

*UNISUPER COMMENTS ON PROPOSED MEASURES FOR
TREATMENT OF SUPERANNUATION BALANCES AND
CONTRIBUTIONS OF TEMPORARY RESIDENTS – MAY 2008.*

Monday 26th May 2008

The General Manger
Superannuation, Retirement and Savings Division
The Treasury
Langton Crescent
PARKES ACT 2000



Via Email: tempresisuper@treasury.gov.au

Dear Sir,

Superannuation for Temporary Residents

UniSuper is grateful for the opportunity to respond to the Government's proposal to change the procedures for holding and investing the superannuation savings of temporary residents.

UniSuper has some significant concerns with the proposals spelt out in the consultation paper. We also have some alternative suggestions that we believe would better achieve the underlying policy and legitimate administrative objectives of the Government and Australian Tax Office.

More detailed comments on specific aspect of the proposal are set out in the attachment

UniSuper would be happy to provide any further information required to amplify or substantiate the points raised in this submission.

Should you like to discuss any aspect of the above in further detail, please do not hesitate to contact me on 03) 9691 4224 or paul.murphy@unisuper.com.au

Yours Sincerely,



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1. Overview

UniSuper recognises that under current arrangements there is a high incidence of lost super leakage among temporary residents and the recovery rate by the fund members in question is relatively low.

Nevertheless, we believe the Government's proposal in the form proposed in the May 2008 Discussion Paper is fundamentally discriminatory against temporary residents and should be reviewed from an equity perspective. In addition, we believe, the proposal loads significant costs onto superannuation funds and adds needless administrative complexity to the process.

The proposal states that those on Temporary Resident visas who do remain in Australia and become permanent residents will receive interest on their savings. What is not clear is the rate of return from this, but we expect the ATO has in mind a figure significantly below the expected return from a typical superannuation fund default strategy over the term of a maximum 457 Visa.

This situation is clearly unsatisfactory from the perspective of the individuals concerned, yet in the proposed policy nothing seems to be suggested to simplify the departing members' ability to claim the benefit, arguably the major contributor to the large incidence of unclaimed benefits

This proposed policy seems to only make any sense if seen as a means of supplementing federal Government revenue rather than as a component of a comprehensive policy for superannuation. Moreover, like previous administrative mechanisms such as RBLs and the superannuation surcharge, the measure in its proposed form will impose significant administration costs on an industry where working Australian families are required to invest their money. The ultimate cost will be borne by these ordinary fund members.

2. Impacts on UniSuper

The major specific impacts of the proposal on UniSuper, its members and participating employers include impacts on our Fund's:

- Insurance arrangements;
- Partial returns for UniSuper's Defined Benefit Division;
- Appropriateness of the Default Investment option for Temporary Residents;
- Impacts on Employment arrangements; and
- Significant event requirements.

We expect that the majority of these impacts will also be experienced by other superannuation funds, with the exception of the defined benefit plan impacts which are clearly more quarantined to a smaller range of funds (albeit still very significant to them).

3. Insurance

Access to insurance is an integral part, and for some members compulsory element, of their UniSuper membership, and one whose value stems largely from the fact that it is available universally to all members

UniSuper offers a range of different insurance benefits to various categories of its members, but a common factor in all of them is the need to deduct premiums from accumulation-style accounts every quarter.

The proposed arrangements for annual transfer of the total account balances of members who are temporary residents from the fund to the ATO will mean that at the point of quarterly collection of the insurance premium, there may not be adequate money in the account to pay the premium. Under the arrangement for supply of the service with our external provider inadequate funds in the member account voids the policy.

UniSuper could in theory address this problem through, for example, renegotiating the insurance contract of service, reprogramming its systems to change the timing of the withdrawal for all members, or identifying each Temporary Resident on our system and dealing with them differently to all other members.

All of these potential solutions would, however, add additional cost and reduce the efficacy of the group insurance arrangements our members current enjoy. The cost impost and member detriment would, we expect, be quite significant in our fund given the highly mobile and international nature of the higher education sector workforce.

To place some numerical dimensions around these implications, UniSuper has paid out 514 Departing Australia Superannuation Payments (DASP) in the 06/07 financial year and 545 in the 07/08 financial year to date. Assuming UniSuper is 5 times more likely to have a temporary resident member claim his or her benefit than the average fund we can estimate that we will have about 1000 temporary resident members at any time. This is a significant impost.

4. Defined Benefit Division (DBD)

The UniSuper Defined Benefit Division comprises both a defined benefit component and a productivity component that is invested in an accumulation account.

Under the policy proposal as it is currently framed this would require UniSuper to retain the DB component within the fund and transfer the accumulation component to the ATO each year. This splits the member's benefit and obviously complicates the superannuation arrangements for these members. It also has an impact on the insurance arrangements of the member if they have chosen to participate in the optional insurance arrangements funded through the accumulation component of their account.

Another particular concern is that UniSuper offers members in the DBD the option of *deferring* their benefit before it becomes payable, in addition to the standard practice of crystallising the benefit at the time of resignation or retirement. Where a Temporary Resident leaves Australia, it would appear that the matching process between the ATO and the Department of Immigration and Citizenship automatically will require the benefit to be remitted to the ATO in this situation.

This will require changes to the UniSuper Trust Deed removing the deferral facility for members who are temporary residents. This is another cost impost and significant administrative complexity that this proposal will impose on funds for no real reason.

5. Default Investment Option and a 12 month Horizon

UniSuper's default investment option is the Balanced fund that has an allocation of 70% to Growth assets and the remainder in cash and fixed interest. This is a suitable default for most newly joining members, assuming the current capacity to retain their funds in UniSuper even if they leave the Higher Education industry.

This default mechanism clearly reflects the underlying assumption of a medium to long-term investment horizon for the average superannuation fund member. This assumption would be called into question by the proposal, insofar as it involves temporary residents having their accounts swept annually and the funds remitted to the ATO. A twelve month time horizon really only allows the member enough time to responsibly invest in cash.

This, coupled with the unstated return during the period the Temporary Resident's account is in the hands of the ATO - and the zero return for those who leave Australia - does not effectively allow these members to be full participants in the Superannuation system for the time that they are in the country, nor for their investment to be utilised to maximum effect in an investment sense.

Potentially this would oblige funds to disclose to Temporary Residents the potential unsuitability of the default option or to default this separate group of members into the cash option to avoid negative returns before the funds are remitted to the ATO.

All of these factors serve to compound the fundamental inequities that Temporary Residents will receive under the proposal should it proceed in its current form.

6. Impact on Employment

UniSuper's employers, Australia's Universities, operate in an international labour market and a very competitive industry. Often the structure of the superannuation benefit is an attractive component of the employment package for international employees considering job offers in Australia.

In this regard, the proposed changes that require the remission of funds to the ATO may inhibit employers when trying to construct attractive packages for potential staff.

7. Disclosure and Advice Implications

A further issue is that the proposal, if implemented in its current form, will have a retrospective impact in that it will affect current employees who have decided to accept offers from their employers under the previous policy.

This change is likely to qualify as a 'Significant Event' under the superannuation disclosure regime, requiring Funds to notify temporary residents who are currently in the system. In order to do this, Funds will have to find a means of identifying all of their existing members who are temporary residents, a process that has not previously been required or anticipated in administration processes across the industry. Further, Funds would then need to incur the expense of notifying the affected members of this change.

In addition, many superannuation funds including UniSuper are holders of Australian Financial Services Licences, and it is reasonable to expect that some affected members will require advice on how to respond to this change. Advice could be sought about the potential impact on insurance arrangements, the options available under the new conditions and the investment implications.

8. An Alternative Process

To address these criticisms UniSuper believes that the proposal can be streamlined and still achieve a similar policy outcome without the administrative imposts and the fundamental inequity contained in the initial proposal.

We see a workable alternative existing along the lines of the following.

- That Temporary residents continue to have superannuation contributions paid to a registered superannuation fund;
- That Temporary Residents' account balance be remitted to the ATO after they have departed Australia upon the expiration of their visa (with funds being notified annually as per the data matching between the ATO and the Department of Immigration and Citizenship);
- Once departed the former Temporary Resident will have a period of 5 years to claim their super from the Government and where this does not occur the money will then be paid to consolidated revenue;
- Where a Temporary Resident becomes a permanent resident that person's superannuation will remain in the superannuation fund and/or rolled over within the superannuation system as per standard industry practices.

UniSuper believes that an approach along these lines would more effectively deal with the issue of lost super and the additional burden of chasing lost accounts, but without unfairly discriminating against Temporary Residents or imposing undue administrative burdens on the industry.

This alternative proposal does not directly address *all* of UniSuper's concerns detailed in this submission, such as the implications of the policy for deferral of DB benefit options and the applicability of the default investment option in cases where the member's balances are not retained within the fund. It is offered however, as a workable compromise knowing that the proposal does deliver a more streamlined approach to superannuation for temporary residents.