused hardship to many people with very modest defined benefit pensions.

Government Ministers have informed our organisation that the sole purpose of the legislation was to reverse a taxation change made in 2007 that they said was an "anomaly". It had had the effect of increasing the deductible amount in the income test treatment for defined benefits income streams where people had joined their fund before 1 July 1983. However, a recent Freedom of Information request has revealed that the ATO and the Department of Human Services cannot tell whether or not a particular recipient of a defined benefit pension had joined their fund before 1 July 1983, or, if they had joined their present fund after 1 July 1983, whether they had rolled over their superannuation contributions from another fund.

In theory, the relevant information should be available from the superannuation funds, but given that the information dates back to 1983, it is quite likely that the funds would have great difficulty in retrieving the information, which in some cases might not exist in electronic form. It would appear that the Government has not made any attempt to access that information.

Before 2007, the deductible amount was originally designed to reflect the return of contributions, if any, made by the employees to their defined benefit income stream. In the Commonwealth public service schemes, CSS pensioners had to contribute a minimum of 5% of their after-tax income, and could contribute up to 10%. PSS pensioners had to contribute a minimum of 2% and could contribute up to 10%.

All of the CSS and PSS members who have been affected by this legislation had defined benefit income streams that were at least partially funded by the return of their after-tax contributions. Some other defined benefit schemes, such as UniSuper, required even higher personal contributions of up to 33%.

Before the superannuation changes of 2007, 96% of CSS retirees chose to take their personal contributions and their pre-1 July 1983 employer contributions as a lump sum, which is why most CSS pensioners have no deductible amount at all.

There were very few PSS pensioners by 2006, because the PSS scheme only started in 1990 and, although it was possible for CSS members to transfer to the PSS, few had done so. However, after the 2007 changes and the 2008 Global Financial Crisis, PSS retirees and invalidity pensioners, encouraged by some financial advisors, thought that using their member contributions to purchase the maximum amount of additional pension was the safe and sensible thing to do.

The 10% cap legislation affects all defined benefit pensioners with deductible amounts, even those who did not belong to any defined benefit superannuation fund before 1 July 1983. Some female CSS and PSS pensioners fit into that category - they only joined the public service after their youngest child went to school, and then contributed 10% of their after-tax salary to make up for lost time. Furthermore, since there is no time limit to this piece of legislation, it is possible that in the future it could be used to reduce the benefits of people who could not have had any pre-1983 employer contributions because they were too young to work.

In addition, the 10% cap legislation was not grandfathered, which has caused problems for the older people affected, particularly the poorer ones who lacked other sources of income and were too old or too infirm to find work. Superannuation changes for those over Age Pension age should in future be grandfathered.

If you would like to discuss any of the issues raised in this letter, please contact the SCOA Federal Office on 6286 7977.

I thank you for your consideration and look forward to your response.

Yours sincerely



(Dr) Annette Barbetti
FEDERAL PRESIDENT