Rules encourage 'super envy'

Theo Marinis counts the problems with Australia's superannuation system, claiming there's too many cracks, loopholes and caps.

Australia's superannuation system is broken, but very few are prepared to call it or even dare ask how we find ourselves in this parlous state.

Over the last 20 years, a cohort of mandarins (public servants who advise our federal government) have managed to take a system which worked reasonably well to turn it into something riddled with a) hurdles to disadvantage the less educated, the poor and the elderly; and b) loopholes which open an arbitrage opportunity available only to those who well understand the super/tax/social security interface.

Caps on superannuation, namely the 'Transfer Balance Cap' and 'Total Super Balance' rules, are a reasonable idea.

These caps give people an indexed target of $1.6 million in super.

If it could be achieved, this level of super would provide a comfortable tax-free income of $80,000 per annum over an average post-retirement lifetime.

Why then, put all the hurdles around getting to $1.6m for those willing to take personal responsibility for funding their old age, with the current concessional contribution cap of $25,000? This way very few people will be able to fund up to the maximum limit during their working lives.

We could also ask, why did the public service advise the federal government to dismantle the former Reasonable Benefits (RBL) System in 2007, only to reintroduce a new RBL system in 2018? Surely it would be better and simpler to put as much as possible into super up until the $1.6m cap.

The former age-based contribution limits allowing larger contributions after age 50 were sensible, as they allowed for such real-world situations. Why was that system replaced by these low-cap annual thresholds?

Perhaps our senior public servants see 'earned' income differently. For them, pay day is a predictable fortnightly event, but this is not the case for those individuals who risk their own capital.

Perhaps it is also correct to assume that everyone earns as they do. For example, the current contribution caps discriminate against families, when disposable income is lower in the 'mortgage' years.

Furthermore, if a single person has a child, not only are they highly likely to take time out of the workforce, but ongoing employment is likely to be part time. There is a very practical need to have the ability to top up super contributions later in life when some of the cost of living pressures are reduced.

More recently, we have the 'downsizer's contribution' which skews the contribution 'cap' policy in the other direction. Through this policy, when people over 65 sell the family home after a minimum

10-year occupancy they can then make a super contribution up to $300,000 ($600,000 for couples).

And then there is the flawed policy of franking credit refunds which has the potential to allow retirees from age 60 onwards to draw down $1m from super tax free, and still receive a refund on franking credits.

Such policies don't really help society reward those who pay tax. Neither do they respect the needs of the average retiree. It will change, just as former Prime Minister John Howard said he wouldn't bring in the GST – and then he did.

Eventually, rationality will win out, but not until billions of dollars of tax revenue has been squandered.

Perhaps this tax revenue might even have been applied to increase the Newstart Allowance to reflect the progressive cost of living pressures – without making it too generous (the justification for not indexing this basic payment).

While allowing for the very small percentage of rorts which will always occur, the majority of Newstart recipients are effectively being punished for being unemployable.

Next, but not least in the litany of ill-advised changes, is the 'deeming rate' debacle. Put simply, deeming is the system used to calculate the investment earnings of social security recipients by reference to an arbitrary deeming rate.

Deeming was recommended by our bureaucrats in 1993 to force pensioners to invest their bank investments in interest-bearing bank accounts… not the zero interest 'pensioner deeming accounts' conveniently offered by the banks at the time.

It was a clever policy as it encouraged people to get the best rate of interest they could, and as a result, only lose 50c in pension for every $1 of 'deemed' interest (as opposed to every $1 of actual interest earned).

Pensioners would be better off, and the government was better off. Only the banks lost out on that policy.

The policy decision in 2015 to subject the earnings on account-based pensions to the deeming rules changed all that. It meant that account-based pension (ABP) earnings of 7 per cent pa (and higher) were deemed at the same low rate as bank and term deposit investments (even though nobody with bank and term deposit investments can get anywhere near the deeming rate set by the mandarins).

The changes to deeming rules have undermined what was a perfectly good policy of adjusting the deeming rate on bank accounts down, with separate rules for ABPs.

With the current downward trend in cash rates, now is certainly not a good time to be old and poor.

The only good superannuation initiative of the last twenty years was the introduction of the Transition to Retirement (T2R) strategy. People in their fifties finally started to engage with their super.

T2R worked as intended, to "encourage older Australians to maintain a connection with the workforce". But what happened? As people started to use it to supercharge their retirement savings and begin to catch up on where they should have been, the mandarins decided to increase the tax rate, and the benefits have reduced. T2R still works, but few people now bother.

In addition to the numerous superannuation hurdles put in the way of average working person (dare I say to 'balance up' a perceived imbalance), former public servants and ex-politicians have also managed to secure a very generous allocation of an extra superannuation benefit of 10 per cent.

Awarded in 2007 in the guise of a tax offset, ostensibly this particular tax break for 'unfunded' and 'untaxed' (never taxed) Defined Benefit pensions was legislated to make up for the fact that from age 60, the 'fully funded' (previously taxed) superannuation pensions of mainstream Australian retirees were made tax exempt – to discourage 'double dipping'.

The result is that the income of a public service retiree with a defined benefit pension benefit of $100,000 pa is now 10 per cent higher than a person with a taxable income of $100,000 pa.

This outcome does not pass the fairness test. Australian public servants (and I speak as a past member of the APS with service at the ATO, Centrelink and the former ISC) are not a special category of retiree.

There was never any logical policy reason for providing such a massive tax break to the unfunded (and never taxed) Defined Benefit pensions paid to retired public servants, given that this income has never previously been taxed and given they cannot 'double dip' these pensions, which are set at a predetermined rate (and generally indexed)and paid for life.

In 'balancing up' the superannuation success of individual taxpayers financing what the public service mandarins perceive as a better retirement, is the myopic mentality of envy driving these inequitable policies? Or, is the current plight of our beleaguered superannuation system simply a case of myopic incompetence on the part of the mandarins and their political masters – with the latter relying far too heavily on poor policy advisers?

The outcome is undeniably a system which makes building a reasonable super balance increasingly difficult for ordinary working Australians.

Theo Marinis is Managing Director of Marinis Financial Group

Theo Marinis

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