

18 December 2019

The Hon Josh Frydenberg MP  
Treasurer  
House of Representatives  
Parliament House  
Canberra ACT 2600

Lodged electronically at:

<https://consult.treasury.gov.au/budget-policy-division/2020-21-pre-budget-submissions/>

Dear Treasurer

## 2020-21 Pre-budget submission

Chartered Accountants Australia and New Zealand (CA ANZ) welcomes the opportunity to respond to the invitation from the Minister for Housing and Assistant Treasurer, the Hon Michael Sukkar MP, to make a submission on the 2020-21 Budget.

## Executive summary

The Government has stated that the Budget is forecast to return to surplus in 2020-21 and that it intends to maintain disciplined budget management.<sup>1</sup> Given the uncertain global economic environment and novel monetary environment that Australia is facing careful economic management is required to ensure that there is a buffer to assist if conditions worsen. With those objectives in mind, CA ANZ's pre-budget submission has prioritised key initiatives that focus on smarter regulation, and the sustainability of the superannuation/retirement and GST systems.

### Smarter regulation

CA ANZ's pre-budget submission focuses on smarter regulation as a tool to improve productivity, nurture honest businesses, and enable appropriate business settings that encourage innovative businesses.

Smarter regulation should not mean reduced regulatory protections for consumers and the environment. Rather smarter regulation involves considering how technological improvements and changes in business models can be harnessed to better achieve regulatory goals. Substantial reform of the current regulation of licenced financial advisers could substantially reduce red tape whilst simultaneously improving consumer outcomes.

Smarter regulation also involves streamlining regulation and using data better. Our submission urges the Government to prioritise funding of the modernisation of business registers to assist in both reducing compliance costs and ensuring that Australians know the businesses they are dealing with.

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<sup>1</sup> <https://ministers.treasury.gov.au/ministers/michael-sukkar-2019/media-releases/2020-21-pre-budget-submissions>

Smarter regulation requires regulatory proposals/issues be implemented in a timely and efficient manner. CA ANZ calls upon the Government to action the long list of announced but unenacted measures – particularly those relating to Division 7A and the Research and Development Allowance.

### **Digitalisation**

The rise of the sharing and gig economies, particularly in relation to the number of participants, is impacting Australia's tax administration system. When the tax system was designed most people were employees of a few large companies, and potentially earned some interest and dividends. Australia's tax collection system was thus designed around the collection and remittance of tax by employers, banks and companies.

This is no longer the case. The number of people with multiple work opportunities in the gig economy and/or participating in the sharing economy means that calculating and providing for tax has become more difficult for many people. What was once the responsibility of a few larger business organisations has become a common responsibility. Making it easier to calculate, provide and remit tax has become a priority – as is evidenced by the high level of small business tax debt. Our submission recommends that the pay-as-you-go system be reviewed with a view to making it easier for small businesses to comply.

### **Sustainability of the superannuation/retirement system and GST**

CA ANZ's pre-budget submission also focuses on the sustainability of the superannuation and retirement systems. On 27 September 2019, the Treasurer [announced](#) an independent review of the retirement income system covering the three pillars of the existing retirement income system, being the Age Pension, compulsory superannuation and voluntary savings. A consultation paper has been released and the final report is expected to be provided to Government by June 2020.

This review also coincides with the expected release of the next Intergenerational Report<sup>2</sup> in the first quarter of 2020.

CA ANZ strongly supports this retirement income review. It is essential for the Government to produce a body of research that lays the foundation stone for any future changes to the retirement income system. For too long retirement income policy settings have persisted without anyone appearing to confirm that decades old accepted findings and predictions remain valid.

In addition, many changes in the retirement income system appear to have been made without adequate reference to any firm data let alone behavioural analysis.

CA ANZ expects the retirement income review will give Government and the general community guidance on the impact of current and potential future policy settings for both Government and citizen now and over the next 5 to 10 years while the Intergenerational Report will analyse the outcomes of the current policy settings over the next 40 years.

It is fundamentally important that when both reports are released access is provided to the background modelling tools and assumptions so that external researchers can review it.

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<sup>2</sup> The Intergenerational Report assesses the long-term sustainability of current Government policies and how changes to Australia's population size and age profile may impact on economic growth, workforce and public finances over the next 40 years.

## Living standards

CA ANZ encourages the Government to consider how they position the messaging and focus around the Budget, for example by outlining the key wellbeing aspects, across multi-capitals such as financial, social, natural and human, where Australia performs well and the challenges that need to be addressed. This will enable the key budget priorities to be front and centre and helps society understand how the outcomes will contribute to Australia's broader wellbeing.

## Climate change

Australia is already experiencing the effects of climate change. This will create transformational challenges and opportunities. Australia needs a national approach, detached from short term political cycles, to give the public and business greater confidence. Climate change policy should provide certainty for the future to enable business and households to transition to a low carbon economy.

Our detailed submission accompanies this letter.

If you would like to discuss any aspect of this submission, please do not hesitate to contact the following authors of this submission:

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Yours sincerely



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# Appendix A

## Smarter Regulation

CA ANZ's pre-budget submission focuses on smarter regulation as a tool to:

- improve productivity,

Smarter regulation is particularly important for small businesses as they are both time and resource constrained. Compliance costs are particularly burdensome for this segment.

Given the significant number of small businesses in Australia, reducing their compliance costs and improving their lower productivity should be a priority. This submission outlines several initiatives to do this.

- nurture honest businesses

Regulation has a purpose. Unfortunately, to many that purpose is only perceived to be a waste of time spent filling in forms.

The benefits of regulation, be it the prosecution of those who are not abiding by the rules (the stick approach) or, as more of our members are requesting, the benefits of abiding by the rules (the carrot approach) need to be made apparent.

Data analytics that are being developed to help regulators could be used to also assist those who are regulated. CA ANZ's submission outlines an Australian Taxation Office (ATO) "carrot" initiative and suggests how this could be expanded.

- provide appropriate business settings to encourage innovative businesses to thrive.

Smarter regulation does not necessarily require the elimination of regulation to protect consumers or the environment. In some instances, it may require additional regulation. The payment of small businesses by customers is an issue. Attempts by large business to self-regulate payments times have not been as effective as many would desire. Indeed, recently it could be said that payments times are worsening with the rise of reverse factoring by several very large companies.

With advances in technology and greater awareness of the social importance of supply chains (think modern slavery), greater attention needs to be given to the regulation of payment times through supply chains. The Government has recently issued a [discussion paper](#) on this topic and CA ANZ will continue to work closely with the Government to ensure that an appropriate balance is achieved between improving payment times for small business and reporting burdens.

### Regulation needs to be fit for purpose and streamlined

Our members include highly specialised practitioners through to general practitioners. Many of our general practitioners are small businesses which service small business. These members are currently facing significant regulatory issues which range from multiple reporting obligations, inflexible continuing professional education requirements and multiple fees.

A recent survey of small business accountants found that "For one in four practitioners, about 20 per cent of their revenue is spent on meeting compliance costs, and more than half of respondents said this cost has

increased in the past 12 months”<sup>3</sup> Many accountants who are serving small business are questioning whether they should continue to do so given the high regulatory burden. This is extremely unfortunate as ATO research<sup>4</sup> has found that:

- the primary source of information and advice when starting in business is an accountant;
- almost all small businesses approach an accountant as the ‘first port of call’ for a tax-related issue;
- mature (and often successful) small businesses go to their professional financial advisor for information or advice relating to financial management.

98% of businesses in Australia are small<sup>5</sup>. It has been well documented that small businesses have a low survival rate and have difficulty in managing cash flow. A thriving small business sector needs a thriving accounting sector to support small business. The current regulatory regime for accountants is not supportive of this objective.

### Regulation of financial advice

Concerns surrounding regulation are particularly evident in our members who provide licensed financial advice.

Over the past 6 years, these members have experienced a great deal of regulatory change including the implementation of the Future of Financial Advice (FoFA) reforms, loss of the accountants exemption, introduction of the limited licensing regime, changes to the Tax Agent Services Act, super reforms, the introduction of ASIC’s industry funding levy and most recently the Financial Adviser Standards and Ethics Authority reforms with further change expected following the Government review of the Tax Practitioners Board.

Members who provide licensed financial advice are finding the cost (both financial and emotional) of compliance increasingly onerous. As a result, many are looking to exit this industry at a time when the Government is trying to increase the level of qualification and professionalism of the industry. Any exodus of chartered accountants (CAs) is likely to significantly reduce the overall level of training and expertise in the industry and be contrary to the overall objectives of the new legislation. This is particularly alarming given the findings of the Hayne Royal Commission.

There is, and will continue to be, a need for trusted advisers to look after the financial advice needs of everyday Australians. This will be best served by retaining CAs in the financial advice industry. To that end, CA ANZ, CPA Australia, and the Institute of Public Accountants - have joined forces with the Financial Planning Association and the SMSF Association to review the frameworks that regulate how financial and tax advice is provided in Australia, to address the growing complexity and associated costs<sup>6</sup>.

<sup>3</sup> <https://www.accountantsdaily.com.au/sponsored-features/13586-advice-gap-grows-as-accountants-reconsider-service-offerings-due-to-regulatory-burden>

<sup>4</sup> <https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/General-research/Small-business-cash-flow-education-research-2017/> and <https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/General-research/Small-business-engagement-research-2016/>

<sup>5</sup> <https://www.asbfeo.gov.au/resources/small-business-counts>

<sup>6</sup> <https://www.charteredaccountantsanz.com/news-and-analysis/news/advocating-for-better-regulatory-frameworks> provides further detail about this initiative.

The objective of this collaboration is to build a regulatory framework that reduces complexity, improves efficiency and drives harmonisation to better enable the provision of affordable, accessible and quality advice to business and consumers in their best interest from their choice of trusted professional advisers.

This can be achieved through improving the quality of regulation that governs the provision of financial and tax advice, including minimising the burden of regulation on businesses and individuals.

CA ANZ urges the Government to consider, in the interests of consumers and the public good, an individual licensing or registration that enables a professional to provide strategic financial advice underpinned by:

- Appropriate education and experience
- A Code of Ethics
- Individual registration or licensing
- Single regulatory regime and regulator
- Appropriate consumer protection, including access to dispute resolution
- Appropriate compliance obligations and costs
- Ongoing CPD obligations, relevant to the advisory services provided

There is an existing model for individual registration for the provision of tax advice, including tax (financial) advice, with the Tax Practitioners Board (TPB), which could be leveraged for this purpose.

This proposal would help address the growing advice gap created by both the high cost of providing financial product advice and the impact of the many regulatory changes impacting the structure of the financial planning sector.

It would also enable a broader range of consumers to access advisory services and encourage and attract professionals, such as accountants, to provide strategic financial advice to their clients.

**Recommendation:** *Urgently reform the regulatory frameworks for licenced financial advisers.*

## Levies

Many of our members are required to pay multiple Australian Securities and Investment Commission (ASIC) Cost Recovery Implement Statement (CRIS) levies. The cumulative effect of these levies can be especially burdensome for small businesses or those working part time.

When imposing multiple CRIS levies, consideration needs to be given as to the impact of the CRIS levy on the business models of those providing the services. A reduction in these fees could be achieved by waiving the fixed levy, reducing the per adviser levy or charging a fee aligned with revenue (which was the original intention and the reason advisers are required to submit business metrics).

**Recommendation:** *Reconsider the imposition of multiple levies on a single business.*

## Continuing professional education (CPE) for Registered Liquidators

It is a condition on each registered liquidator's (RLs) registration that they must undertake at least 40 hours of continuing professional education (CPE) during each year of registration. Of this, at least 10 hours must be capable of being objectively verified by a competent source. ASIC has identified that there is some confusion amongst RLs as this condition is different to that imposed by their professional bodies. The CPE requirements of the professional bodies typically require 120 hours over 3 years and relate to a different period, such as calendar or financial years.

The current requirement does not allow sufficient flexibility for RLs, who may take an extended leave of absence for medical or parental reasons, nor those who work part time. Further, women are already significantly unrepresented within the RL population and this requirement does little to improve diversity.

**Recommendation:** *The relevant legislation is amended to allow for the CPE requirement to be undertaken as 120 hours over three years. This will reduce the confusion between the different requirements, maintain the level of expertise but improve flexibility for RLs in meeting their CPE condition.*

## Funding for Reporting and Auditing Standard Setting and Oversight

Investor confidence is vital for the health of our capital markets. Constantly improving the quality of audited financial reports is integral to maintaining investor confidence and demands robust, transparent oversight. CA ANZ recognizes the commitment already demonstrated by the Government and agencies concerned.

**Recommendation:** *There be a continued focus on resourcing and effectiveness in the Government agencies, including the Australian Securities and Investment Commission (ASIC) responsible for setting and enforcing the standards that underpin high quality audited financial reports.*

## Streamlining regulation to increase productivity and ensure fairness

### Modernisation of business registers (MBR) and Director Identification Numbers

Minimising compliance costs through streamlining regulation has been a long-standing priority for CA ANZ. Consolidating and modernising 31 ASIC registers and the Australian Business Number (ABN) and the introduction of a director identification number (DIN) has the potential to offer many productivity enhancing benefits to:

- Business by reducing the number of times information is sent to Government, allowing easy searching of potential business connections (e.g. ensuring that a potential client does not have a history of bankruptcy).
- Government by reducing administration costs and accessing better data to evaluate policy.
- The Australian economy through enabling better enforcement of laws that ensure businesses are competing on the same level playing field in Australia.

CA ANZ believes that the MBR/DIN is the foundation stone of fundamental economic infrastructure that will kickstart productivity improvements in both business and Government by reducing compliance and administration costs.

The Government is to be congratulated on reintroducing the MBR /DIN legislation to Parliament.

### Whole of Government needs a whole of business approach

There are over 250 different business registers across Government with business related information.<sup>7</sup> And CA ANZ is aware of Government departments considering the creation of more registers and portals for their specific reports, for example modern slavery statements and small business payment times.

The Government has been promoting data sharing between Government entities and open data. However, our experience is that this mind shift is yet to occur. Whilst each individual Government initiative is required to complete a regulatory impact statement, the cumulative effect of each additional regulatory change on business is not being considered.

There needs to be stronger incentives to encourage the use of existing, consistent definitions and data bases. For example, by requiring any proposal that creates a new definition to justify its position.

It is also time for departments to review the information they collate and map, how it does or could link to information that will be contained in the new MBR so they can consider how their data flows can be streamlined once MBR is fully operational. This could have the added benefit of reducing duplication of reporting by business.

**Recommendation:** *Announce a regulatory streamlining initiative that involves justification of the use of new definitions and a Government wide review of existing data to reduce duplication of reporting by businesses.*

### Communication with small business

The importance of small business is reflected in the myriad of Government entities, both State and Federal, that are undertaking small business initiatives. The range of opportunities and assistance that is available to small business is substantial. However, discussions with small business owners indicate that they are largely unaware of Government initiatives. Often the ignorance is not due to the lack of communication, but rather overcommunication with messages getting lost in the noise of day to day activities and the fear of cybercrime.

The ATO small business newsletter and the Australian Small Business and Family Enterprises Ombudsman's newsletters are both good initiatives. To increase awareness of these valuable resources, new businesses could be automatically subscribed (with an option to opt out) to these newsletters when they apply for an Australian Business Number (ABN). This would ensure that small businesses can gain information regularly from a trusted source that also allows storage of past newsletters, searching of newsletters for key terms, and provides quick links to information on pertinent topics.

How messages are sent to small business also needs to be reconsidered. If a small business is interested in a topic it is costly (due to loss of income and the expense of finding someone to run the business whilst they are at training) to attend updates or training during business hours. Having the ability to access training outside of business hours and in a variety of learning forms is essential. Short, single issue, concise information contained in both traditional documents and short videos appear to be effective along with e-learning. The ATO's efforts in relation to Single Touch Payroll are a good example of how this can be achieved.

**Recommendation:** *Provide a consolidated streamlined small business communication channel that assists small business find pertinent information quickly.*

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<sup>7</sup> Page 18 of the interim report of the Black Economy Taskforce



## Better regulatory processes

Ensuring that regulatory proposals/issues are implemented in a timely and efficient manner and that there is a regulatory road map helps businesses comply with laws and get on with running the business.

From a taxation perspective, a number of significant tax policy issues have been outstanding for a substantial period of time, e.g. Division 7A. There are also a substantial number of small business tax disputes outstanding. Businesses like certainty. Resolving the outstanding tax issues, both policy and administrative, outlined in this submission will help provide a more stable business environment that will allow investment decisions to be made with greater certainty.

## Announced but unenacted tax measures

A long list of announced but unenacted measures exist. This list has been gradually increasing over the past five years due to a variety of factors, some of which include the composition of the Parliament (especially the Senate), the lapsing of legislation due to the calling of the election and competing demands for resources for the long list of legislative proposals (for example the Royal Commission into Banking).

Whilst the delays can be explained, such a situation makes it difficult to advise taxpayers. The superannuation guarantee amnesty and the proposed changes to the capital gains tax treatment of non-residents in relation to a principal place of residence have caused our members concern but are now, once again, before Parliament.

There is also a list of substantive matters that have been discussed but remain unresolved. Of interest to our members are the proposed changes to the Research and Development Concessions and Division 7A of the Income Tax Assessment Act 1936 (ITAA 1936). The Government should further clarify the refinement of its implementation approach to the proposed Division 7A amendments (announced in the previous years' budget).

**Recommendation:** *That the Government announce its approach to dealing with Division 7A and unpaid present entitlements and the Research and Development tax concessions.*

## Making small business tax easier

Attempts to provide tax concessions to small businesses often result in complicated and convoluted tax legislation which makes it harder for small business tax advisers and small businesses to comply with the tax laws. The two small business tax concessions<sup>8</sup> which raise a lot of issues for our members are the small business capital gains tax concessions and the lower small business corporate tax rate.

Determining whether a business is a small business for either of these tax concessions can be extremely difficult. For example, it is currently unclear whether a company hiring equipment can qualify to be a base rate entity and thus be entitled to the lower small business tax rate. Likewise, the numerous rules concerning entry into the CGT small business tax concessions are complex, difficult to navigate and make it costly to obtain advice.

Many small business tax concessions refer to a turnover of less than \$10M (for example, the immediate write off for professional expenses, simplified trading stock rules, fringe benefits tax exemption for employee car parking, and the small business superannuation clearing house). It is time to reconsider how there can be alignment of small business definitions within the tax act. Such a change may require the reconsideration of the scope of some tax concessions.

<sup>8</sup> In addition to the ones outlined above in relation to announced but unenacted measures

In contrast determining whether a business can claim a deduction under the instant asset write off is relatively easy – it is determining how much and when a deduction can be claimed that may cause confusion due to the constant extensions and changes to the instant asset write off limit that have changed. It is time to consider whether the instant asset write off is a permanent feature of the tax act and whether it should be extended to all businesses.

**Recommendation:** *Make the instant asset write off a permanent feature of the tax regime and simplify the tax definitions of small business as a way of reducing red tape.*

# Digitalisation

## Using data better

### Using Government analytics to help business

Despite some teething problems, Single Touch Payroll has launched successfully and the Budget provides another opportunity to identify the next phase of development (such as enhancements which enable other Government agencies to obtain workplace data).

Much time and effort is now being put into the promotion of e-invoicing and again, the Budget provides a platform to promote this initiative and encourage adoption.

myGovID and online business services will be rolled out in 2020 to replace AusKey, together with a new model – the Relationship Authorisation Manager – for digital online authentication of identity. Individuals and businesses will increasingly transact with the Government online.

Accountants play a crucial role in communicating and implementing these changes with their clients.

What is missing however is a narrative on how all these initiatives link to modernise the way we interact with Government and ultimately provide cost savings and beneficial data which helps those who provide it and the community generally. For example:

- How will these modern systems reduce regulatory compliance costs?
- When and how will the Government provide data back to the community which informs personal and business decision-making and enhances productivity?

The rapid development of technology-based solutions impacts many portfolios, but CA ANZ believes it would be beneficial if the Government adopted a centralised approach to communicating achievements and benefits, perhaps under the stewardship of the Minister for Government Services.

**Recommendation:** *The Federal Budget should include a broad outline which “joins the dots” on the various online services initiatives and paints a picture of how the technology will not only help the Government achieve better outcomes but identifies the practical benefits to the community and business operators together with timeframes for achieving those benefits.*

### Revise PAYGI arrangements

The rise of the sharing and gig economies, particularly in relation to the number of participants, is impacting Australia’s tax administration system. When that tax system was designed most people were employees of a few large companies, and maybe earned some interest and dividends. Australia’s tax collection system was thus designed around the collection and remittance of tax by employers, banks and companies.

This is no longer the case. The number of people with multiple work opportunities in the gig economy and/or participating in the sharing economy means that calculating and providing for tax has become more difficult for many people. What was once the responsibility of a few larger business organisations has become a common responsibility. Making it easier to calculate, provide and remit tax has become a priority – as is evidenced by the high level of small business tax debt.

**Recommendation:** *Announce a review of the pay as you go system with the objective of making it easier for small businesses to comply.*

# Sustainability of superannuation and GST

## Superannuation

### Productivity Commission super system recommendations

CA ANZ encourages the Government to announce which recommendations of the Productivity Commission review into the efficiency and effectiveness of the superannuation that it intends to fully accept, take up with modifications or reject and the expected timeframes for implementation. The superannuation sector is constantly subject to change and adjustment and it is essential that funds have time to prepare for any new policies affecting how they operate.

**Recommendation:** *The Government needs to reveal which recommendations of the Productivity Commission report into the efficiency and competitiveness of the superannuation system it intends to implement, which it will implement with adjustments and those which it will reject including where relevant an implementation timetable.*

### Replace annual contribution caps with lifetime caps

Since July 2007, most superannuation contributions have been tested against various annual contribution caps including in some cases a three year bring forward provision.

This annual assessment process is complicated, costly to administer and is based on false assumptions. It incorrectly presupposes that every superannuation investor will make contributions at a constant rate throughout their working life. It has a particularly negative impact for those with broken work patterns, such as women who take a break from paid work to raise their family. It is acknowledged that the proposed catch-up contribution cap mechanism will ameliorate this problem to some extent.

The reality is that most people's ability to make significant super contributions only occurs later in their working lives. The concessional contribution cap needs to be set at a level that acknowledges this typical experience.

The complexity of this system has been exacerbated by different annual contribution caps applying in nearly all financial years since mid-2007, including different contribution caps based on various ages. Often these different caps have meant the three year bring forward caps have also been revised.

To add to this complexity before 2011 the income tax laws imposed substantial, and in some cases excessive, tax penalties whenever a contribution cap was breached. In addition the Tax Office had only limited powers to ameliorate the impact of these considerable tax penalties.

With effect from July 2011, slowly but surely over several iterations, a range of complex administrative arrangements were introduced to provide more flexibility in the treatment of excess contributions so that now the system is arguably at its simplest.

But even this simple system often sees anomalous complex situations arise and it is still too easy for innocent mistakes to be harshly and unfairly treated.

To cater for one such situation the Government announced a new policy in the 2018 Federal Budget. This policy which is administratively very complex and applies to a very small number of high income earners is found in Secs 19AA to 19AC of the *Superannuation Guarantee (Administration) Act 1992* (SGAA). These rules were inserted into the SGAA in October 2019 yet have start date of 1 July 2018.

A significantly less complex system and hence more easily understandable that is also less costly for Government, super funds and individuals to administer is readily available.

CA ANZ is firmly of the view that the annual contribution cap assessment process needs to be removed and replaced with lifetime contribution caps. This approach would be dramatically simpler than the current system and much cheaper for all to administer. This change would have to be put in place over an appropriate transitional period.

It is noted that in essence those eligible for CGT small business concession *CGT cap amount*<sup>9</sup> contributions effectively have a lifetime contribution cap for such contributions.

CA ANZ's suggested policy would merely extend the lifetime contribution cap to all individuals not just eligible small business owners.

It is acknowledged that when moving to lifetime contribution caps the continued application of the higher contributions tax applying to higher income earners<sup>10</sup> would have to be considered. It may be that the Government decides that it no longer remains appropriate to retain this provision.

It is noted that under current rules once a person's Total Superannuation Balance has exceeded the general Transfer Balance Cap (currently \$1.6 million) then a range of policies begin to operate; for example:

- no further non-concessional contributions are permitted
- Government co-contributions are no longer be made
- contributions made by a spouse cease to be eligible for the spouse contributions tax offset
- a Self Managed Super Fund, for income tax purposes, must use the *proportional method*

In our view with lifetime contribution caps applying to all, the Government could elect to retain these policies.

The Government will need to consider the bring forward concessional contribution provision when a person's Total Superannuation Balance is less than \$500,000. It would seem to us that once lifetime contribution limits are fully operational the bring forward concessional contribution provision would no longer be necessary.

The Government could announce in the 2020 Federal Budget its intention to implement lifetime contribution limits including the likely transition system but leave the precise dollar amounts until it considers the Retirement Income Review final report.

**Recommendation:** *The Government needs to move the superannuation contribution system away from annual caps and replace them with lifetime contribution caps.*

### Retirement savings for women

Women's retirement savings are often less than men and the accepted wisdom is that some action should be taken to address this imbalance. There's a lot of reasons for these differences – the more common reasons are all quite well known (for example, a broken working patterns around having and raising at least one child and caring for elderly relatives).

<sup>9</sup> See Sec 292-105 ITAA97

<sup>10</sup> Refer to Division 293 of the *Income Tax Assessment Act 1997*

To that end, it's important to look at this issue in its totality. It is very common to see this issue addressed solely from the point of view of average account balances by gender.

The reality is that:

- most of us live as couples (for example, the latest Household Income and Labour Dynamics in Australia Survey<sup>11</sup> shows that 65% of individuals, aged at least 65, live in a household with their spouse, who is also aged at least 65; for younger age cohorts the percentage of couple households is higher than that applying to 65 year old couples)
- most couples share resources including retirement savings and income (the Government's age pension assessment recognises the reality of resource sharing by assessing single people and couples using different thresholds for both the income and asset tests)
- when relationships fail, all assets of the relationship, including superannuation assets, are taken into account when a property split is finalised.

The ATO has good quality superannuation data collated by individual Tax File Numbers and can easily match couples via individual tax returns (given this data must be supplied on these tax returns).

The Tax Office already produces a report of superannuation savings by individuals by age and gender. This report should continue to be published for single people.

The Tax Office should produce an additional report that details superannuation savings for couples.

Both the "single superannuation savings report" and the "couple superannuation savings report" should contain dissected information in as many different ways as possible – for example, age, State/Territory, postcode, Federal electorate, postcode etc. It should report average and median values by the above examples of dissected information.

Once we have these two reports the nation will have a much better picture of the retirement savings problem so we can then work on appropriate solutions.

### Inadequate rent assistance for older single Australians

One of our major concerns is retired single people who have minimal assets or income other than the aged pension and rental assistance who privately rent. Many of these people, who predominantly happen to be women, spend all of the rental assistance and much of their Government pension on rent and ultimately live in very straightened circumstances. This needs to be urgently addressed.

### Joint spousal accounts

There appears to be no reason why a super fund – being an express trust – cannot have joint membership as a benefit category.

At this present point in time it would be fair to say that joint memberships are not permitted by the *Superannuation Industry (Supervision) Act 1993* (SIS Act), main taxation legislation<sup>12</sup> or the *Corporations Act 2001*.

CA ANZ believes the Government should amend the law as required to permit super funds to allow joint spousal accounts including for pensions.

<sup>11</sup> [https://melbourneinstitute.unimelb.edu.au/\\_\\_data/assets/pdf\\_file/0011/3127664/HILDA-Statistical-Report-2019.pdf](https://melbourneinstitute.unimelb.edu.au/__data/assets/pdf_file/0011/3127664/HILDA-Statistical-Report-2019.pdf)

<sup>12</sup> *Income Tax Assessment Act 1997, Income Tax Assessment Act 1936 and Taxation Administration Act 1953*

The advantages of this approach have been put forward by a number of stakeholders and include:

- a substantial reduction in the number of superannuation accounts (thereby reducing member costs); and
- a much clearer indication for couples of how they are tracking towards their combined retirement savings goals.

At the same time the Government should also consider joint Total Superannuation Balances and Transfer Balance Caps.

If joint spousal accounts were permitted, then the Concessional contribution caps would need to be considered. At this point in time it would be best for the concessional contribution caps to remain based on an individual basis.

**Recommendations:**

1. *Assuming the Retirement Income Review does not formally request data from the ATO then as part of the 2020 Federal Budget the Government should commit a specific resource allocation so that the Tax Office can produce a report showing superannuation savings for single people by gender and couple households and a commitment to update this data annually as part of its Taxation Statistics publication*
2. *Consideration should be given to providing a suitable increase in rental assistance for retired single people renting privately*
3. *The Government should explore the potential for joint spousal accounts for super funds. Joint Total Superannuation Balances and Transfer Balance Caps should also be considered.*

### Review binding death benefit nominations

CA ANZ agrees with the critical comments made in *Retail Employees Superannuation Pty Ltd v Pain [2016] SASC 121* about binding death benefit nominations (BDBN) and recommend the Government review the relevant provisions in the SIS Act and related regulations so that in the future the law delivers better outcomes for consumers and superannuation funds.

**Recommendation:** *CA ANZ encourages the Government to review and amend the binding death benefit nomination provisions in the SIS Act.*

### CGT relief for super fund restructures

Chartered Accountants ANZ welcomed the 2019 Federal Budget's announcement to provide permanent CGT relief for superannuation fund mergers: "super funds to transfer capital and revenue losses to a new merged fund, and to defer taxation consequences on gains and losses from revenue and capital assets".

At the time of writing this submission this policy has not been legislated. Further proposed amending legislation has not been introduced into Parliament.

Before legislating this policy the Government needs to expand this concession to provide the same CGT relief when superannuation funds wish to restructure so as to transfer some or all of their investment holdings into one or more related pooled superannuation trusts. This would give two or more APRA regulated super funds the opportunity to merge their investment holdings and gain the benefits of scale while also allowing the funds to remain separate entities. This concession would provide many of the cost savings that fund mergers often allow without the burden of fully completing fund mergers.

**Recommendation:** *The Government should proceed with the policy it announced in the 2019 Federal Budget as soon as possible and also consider expanding this policy to provide CGT relief for other types of super fund restructures.*

### Appropriate policy settings to prevent elder abuse

The Australian Law Reform Commission report [Elder Abuse - A National Legal Response](#) made a number of recommendations about preventing elder abuse in the superannuation sector, including to the BDBN rules mentioned above.

In March 2019 the Attorney General launched the *National Plan to Respond to the Abuse of Older Australians*<sup>13</sup> as well as an implementation plan for this topic. Many of the issues raised in this national plan and its implementation plan involve changing how Powers of Attorneys operate. Work on addressing elder abuse is part of the Attorney's-General Department's 2018 – 2022 Corporate Plan.

Enduring powers of attorney are used frequently in the management and operation of superannuation funds. It is therefore important that any changes made to prevent elder abuse do not have any unintended consequences in the running of super funds.

Many of our members in public practice see the impact of elder abuse first hand. CA ANZ believes that tackling elder abuse in relation to superannuation matters is far reaching and asks the Government to thoroughly investigate this matter in order to make any necessary adjustments to legislative and policy settings.

**Recommendation:** *The Government needs to continue putting in place measures to help prevent elder abuse including encouraging State and Territory Governments to amend how general and enduring powers of attorney (PoA) operate. As PoAs are used by super funds then unintended consequences must be avoided.*

### Permit electronic delivery of all fund documentation

There are a range of regulations still require written documents to be sent to super fund members. The existing paper-based documentary requirements in the superannuation laws should be reviewed and, where possible, the law changed to permit electronic preparation and delivery if a fund member consents to managing their affairs online, with cost savings passed onto fund members.

**Recommendation:** *The Government needs to review the SIS Act, Corporations Act and other legislation as required to permit all super funds to issue all documents electronically.*

### Maximum number of SMSF members

CA ANZ encourages the Government to legislate this policy which it announced in the 2018 Federal Budget.

### Triennial SMSF audits

As previously advised to Government CA ANZ remains opposed to this policy. CA ANZ encourages the Government to formally announce that it will not be proceeding with it.

<sup>13</sup> <https://www.ag.gov.au/RightsAndProtections/protecting-the-rights-of-older-australians/Pages/default.aspx>



### Actuarial certificates for self-managed superannuation funds

The Government announced changes to this policy to apply from 1 July 2020 in the 2019 Federal Budget. CA ANZ encourages the Government to introduce amending legislation for this policy as soon as possible.

**Recommendation:** *The Government needs to proceed with the relevant legislative amendments as quickly as possible.*

### Superannuation fund death benefit payments

The ATO's [Practical Compliance Guide 2017/6](#) says: it "has become aware that industry participants have inferred that s307-5(3) ITAA 1997 provides a mechanism for the spouse of a deceased member to roll over a death benefit income stream and retain the amounts as their own superannuation interest without the need to immediately cash-out that benefit.

"The Commissioner's view is that the roll-over by a spouse of a deceased member's death benefit income stream does not change a superannuation provider's regulatory requirement to cash the deceased member's superannuation interest as soon as practicable. This means that the superannuation provider that has received the rolled over death benefit must immediately cash the deceased member's superannuation interest.

"However, the Commissioner acknowledges that the industry practice that has developed means that a number of death benefit income streams have been commuted, rolled over and treated as the spouse's own superannuation interest.

"The Commissioner will not apply compliance resources to review whether a SMSF has complied with the compulsory cashing requirements relating to a death benefit as set out in regulation 6.21 of the SISR provided that:

- "The member of the SMSF was the spouse of the deceased on the deceased's date of death; and
- "The commutation and roll-over of the death benefit income stream is made before 1 July 2017; and-
- "The superannuation lump sum paid from the commutation is a member benefit for income tax purposes because it meets the requirement of subsection 307-5(3)."

CA ANZ is concerned about the lack of regulatory certainty for those who provided advice and completed transactions on behalf of clients as allowed by this PCG.

While the PCG gives someone in this situation protection from complying with the superannuation laws from regulator action when dealing with SMSFs, it does not necessarily protect them from action commenced by other parties (such as aggrieved relatives who did not benefit from a fund applying PCG 2017/6).

We believe a safe harbour – via a regulatory amendment to permit the ATO's administrative concession – is essential not only for super fund trustees but also their advisers such as accountants and financial advisers who have acted in good faith.

**Recommendation:** *The Government needs to provide a legislated safe harbour provision for tax agents and financial advisers who have recommended their clients use the rules permitted by PCG 2017/6.*

### SMSF defined benefit and other restrictive pensions

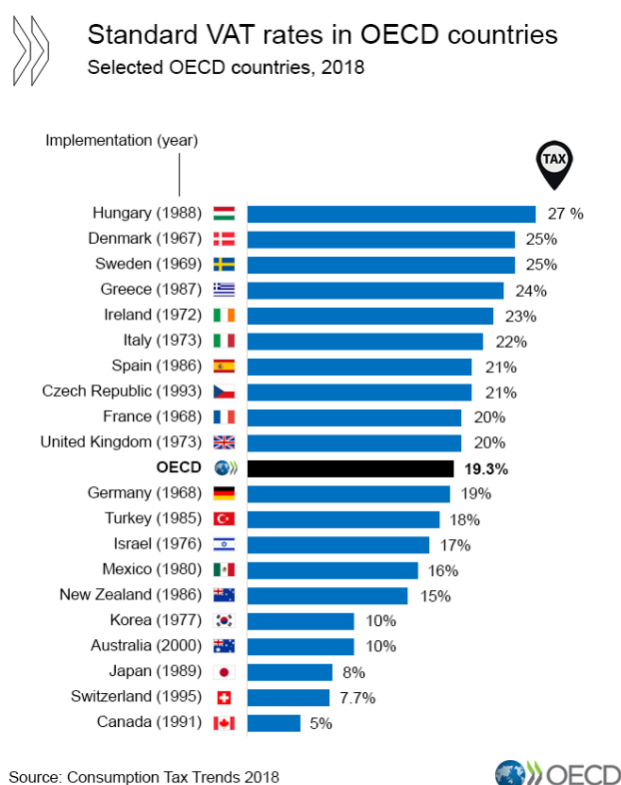
CA ANZ encourages the Government to work with the superannuation industry to provide an opportunity for individuals to cease their defined benefit and other restricted pensions, such as market linked, flexi and term allocated pensions so they can transfer the net proceeds to account based pensions.

There are complex and inter-related range of superannuation, tax and social security law considerations that the Government will need to consider in this area hence the need to the Government to work with interested parties in the superannuation industry and related disciplines.

**Recommendation:** *The Government needs to work with the superannuation industry to determine a suitable approach for allowing super funds to cease defined benefit type pensions. Once that approach has been determined then the Government should proceed with legislative amendments as soon as possible.*

### Goods and Services Tax (GST)

Australia's GST rate is low by international standards.



Achieving GST reform through either broadening the GST base or rate is difficult. Simply lifting the GST rate is regressive and would require a permanent on-going compensation package for lower income households. Expanding the GST base can also raise equity issues (especially for necessities), increase the amount of 'churn' in the system (that is increase inefficiencies by imposing tax on a Government service) or change the provider from private to public. These issues are real and need greater analysis.

In the long-term the GST base and/or rate will need to increase. Greater work regarding the quantification of churn and the impact of the provision of goods by private and public providers is needed. Work is also required as to how permanent compensation could be provided and the public convinced to trust a series of Governments not to reverse or erode the compensation. The public also need to be educated about these issues.

Methods of increasing the amount of GST revenue in the short term that could be considered include:

- Providing the Australian Taxation Office with greater resources to help address the GST tax gap.

The latest GST gap (2017/18) is 7.5% or \$5B. Legislative changes have been made to help reduce this gap. Such measures include GST at settlement for certain property transactions and GST on imported services and digital products. Other measures that are in the pipeline to help to reduce the GST tax gap include greater use of data analytics to spot non-compliance.

- Protecting the existing GST base

The fragmentation of the economy through the rise of individuals providing services/goods using digital platforms could be impacting the GST base as entities whose turnover is less than \$75K do not need to register or remit GST. The GST base could be protected by either:

- Introducing a domestic electronic platform rule like that which currently applies to foreign electronic platforms. In addition to protecting the tax base it would also provide a level playing field between those business that pay GST due to a consolidated structure and those business that are outside the GST net due to the fragmentation of their business structure.
- Lowering the GST threshold. The GST threshold was introduced as a way of reducing compliance costs. Since 2000 when GST was introduced, there has been an increasing uptake of digital accounting systems and the automation of accounting processes. Given these developments it may be worth reconsidering the appropriateness of this threshold. In that respect it is noted that there is no GST threshold for taxi operators.

A recent Australian National Audit Office (ANAO) **report** regarding the management of the tourist refund scheme. The report noted that Australia is the only country that allows its citizens and residents to participate in the tourist refund scheme. Total refunds in 2017/18 amounted to \$230M of which around 41% were paid to Australians. Whilst this is a relatively small amount it is growing rapidly (43% increase in the number of claims over the past 5 years).

The ANAO found that there was evidence suggesting there is a large level of non-compliance from Australian citizens and residents and significant revenue leakage (\$244.3 million to \$556.6 million over the life of the scheme)<sup>14</sup>. Abolishing this concession should be seriously considered.

- Exploring how financial services can be fully taxed

As indicated in the previous section, expanding the GST base can be difficult due to churn and its regressive impact. That said, including financial services in the GST base has few of these issues. Rather the debate about including financial services in the GST base is one that revolves

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<sup>14</sup> Fraud estimates of the claims vary from 36% to 82%.

around valuation and determination of value added.

In 2015 the South Australian Government initiated a discussion about fully including financial services in the GST base<sup>15</sup>. Whilst that idea did not result in any changes to the GST treatment of financial services, it did spur greater consideration of those issues by GST specialists. Given that 5 years have passed since that discussion it may be worthwhile revisiting academic developments in this area.

**Recommendation:** *That the Government explore ideas with the States as to how to minimise leakage from the GST system.*

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<sup>15</sup> Refer to the document at the link below which contributed to that discussion.

<http://www.google.com.au/url?sa=t&rct=j&q=&esrc=s&source=web&cd=15&cad=rja&uact=8&ved=2ahUKewjBkoO-gMjAhVZ8HMBHXRDXkQFjAOegQICBAC&url=http%3A%2F%2Ftaxsifu.com.au%2Fwp-content%2Fuploads%2F2015%2F09%2FSADPC15-GSTfinancialservices-0914final.pdf&usq=AOvVaw3onIP2eQn9qS1IZR4vqj69>

## Engage with the Australian community on living standards

The Federal Budget is unfortunately often portrayed in terms of bottom-line economic outcomes and financial winners and losers. The overall living standards enjoyed by the majority of Australians are actually quite high. However, the typical ‘what’s in it for me’ perspective often misses the broader aims of the Budget, to improve the outcomes for Australian’s doing it tougher than most and broader measures which contribute to everyone’s wellbeing.

New Zealand’s first Wellbeing Budget in 2019 has shifted their focus onto the wellbeing outcomes that are important for all New Zealanders – including mental health, child wellbeing and building a productive nation. The foundation is the NZ Treasury’s Living Standards Framework, which takes a multi-capital approach to decision making. The economic perspectives, whilst included in the budget, represent the means to fund the wellbeing initiatives through economic sustainability and create the right enablers for business and society to prosper.

CA ANZ encouraged the Government to consider how they position the messaging and focus around the Budget, for example by outlining the key wellbeing aspects, across multi-capitals such as financial, social, natural and human, where Australia performs well and the challenges that need to be addressed. This will enable the key budget priorities to be front and centre and helps society understand how the outcomes will contribute to Australia’s broader wellbeing.

Further, Australia has committed to the UN Sustainable Development Goals (SDGs) and completed its first Voluntary National Review in 2018. The 2030 Agenda for Sustainable Development represents a broad global perspective of the future ‘we’ want and covers aspects from poverty and climate change to innovation and economic growth. The SDGs explicitly call on all nations and businesses to help solve these sustainable development challenges. There are significant opportunities and benefits for Australia through achieving the SDGs. However, awareness of the SDGs within the Australian community is low, and the Australian Government has an important role to play in educating our community. This will also assist businesses in their contribution to the SDGs, as stakeholders will better understand the value proposition.

## Provide clear direction for Australia’s pathway to a low emissions economy

Australia has committed to emission reductions through the Paris Agreement, which has a goal to limit global warming to well below 2 degrees and an aspirational target of 1.5 degrees. There is growing scientific evidence of scale and severity of the impacts of climate change, particularly for Australia.

The Inter-Governmental Panel on Climate Change’s (IPCC) special report Global Warming of 1.5°C<sup>1</sup> compares the impacts of global warming between 1.5°C and 2°C. The report notes:

*The risks of climate-induced impacts are projected to be higher at 2°C than those at global warming of 1.5°C (high confidence). Coral reefs, for example, are projected to decline by a further 70–90% at 1.5°C (high confidence) with larger losses (>99%) at 2°C (very high confidence).*

Deloitte Access Economics has valued the economic, social and icon value of the Great Barrier Reef at \$56 billion<sup>2</sup>. Therefore, Australia has a vested interest to aspire to 1.5 degrees.

The November 2018 CSIRO and Bureau of Meteorology fifth biennial State of the Climate Report stated that future prospects for Australia include increased sea and air temperatures, further sea level rises and ocean

acidification, fewer but more intense cyclones and decreased rainfall across southern Australia with more time in drought, but an increase in intense heavy rainfall throughout Australia.

These force significant economic and structural change, which creates transformational challenges and opportunities. Australia needs a national approach, detached from short term political cycles, to give the public and business greater confidence. Climate change policy should provide certainty for the future to enable business and households to transition to a low carbon economy.

Further, it is important for the Government to ensure that it does not seek to reduce emissions in isolation from sectoral, wider economic and, social and environmental factors. This would be both costly and risk unintended negative consequences in other areas. Long-term emissions strategy, budgets and targets will provide some certainty for business and encourage investment in low-emissions technology and innovation. For example, there is significant opportunity to use innovation as a lever to help create new industries and technologies in Australia that are fit for purpose in a carbon constrained world.

## Appendix B

### Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand (CA ANZ) represents more than 125,000 financial professionals, supporting them to build value and make a difference to the businesses, organisations and communities in which they work and live.

Around the world, Chartered Accountants are known for their integrity, financial skills, adaptability and the rigour of their professional education and training.

CA ANZ promotes the Chartered Accountant (CA) designation and high ethical standards, delivers world-class services and life-long education to members and advocates for the public good. We protect the reputation of the designation by ensuring members continue to comply with a code of ethics, backed by a robust discipline process. We also monitor Chartered Accountants who offer services directly to the public.

Our flagship CA Program, the pathway to becoming a Chartered Accountant, combines rigorous education with practical experience. Ongoing professional development helps members shape business decisions and remain relevant in a changing world.

We actively engage with governments, regulators and standard-setters on behalf of members and the profession to advocate in the public interest. Our thought leadership promotes prosperity in Australia and New Zealand.

Our support of the profession extends to affiliations with international accounting organisations.

We are a member of the International Federation of Accountants and are connected globally through Chartered Accountants Worldwide and the Global Accounting Alliance. Chartered Accountants Worldwide brings together members of 13 chartered accounting institutes to create a community of more than 1.8 million Chartered Accountants and students in more than 190 countries. CA ANZ is a founding member of the Global Accounting Alliance which is made up of 10 leading accounting bodies that together promote quality services, share information and collaborate on important international issues.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents more than 870,000 current and next generation accounting professionals across 179 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications.

