



**MARINIS**  
FINANCIAL GROUP

9<sup>th</sup> December 2010

The Hon Bill Shorten MP  
Minister for Superannuation  
Parliament House  
CANBERRA ACT 2600

Dear Mr Shorten

### A SUGGESTION FOR CHANGE TO HELP MAKE SUPER RULES FAIRER

As a financial adviser with more than 20 years experience, I would like to offer a suggestion for a simple administrative change to the superannuation contribution legislation to allow fairness where contribution caps have been inadvertently breached.

The scope for error (often a simple reporting error) under the current rules can be high, particularly in family owned small businesses, where retirement planning strategies may involve a mix of concessional and non concessional contributions.

I would like to suggest, therefore, that you consider legislation to allow an excessive contribution made in error be unwound and withdrawn within a three year period. The process should involve only costs which are reasonable for administration from the perspective of the ATO or any other superannuation or pension authority.

This would bring the treatment of excess contributions (currently taxed as much as 93%) in line with the approach used for the lodgement of tax returns containing errors or omissions. These can generally be amended within three years of lodgement. In such cases, there is a general interest charge only levied for underpayment of any tax as a result of such errors.

I seek this change because I believe that the current excess contribution rules are draconian and patently unfair. Despite the best of intentions and systems, human error will always occur, and the imposition of the current tax penalty in the absence of any opportunity for rectification, is excessively harsh. Often such mistakes are made by well meaning but unskilled people operating a family business.

Treasury would still receive the revenue to which it is entitled, and the government would be rectifying another blatant 'revenue raiser' brought in by its predecessor.

I believe that not only would the change actually make super simpler, it would also help improve public perception of superannuation. It could also serve to demonstrate that bad super rules (e.g. the super surcharge and excess contribution penalties) are eventually eliminated as our retirement saving system evolves and adapts to our changing society.

I would be happy to discuss this idea with you or your advisers if you would like to follow up the suggestion.

Yours sincerely,

**Theo Marinis B.A., B.Ec., CPA., CFP®**  
**Financial Strategist**  
**Authorised Representative**

Financial Strategies (SA) Pty Ltd  
Trading as **Marinis Financial Group**  
ABN 54 083 005 930  
Australian Financial Services  
Licence No: 326403

**T** 08 8130 5130  
**F** 08 8331 9161  
**M** 0412 400 725  
**E** admin@marinigroup.com.au  
**A** 67 Kensington Road  
Norwood SA 5067  
**W** marinigroup.com.au