



Superannuated
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The Hon Christian Porter MP
Minister for Social Services
Parliament House
CANBERRA ACT 2600

Dear Minister

Ten percent cap on the amount of a defined benefit pension that can be excluded from the age pension income test

I refer to the answer that you provided to Senator Katy Gallagher's question on notice of 25 November 2016. It appears that you have misunderstood the question. The question asked why you did not identify the PSS and CSS pensioners who had not benefited from the "anomaly", not why you did not identify the very small number of those pensioners who had benefited.

Although the reasoning behind the desire to cap on the percentage of a defined benefit pension that can be excluded from the age pension income test has been variously explained, your department has so far failed to explain why the cap was set at 10% for all defined benefit funds.

Since the various defined benefit super funds had different rules regarding the percentage of a contributor's salary that could be contributed as an after-tax contribution, it surely would have been more appropriate to make separate provision for those funds requiring higher contributions, such as the CSS (5% compulsory, up to 10% permitted) and the PSS (2% compulsory, up to 10% permitted). How did you arrive at the decision to set the cap to 10%, when it should have been obvious that a much higher percentage would have been more appropriate, at least for the CSS and the PSS?

I would also like to remind you that the CSS and the PSS are regarded as "untaxed" funds, because the Commonwealth government does not pay tax on its employer contributions. Their tax-free pensions do not include any employer-funded contributions, unless they had pre-1 July 1983 service. This means that whatever part age pension they receive will be taxed at their marginal tax rate. That is something else that should be considered when determining the size of any cap.

People have contacted SCOA saying that they had no pre-1 July 1983 service and no other pre-funded employer contributions, but have nevertheless had their age pension reduced because of the 10% cap. They were CSS or PSS pensioners who had joined the public service after 1 July 1983 who had contributed 10% of their salary. Their contributions had increased in value over the many years that they were contributing to their fund, so that the additional pension purchased using their member contributions was more than 10% of their pension.

If the data from the Australian Public Service Commission database (APSED) had been used to identify those Commonwealth superannuation pensioners who had not benefited, your department would have found that most of them had not benefited from the "anomaly" and you could have modified the legislation to exclude all CSS and PSS pensioners with no pre-funded employer contributions in their defined benefit income stream, and you could have established a more realistic value for the cap.

It appears that the 10% cap legislation was developed in a very short time frame. There was inadequate research into the nature of the various defined benefit pension schemes, some readily available data were ignored, and the decision to set the cap at 10% was based on the questionable assumption that there had been no change in the economic situation after 2007.

There was scant regard for the well-being of the thousands of affected defined benefit pensioners who already had very low incomes. We therefore ask that this measure be repealed as a matter of some urgency.

Thank you for your consideration, and I look forward to hearing further from you.

Yours sincerely

A handwritten signature in blue ink that reads "A. J. Barbetti". The signature is written in a cursive style.

(Dr) Annette Barbetti
FEDERAL PRESIDENT