



Official sponsor of the Wallabies



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5 February 2010

Senator the Hon. Annette Hurley (Chair)  
Senate Economics Legislation Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

By email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Senator

#### **Inquiry into the Tax Laws Amendment (2009 Measures No. 6) Bill 2009**

Suncorp welcomes the opportunity to provide comments in respect to the Committee's inquiry into the Tax Laws Amendment (2009 Measures No. 6) Bill 2009. Suncorp's particular interest in the Bill is in respect of "Schedule 2 – Loss relief for merging superannuation funds".

Suncorp strongly supports this legislation, which effectively provides capital gains tax rollover relief to superannuation funds that are merging. The current situation of a superannuation fund not being able to transfer any realised capital losses to the successor fund, has been a major hindrance to superannuation funds merging.

We propose that this "rollover relief" become permanently available in instances where superannuation entities are merging, and not limited to arrangements ending on 30 June 2011. In addition, it should also become available where a superannuation fund restructures its investment holdings, by transferring the underlying investment assets to or from a pooled superannuation trust (PST) or a life insurance company.

The Bill contains specific administrative amendments to sections 290-170 and 290-180 in Part 2 of Schedule 2, to allow members to lodge a notice to claim a tax deduction with the successor fund, in respect of contributions received by the transferring fund, or amend such notices lodged prior to the transfer. However, the Bill does not address the ability of members to lodge or amend notices in respect on contributions made prior to 1 July 2007, where the member has been transferred to a successor fund. Such notices were previously made under the now repealed section 82AAT of the *Income Tax Assessment Act 1936*, but which still applies to contributions made before 1 July 2007. In addition, there is no time limit on members to lodge or amended notices in respect of contributions made prior to 1 July 2007.

Accordingly, we request that the Bill be amended to incorporate the ability of members to lodge or amend section 82AAT notices with the continuing fund, under arrangements where Subdivision 310-B applies. We also recommend amendments be introduced that provides the ability for members to lodge section 290-170 (and section 82AAT) notices with a continuing / transferor fund, where the member has been subject to a "successor fund transfer", whether or not Subdivision 310-B applies. Suncorp has previously made a specific submission on this issue, and we've attached a copy for your reference.

If you have any queries or would like to discuss any of the comments raised, please contact Patrick Grob, Principal Tax Counsel – Suncorp Life , on (07) 3835 5364 or by email [patrick.grob@suncorp.com.au](mailto:patrick.grob@suncorp.com.au).

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Stuart Cameron', with a stylized, cursive script.

**Stuart Cameron**  
**General Manager, Group Taxation & Capital Management**



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Let JFM\_011

29 May 2008

Senator the Hon. Nick Sherry  
Minister for Superannuation and Corporate Law  
Room M146  
Parliament House  
CANBERRA ACT 2600

Dear Minister

**Acceptance of notices to claim a personal tax deduction for superannuation contributions**

I write concerning the letter of 28 February 2008 by the Chief Executive Officer of the Investment and Financial Services Association, Mr Richard Gilbert.

Suncorp supports the position taken by IFSA on the recent ruling issued by the ATO stating under no circumstances may a fund accept a section 82AAT notice, or a variation to a previous notice, from a former member of a fund. It is expected that similar guidance would apply to the rewritten provisions for notices for claiming a personal deduction for superannuation contribution in section 290-170 of the *Income Tax Assessment Act 1997* (the ITAA 1997).

It is of major concern to Suncorp that this includes cases where a customer has been moved from a legacy product into a similar newer product through a successor fund transfer. It has been longstanding practice for successor funds to accept section 82AAT notices from members who contributed to a predecessor fund.

It could now be very difficult for us and other trustees to undertake successor fund transfers because it could render clients unable to claim a tax deduction. Suncorp strongly supports IFSA's request for an urgent amendment to section 290-170 of the ITAA 1997. It would also be useful if a retrospective amendment to the repealed provisions in the *Income Tax Assessment Act 1936* were made at the same time to reflect the longstanding practice of successor funds accepting section 82AAT notices (or variations to these notices) from members who contributed to a predecessor fund.

We would welcome a statement confirming that appropriate legislative amendments will be introduced in due course.

Yours sincerely

John Mulcahy  
Chief Executive Officer