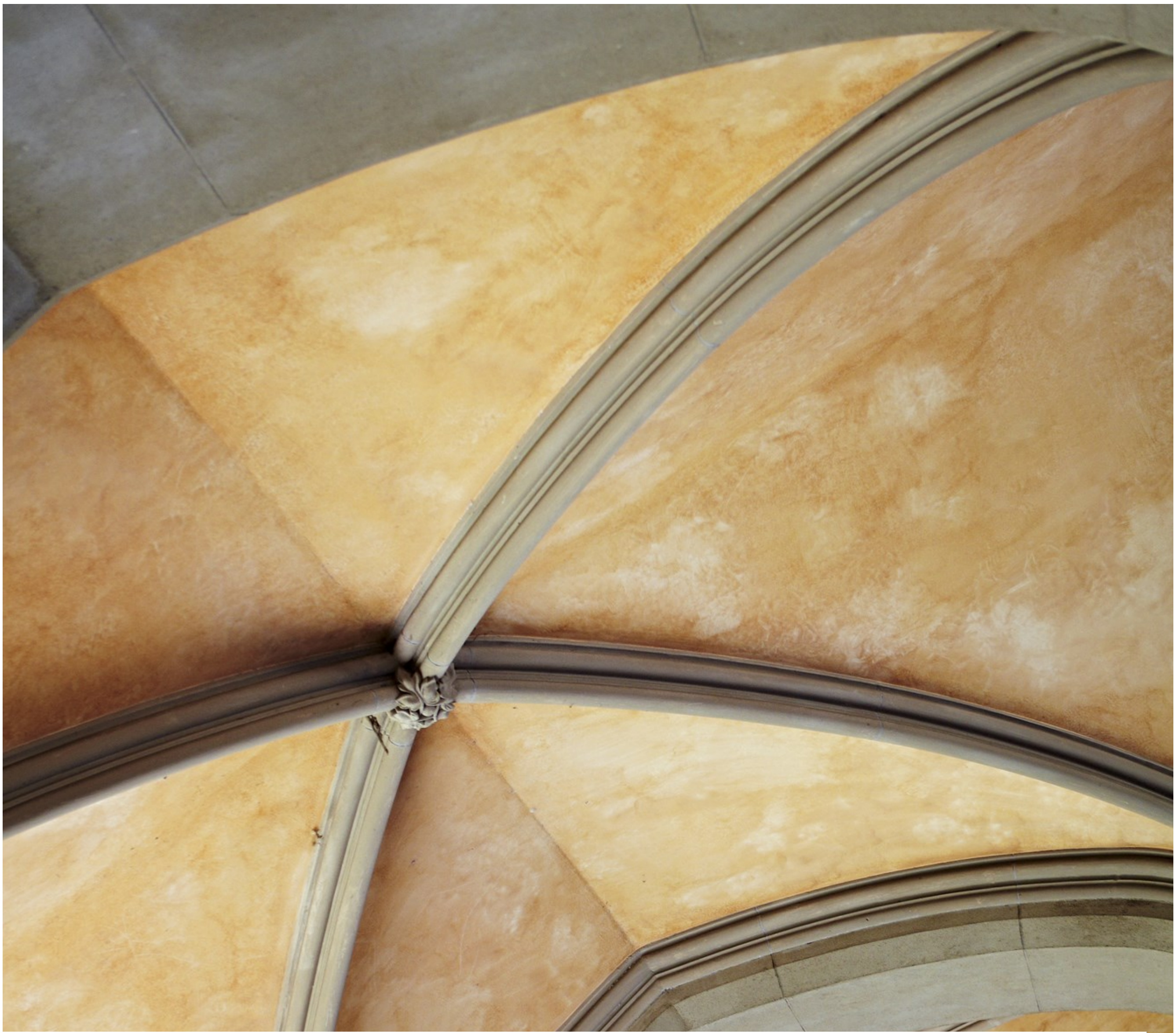

Superannuation reform package

Submission by UniSuper

10 February 2017

About UniSuper

UniSuper[1] is the superannuation fund dedicated to people working in Australia's higher education and research sector. With approximately 400,000 members and around $55 billion in assets under management, UniSuper is one of Australia's largest superannuation funds and has one of the very few open defined benefit schemes.

UniSuper Management Pty Ltd would welcome the opportunity to discuss the submission further and to provide additional information in respect of the comments made in this submission. Should you have further queries, please contact Benedict Davies on (03) 8831 6670 or benedict.davies@unisuper.com.au

Comments on the regulations

We have previously expressed our support for primary Objective of providing retirement income which substitutes or supplements the Age Pension, provided that it is not an exhaustive statement of what superannuation is for, and that the Objective would not restrict trustees from providing lump sums, commutations, death or disablement benefits or early access on grounds of financial hardship or compassionate grounds.[2]

While we also support the measure to simplify the arrangements for deducting personal contributions, we have previously suggested an alternative way to exempt some defined benefit schemes from these rules.[3] While most, if not all, of our members have access to salary sacrifice arrangements, we do see potential issues with allowing deductions for personal contributions to defined benefit schemes, particularly where a member does not have an associated accumulation account to pay the "contributions tax" that results from claiming the personal deduction.

By way of example, many of our defined benefit members make a "standard" member after-tax contribution to the defined benefit division of 7% of their salary. As an alternative, members can choose to make an 8.25% before-tax contribution via salary sacrifice. The additional amount (1.25%) represents the "contributions tax" paid on concessional contributions by UniSuper when they are included in the assessable income of the fund.

Currently, defined benefit members are not permitted to claim a tax deduction for personal contributions paid into the defined benefit division because they would only have paid a standard contribution, for example, 7% after tax, and there would be no way to pay the additional 1.25% contributions tax.

[1] This submission has been prepared by UniSuper Management Pty Ltd (ABN 91 006 961 799), which acts as the administrator of the Trustee, UniSuper Limited (ABN 54 006 027 121).

[2] UniSuper submission to Treasury on Objective of Superannuation, 9 April 2016
[3] UniSuper submission Treasury on Superannuation Reform Package, 16 September 2016

We would like to see a continuation of voluntary compliance with deducting personal contributions and our proposal would ensure that voluntary compliance continues. Our proposal would also ensure that funds have more flexibility so that in the future they may subsequently offer this feature to their members, for example, by way of additional top-up contributions or using accumulation monies to pay the additional tax.

The law now allows certain funds to notify the Commissioner in the approved form to be exempted from the rules for personal deductions. We remain concerned, however, that this process will raise complications with hybrid schemes. For example, hybrid schemes might choose to allow only those defined benefit members with associated accumulation accounts the ability to deduct personal contributions, while restricting those who do not have an accumulation account or sufficient funds in that account to meet any “contributions tax” bill.

Our preference remains a system of scheme-based rules which offers more flexibility, while avoiding the costs schemes would face if they had to restructure their rules and benefits to allow *all* members to make tax deductible personal contributions.

To that end, we continue to prefer an explicit exemption in the law, rather than the regulations, in section 290-155 ITAA 97:

*(1)(a)(iv) a scheme in which you have a *defined benefit interest and the trustee is unable to accept such contributions in respect to a class of members based on the scheme’s rules and benefit calculations in accordance with its governing rules.*