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11th April 2011

Senator Mathias Cormann
Shadow Minister for Financial Services
Parliament House
Canberra ACT 2600

Dear Mr Cormann,

Superannuation - Excess Contributions Tax

I write to communicate my views directly to you in your role as Shadow Minister, in respect of what I believe is the Federal Government's inequitable approach to Excess Superannuation Contributions Tax.

Under the current rules, a person who is under age 50 can make concessional (tax deductible) contributions of up to \$25,000 per annum to superannuation – or \$50,000 per annum if aged over 50. Any dollar contributed above these limits is taxed at the top marginal rate of 46.5%, and has the potential to attract a further 46.5% penalty.

It is my experience that in general, people (and their advisers) do not deliberately set out to contribute excessive amounts to superannuation, but rather, these amounts are all too often the result of reporting errors in the identification of concessional and non concessional contributions, or misinterpretation of the application of the respective contribution caps.

Under the ATO's current approach, excess superannuation contributions can result in tax at the rate of 93.0%. However, if these same people had decided to deliberately undertake Part IV (a) Tax Avoidance schemes, the tax rate would be 46.5%.

The Government believes it has a "wind-back" mechanism via the ATO – however commissioner D'Ascenzo commented in February 2011 to the Senate Economics Committee that 98% of applications for a reversal of ECT were unsuccessful.*

I believe that a much fairer treatment of excess contributions would be to require superannuation fund trustees to make a refund to the member, with any investment earnings forfeited to the government.

It is also my belief that an age based tax offset for the first \$25,000/\$50,000 of superannuation contributions would be consistent with the government 'capping' the cost to tax revenue from this source, whilst at the same time, maintaining the pool of retirement savings (and reducing burden on the public purse). It would also allow superannuation to be perceived as a positive, rather than a punitive, way to save for retirement.

I would welcome the opportunity to discuss these views with you or your staff at a mutually convenient time.

Yours sincerely,

distinctly different

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

*** "A Very Narrow Concession" 15 March 2011 – article by Robin Bowerman, Head of Retail, Vanguard. Reporting on the Senate Economics Legislation Committee meeting in February 2011.**

Encl.