

Keep it simple

The changes to superannuation are complex, unfair and rushed. More time is needed for people to make decisions about their long-term commitments, PETER BOBBIN writes.

WRITE THIS in May, feeling helpless at the prospect of the deception of so many. You will read this with only weeks to do something about it, but apathy or lack of time will dictate that you won't. The few will have deceived the many and the simplified superannuation regime will commence.

It is said that the difference between an old man and an old gentleman is money. The more he has, the more of a gentleman he can be. This is why the financial planning profession is so important.

A belief that senior bureaucrats in the Australian Securities and Investments Commission share with senior professional financial advisers is an understanding that retirement planning, no matter what the current age of the investor, is about their life in retirement. Get it wrong and that life is poor, get it right and it is not.

The High Court recently recognised the importance of retirement advice and the need for people to take care to ensure the advice they give is correct. The High Court attributed liability for the poor superannuation advice that resulted in a lower income in retirement to the one who was responsible for it. This may seem unremarkable, perhaps, but when you consider that the poor advice was given 34 years ago, you can begin to see the long tail of responsibility that superannuation can impose.

The "Costello Coup of 2007" has been billed as the \$1 million superannuation opportunity of a lifetime. How Treasurer Peter Costello succeeded in making people think this was an opportunity will go down in infamy beside the claims of former prime ministers who said that no child overboard in a banana republic would live below the poverty line!

The change to super under the Tax Laws Amendment (Simplified Superannuation) Act 2007 is not an opportunity. It is a limitation that never existed before. But why am I the only one outraged by this deception?

We should be demanding more time from the government to come to grips with simplified super, and the June 30 deadline should be extended. From July 1, 2007, the coalition government will entrench the need for financial planning,

despite Costello claiming the demise of the financial planner. The need for the planner reflects the fact that simplified super is not simple. Research commissioned by Mercer Wealth Solutions tells us that for Australians aged 50 or over, 33 per cent were happy, 28 per cent were perplexed but hopeful and 39 per cent were disinterested and disheartened about simplified super.

None of this should upset me. After all my law firm and I have worked well with the financial services profession created and encouraged by governments over the past 25 years. But can we please demand that this farce of an opportunity be declared for what it really is?

I am also concerned about the complexity of the transition to the new regime. We should be demanding its delayed implementation until the principles of transition are clearly known and understood. Radical changes ushered in Australia's modern super system, which then suffered 24 years of twisting and tweaking, but at least we understood how it worked. People sought long-term advice to cater for their long-term retirement planning.

Costello then gave Australians 13 months to change their lifetime plans. Since then, the Treasury, the Australian Taxation Office, Centrelink and other government departments have been coming to grips with what it all means – issuing press statements, draft bulletins, outline regulations and warning of fact sheets to come. This is not fair.

I call for the delay of simplified super, not the good parts, just the bad parts. Amazingly, the bad parts have been converted into "opportunities". The tax-free super for those over 60 years of age should and can start on July 1. But more time should be given to work out how much a person now needs to contribute to super to finance the desired life of a gentleman (or gentlewoman). The many who have complex super pension plans, developed in the bad old days, need more time to plan their transition to the new, so-called simplified super pension.

Don't get me wrong: I applaud what the government has done. Australia's superannuation rules had become too complex. This is what Ken Henry, the Secretary to the Treasurer, implied when he admitted he was having trouble dealing with them. But what amused me was Henry's comment that the Treasury had noticed a big

increase in people seeking professional financial advice and this could cost hundreds, sometimes thousands of dollars. "We didn't want to impose that burden on retirees," he said.

Why am I bemused? Because the same people still need advice about simplified super but they have little time to obtain it. Nevertheless, they are expected to make life-changing decisions now. This is not fair.

Just two months ago, I said the following of the new system: "The government has created a system that encourages maximum input into simplified super (up to \$1 million this year), which is neither simple nor super for achieving the super member's longer term personal wishes." Some accused me of writing tongue-in-cheek on the financial rewards that future lawyers will reap from the mistakes of the Costello-enthused many who will blindly pump billions into super. I was serious.

This rush has distorted the naturally cynical Aussie nature; many have turned off their crap detection meters. Planning has gone out the window. Please remember my words. I will remind you of them when complaints against lawyers begin to rise.

Should the allocated pension be cashed in before or after July 1? Can the complying pension be cancelled at law and re-configured as an account-based pension? Will this be open to challenge by future beneficiaries? Can any reserves within the superannuation fund be allocated? To whom and when should it be done? If allocating the reserve to a member-investor, will this count towards their contributions cap? What about the rights of the reversionary pensioner if the primary pension is quashed – will these reversionary pension rights have been unlawfully cancelled? Will superannuation trust deeds need to be updated yet again?

I am disturbed at the lack of knowledge and planning about what is occurring. Not among the well off – experience tells me they are investing time and money into seeking sound advice. The rest do not know they need professional advice, don't understand the implications of the changes, or cannot afford the time or money for professional advice.

Simplified super is a new burden. It is not about opportunities: it is about limits and restricting access to funding a future retirement that we are told is becoming

People have little time to obtain advice – yet they are expected to make life-changing decisions.

increasingly longer. And people are retiring earlier. The average age for retirement for those over 45 years of age is 52. This is eight years before tax-free simplified super can start. Preservation also means many people who have pumped money into super will be unable to call upon their funds when they need them.

The money will not be accessible when they choose to retire and they will not have enough non-super savings to bridge the retirement gap. For women, the problem is greater – those over 45 years of age retire at an average age of 47. They must therefore endure a 13-year funding gap that they will not have planned for.

Anyway, why should only the lucky few who can put their hands on \$1 million enjoy this "opportunity"? What about the rest of Australia? This limitation/opportunity needs to be extended to all. Why not make it a \$1 million additional lifetime contribution cap? This would be fair to all those who planned to put more into super but whose circumstances did not allow them to do so before June 30, 2007.

In March, a mere three months before the start of the most significant changes to Australia's retirement system for 25 years, the ATO advised that it was preparing a major public awareness and education program on the reforms. I am still waiting for it to start.

The ATO said it was working to have information available by the start of the new regime on July 1. That is too late. I have sympathy for the ATO; the simplified super restrictions have been dumped on it and it has had little time to react. Treasury is still issuing draft regulations that will affect a myriad aspects of superannuation. How can anyone properly plan for their long-term financial future in this situation?

The limits within simplified super must be delayed. Join me and demand that the government allow ordinary Australians more time to plan. ☺

