

Supplementary Submission to the Senate Finance and Public Administration Committees

Following Appearance on 19 February 2026

Chair and Committee members,

I write to supplement the evidence I provided at Thursday's hearing and to clarify the Committee's question concerning the double taxation of my DFRDB pension. This clarification goes to the heart of a scheme that has been repeatedly identified, formally complained about, documented in evidence, and the subject of recommendations, yet left uncorrected for more than 30 years.

The 1995 Estimates Hearing: A Question Never Answered

1. On 6 November 1995, Senator MacGibbon asked the Department of Defence a straightforward question: why were DFRDB pensions still being calculated using Australian Life Tables from 1960-62, data already 33 years old at that time?

Senator MacGibbon warned that this caused a "significant loss of retirement benefits" and could see "no argument for carrying on beyond 1995" with such obsolete data.

He asked for a written justification.

The Minister, Senator Ray, intervened. He refused to allow the department to provide a justification, offering instead to provide "relevant information", information that was never defined, never delivered, and never enforced. The Committee moved on. The issue died.

The Commonwealth Superannuation Corporation (CSC) was never called. No engagement occurred. No resolution was achieved.

That was 30 years ago. The same 1960-62 tables remain operative today.

Here is the link to the [Estimates Hansard](#)

One Benefit, Two Forms – The Foundation of the Double Taxation

2. A fundamental understanding: the lump sum is not a separate benefit. It is a net present value prepayment of a portion of my pension; the same entitlement, delivered earlier rather than over time. (Also, an opportunity to charge a 4.8% discount interest built into obsolete factor tables instead of using contemporary 2.3% market rates; the real reason nothing changes).

The distinction is critical to understanding why the proportioning rule under section 307-125 of the ITAA 1997 must apply consistently across both forms of the same benefit.

When I commuted, CSC applied the proportioning rule to my lump sum rolled over. My tax-free component was calculated at 35.41%, reflecting partial recognition of my after-tax contributions.

The logic is inescapable: The lump sum is simply my pension prepaid, so the same proportion must apply to the remaining pension stream. The tax-free component does not change because the form of payment changes; it is the same benefit, the same member, the same after-tax capital.

Yet, CSC applies 35.41% tax-free to my prepaid pension amount (lump sum) rolled over, and 0% tax-free to my ongoing pension. This is not merely inconsistent; it is mathematically impossible. A single benefit cannot have two different tax characters simultaneously.

Note: Section 3 of the DFRDB Act defines “benefit” to mean a *pension benefit* and expressly includes a lump sum under s 32(2), a refund under s 56, and a release authority lump sum under Subdivision 135-A of Schedule 1 to the *Taxation Administration Act 1953*. The Act therefore recognises a single underlying pension benefit, that is, a single superannuation interest, capable of being paid in different forms. As confirmed in *Douglas*, proportioning attaches to the superannuation interest itself, not selectively to one mode of payment. The tax-free component recognised on commutation cannot lawfully disappear when the same interest is paid as a pension.

That same unity renders permanent reductions irrational. The statutory cap of five times retirement pay (s 24(2B)), acknowledged by members when electing a lump sum via the D20 form, is applied on a single-interest basis. Treating the remaining pension as if it were a separate benefit imposes an ongoing penalty, is mathematically untenable, and creates a conflict within the statute.

What the Correct Proportion Should Be

My contributions over 35 years (21 years enlisted, 14 years as an officer) comprise two elements:

Element Description Proper Tax Treatment

Raw contributions: My 5.5% after-tax payments, the capital I actually contributed should be 100% tax-free when returned.

Notional interest: The earnings those contributions should have accumulated if invested over 35+ years, properly taxable, it represents investment return

A conservative estimate, using long-term bond rates, puts the value of my raw contributions plus notional interest at approximately \$334,000 by retirement.

The bottom line

Element	CSC Says	Truth Says
\$140,000 (ignores 35 years of time value of money)	\$140,000 (ignore 35 years of time value)	\$334,000 (preserve purchasing power)
What portion of my pension is tax-free?	35.41%	42%
What is properly taxable	64.59%	58%

Of my \$72,000 annual pension, approximately \$30,000 should be tax-free. Instead, every dollar is taxed. This costs me approximately \$7,000 per year in excess tax, and over \$190,000 across my retirement.

The Douglas Case Law – A Direct Parallel

3. The Full Federal Court decision in *Commissioner of Taxation v Douglas* [2020] FCAFC 220 established a principle that the Government itself accepted must be remedied through legislation.

In Douglas, the Court found that invalidity pensions paid under the DFRDB Act commencing on or after 20 September 2007 were superannuation lump sum benefits, not income streams. This meant that under the general proportioning rule in section 307-125(3)(b), the tax-free component would need to be recalculated before each payment, causing it to progressively decrease over time.

The Government's response is critical evidence:

Element: The Douglas Response

Problem identified: The proportioning rule would reduce the tax-free component over time. CSC applies 0% tax-free from the start

Government action: Used section 307-125(5) to prescribe an alternative method. No action taken for age pensioners

The alternative method is to lock in the tax-free proportion at commencement and apply it consistently to all payments. This is just and reasonable.

The Explanatory Statement confirms the Government's intention that "no affected pension recipient is disadvantaged" by the proportioning rule. The alternative method was designed precisely to address the situation where payments that should share the same tax character were being treated inconsistently.

The direct parallel: In Douglas, invalidity pensioners faced a situation where their tax-free component would be eroded over time. The Government acted to lock in the proportion at commencement and apply it consistently to all payments. That should apply to my 35.41% tax-free component, recognised in my lump sum, which should be locked in and applied to my ongoing pension.

The Douglas response proves that:

- Section 307-125 contains the power to prescribe alternative methods.
- The Government accepts that DFRDB members need protection from proportioning anomalies.
- The mechanism exists to ensure consistent treatment of members with the same benefit.

Note also: the Bias in the Administration of Employer Productivity Contributions

4. To demonstrate that this is not an oversight but by design, consider how CSC treats its own money:

Employer Contribution Type Interest Credited Source

Productivity (employer, 3%), 3% p.a. "forgone interest" on CSC's website.

My member contributions (5.5%), 0%, on CSC's website, "does not affect your final benefit."

The Commonwealth pays itself interest on its own money, but pays nothing to members whose capital funded its revenue for decades (including the ~\$8m injected from DFRB). The mechanism exists. CSC applies it to itself. It simply chooses not to apply it to members.

Conclusion: A Pattern of Deferral

1995 — Senator MacGibbon asked for the obsolete mortality table justification. Never provided.

2011 — Senator Humphries exposed actuarial report data discrepancies. No change.

2012 — Senator Ronaldson revealed ministers misrepresented pension figures. No change.

2019 — Ombudsman confirms Defence gave misleading advice, acknowledged. Apology only.

2020 — Douglas anomaly identified a proportionality concern. Legislative fix implemented for invalids; yet, aged pensioners — those who served longest, remain unprotected.

2021 — Senate inquiry heard DFRDB evidence on obsolete table, permanent reductions, and indexation failure; Recommendations were made. No structural correction.

This pattern is a statutory misapplication, directly contrary to Parliament's original intent. It is deliberate. A coordinated line of agencies and organisations that consistently block even reasonable, modest change.

Back to the Promise

The intent expressed for DFRDB was to provide fair compensation for decades of service, recognising that military salaries lagged well behind industry rates, and to incentivise recruitment. The result: members retire with benefits 59 percentage points below the OECD benchmark for a reasonable standard of retirement living.

Yet the scheme treats the same entitlement inconsistently: tax-free when taken as a lump sum, fully taxed when paid as a pension. It ignores 35 years of after-tax contributions, credits interest to the Commonwealth but not to members, and still calculates pensions using life tables from 1960–62, more than six decades old, typically extending lump sum overpayments by 42%.

For more than 30 years, members have asked for change. For more than 30 years, the system has answered with deflection, delay, silence, and even appeasement/feigned response; (27% Member Total Weekly Average Earnings (MTAWE)).

This Committee has the opportunity to be the first to act and orchestrate a fair go.

David Jones

DFRDB Member

Date: 21 February 2026