

# Leaving Super Alone, For Real

Theo Marinis explains how Mike Cannon-Brookes's Sydney mansion can solve the government's revenue pickle - and why a super cap doesn't.



By **Theo Marinis**

2 Mar 2023

Our incumbent treasurer wanted a national conversation about superannuation – but what the nation needs is a mature discussion around wealth creation in the broader sphere.

In the event, there was little discussion about anything. Treasurer Jim Chalmers said this week he will double the tax rates paid by Australians with superannuation account balances worth more than \$3 million, in a move he says is about budget sustainability and equity.

The Australian Labor Party has a love-hate relationship with superannuation, even if it does boast of creating it. And what's not to love about a pool of money, now the fourth largest in the OECD? Ominously, it seems, this is now earmarked for deployment to fund the 'nation building' objectives of government.

What is not so loved is the realisation that they have designed an excellent system for funding retirement, with the result that some people have accumulated millions of dollars by availing themselves of the legislated tax breaks and opportunities – while low wage earners and/or the unemployed allegedly gain little to nothing from it.

That's not to say that governments on both sides of politics have not had their share of culpability where meddling with our superannuation system is concerned. But what has been lost in the current logic is that thanks to that superannuation system, 90 per cent of Australia's population has taken responsibility for improving their own retirement incomes, with more and more people now self-funding (in full or in part) their retirement.

The government must avoid becoming obsessed by the extremes.

Consider for example, how a tax-free home in Sydney worth \$3 million differs from \$3 million in superannuation.

Concessional superannuation contributions are taxed at 15 per cent on the way in, with a further 15 per cent tax on earnings in accumulation phase. At the end, the residual value payable to the member's estate (or non-financially dependent beneficiaries) is subject to a Death Benefit Tax at the rate of 17 per cent.

There is no tax claw-back on the residential home. In fact, under the present system, if Atlassian co-founder Mike Cannon-Brookes was left with just his \$100 million Sydney harbourside mansion, he would be entitled to full Centrelink benefits, with no personal capital gains tax (CGT) payable (or payable by his estate on his death).

Where is the logic in one being good and the other bad?

If the current government is in pursuit of tax revenue from the wealthy, there is substantially more revenue in a CGT exemption which is limited to the first \$3 million of the residential home, with the same exemption limit applied to the Centrelink asset test.

This approach would raise more tax revenue and save more in Centrelink outlays than going after a small number of superannuants with large super balances. And, thanks to the Total Super Balance (TSB) and Transfer Balance Cap (TBC) the group of people who have and will ever have more than \$3 million in super and pensions is rapidly falling.

Revisiting the tax and Centrelink "holy grail" that is the principal residence is significantly more equitable than a \$3 million Total Super Balance cap, which in essence is an attempt to reinstate some form of the old Reasonable Benefits Limit (RBL) system removed by the Liberals under the tinkering of then-Treasurer Peter Costello.

As for Labor's fallacious reasoning that there is now a need to define the purpose of superannuation in legislation in order to achieve their broader social objectives, I recommend the government look to the super 'Sole Purpose Test' which has already been defined for nearly 20 years in the Superannuation Industry Supervision (SIS) Act and Regulations.

In summary, this legislation directs superannuation trustees to maintain the fund for the sole purpose of providing retirement benefits for the members, or to their dependants if a member dies before retirement. It charges said trustees with obligations to make

<https://www.eureka-report.com.au/investment-news/leaving-super-alone-for-real/152254>

investment decisions solely in the interests of members, to whom these benefits ultimately belong; investment decisions cannot be directed for other purposes. Superannuation is meeting this mandate.

If they care to revisit their history, Paul Keating and Bill Kelty made it universal with 3 per cent Productivity Super in 1987 under the OSSA Act and Regs (1987). As this measure applied to only those workers covered under an award, Keating made it fully universal with the SG legislation, in 1992. Next came the Superannuation Industry Supervision (SIS) Act and Regulations in 1993 which defined the purpose of superannuation, as well as bringing in Preservation and all the prudential rules around super.

Perhaps the most frustrating issue for all Australians is that both major political parties have tinkered relentlessly with retirement savings policy. Historically, the conservative side of politics has struggled enormously with superannuation. It was after all, Keating's baby (with significant help from then ACTU Secretary Bill Kelty) and, therefore, the devil's work.

More recently, the Liberals opened the door to the current \$3 million super cap debate, with then-Treasurer Scott Morrison introducing the other retrospective \$1.6 million TSB and TBC cap rules on 1 July 2017. But it was former Liberal Treasurer Costello (again) who started all the noise when he removed the old RBL rules that would have taxed excessive super amounts.

Remember too that most, if not all, super changes in the past could generally only be legislated with the support of the opposition in Parliament (on both sides) at different times. The hypocrisy of our adversarial political system remains constantly on show.

Without the constant interference of successive governments and their public servants over the last 15 years, we would not currently be facing yet another policy struggle over our \$3.3 trillion superannuation pool. As a nation, we should (as we currently do) have a world-class system which, if the rules were left alone, would allow someone at age 35 to have a clear idea of what their retirement income is likely to be, what their home is likely to be worth, and / or what their Centrelink Pension are likely to be – so that they can get on and work hard towards achieving the sole purpose of superannuation.

This can only occur when the political dishonesty and double-speak ends, and when, prior to an election, we can finally believe the rhetorical “we are planning no changes to super!”

## Theo Marinis is Managing Director of Marinis Financial Group.

*Disclaimer: Performance data quoted represents past performance and does not guarantee future results. The information in this article is general information only. It is not intended as financial advice and should not be relied upon as such. The information is not, nor is intended to be comprehensive or a substitute for professional advice on specific circumstances. Before making any decision in respect to a financial product, you should seek advice from an appropriately qualified professional on whether the information is appropriate for your particular needs, financial situation and investment objectives. The information provided is correct at the time of its creation and may not be up to date; please contact Marinis Financial Group for the most up to date information.*

Proudly

**INVESTSMART**

Financial Strategies (SA) Pty Ltd trading as Marinis Financial Group

T 08 8130 5130 | F 08 8331 9161 | A 49 Beulah Road, NORWOOD SA 5067

E [admin@marinigroup.com.au](mailto:admin@marinigroup.com.au) | W [marinigroup.com.au](http://marinigroup.com.au)

ABN 54 083 005 930 5067 | AFSL No: 326403

*Reproduced with the permission of InvestSMART*

Disclaimer:

Performance data quoted represents past performance and does not guarantee future results.

The information in this article is general information only. It is not intended as financial advice and should not be relied upon as such. The information is not, nor is intended to be comprehensive or a substitute for professional advice on specific circumstances. Before making any decision in respect to a financial product, you should seek advice from an appropriately qualified professional on whether the information is appropriate for your particular needs, financial situation and investment objectives.

The information provided is correct at the time of its creation and may not be up to date; please contact Marinis Financial Group for the most up to date information.