TAX IN SUPER: THE ROLE OF THE PRO-ACTIVE AND COMPETITIVE TRUSTEE

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'Dessert: as good quality fruit is not available in the market, fruit will be served today.'
A parody of the notice board, Life Insurance Corporation of India Officers' Training College mess, circa 1969.

'Benefits: as good quality tax treatment is not available in the market, tax treatment will be provided in the Fund.'
From the imaginary notice board of an Australian superannuation fund trustee, 2010.

I. What has APRA got to do with tax, and in super?

APRA administers certain laws applicable to each of its regulated industries. There are other applicable laws as well, locally and internationally but which are not administered by APRA. For these, the prudential regulator is interested in regulated entities complying with all the legal obligations, including tax. This goes to the efficacy of risk management, as the consequences of non-compliance could adversely affect beneficiaries of those regulated entities. This is particularly so in super, given the general lack of capital or reserves (other industries have risk-based capital requirements), which reduces the benefits of members currently in the fund immediately upon non-compliance being detected rather than such reductions being cushioned by capital and amortised over time. For laws not administered by it, APRA relies on trustee systems, internal and (materiality-based) external audits as well as the relevant regulator's powers to enforce compliance (the ATO, in respect of tax). APRA duplicating such scrutiny would be legally fraught, apart from being economically inefficient. APRA is quite properly not resourced for it.

The ATO is charged with ensuring that taxpayers meet their obligations as they fall due. Although the tax regime does not in general prescribe how and where a trustee should invest, how operations must be structured and affords a range of discretions ('elections') to the taxpayer, these provide the context against which taxation obligations are met.[1] The tax authority does not focus on whether the structure or elections are efficient or formulated in the best interests of the taxpayer. For example, there is no compulsion for a taxpayer to claim all eligible deductions or arrange their affairs in the most tax efficient way.

For superannuation funds, of course, the taxpayer is the trustee. The trustee has a further obligation to formulate its taxation arrangements in the interests of fund members. The ATO is interested in ensuring that the correct tax is paid on time for the entity as a whole given the chosen structure, policies and elections[2] and tax deduction obligations (which are 'on account' payments on behalf of the ultimate taxpayer) are met accurately and on time. The manner in which these are developed (accounting accruals, timing differences, tax assets and liabilities etc) must have regard to the interests of members. Subject to some exceptions (e.g.

[1] The ATO's compliance model is proactive as well as reactive and aims to shape taxpayer behaviour to facilitate compliance, see the program for 2009-10: http://www.ato.gov.au/download.asp?file=/content/downloads/COR00205435_NAT7769CP0910.pdf
[2] Funds do, of course, have to exercise care in maintaining their records and in calculating their claims for various allocations, deductions and credits. Recent ATO compliance activity has identified a number of significant errors: the APRA presentation on 'Data Integrity', CMSF 2009 emphasises this.

pension account balances) they do not affect the current year's tax liability. APRA as the prudential regulator has a strong interest in the question of how the trustee's taxation decisions affect both the accounts and member balances and interests.

Taking tax compliance as the non-negotiable 'bare minimum', the harder question is 'how does the trustee properly account for the differences of distinct classes of members, while optimising the taxation outcome to those classes and to the fund as a whole'. I refer to the taxation outcome to members as the broader risk, which is the focus of this presentation. Optimisation can come from suitable structures (e.g. 'value for money' in regard to multiple structures while arranging for essential services; segregated vs. un-segregated pension assets), investment strategies (e.g. access to and use of franking credits; foreign tax credits, and their interaction with the Australian tax regime), appropriate and timely deductions, allocations (e.g. between accumulation and pension classes; between different investment options) and appropriate recoveries (e.g. anti-detriment deductions; insurance claims).

There is one more special factor in super. In the other industries supervised by APRA, the beneficiaries receive gross payments and have themselves to account for any tax to the ATO (insurance bonds and first home saver accounts being exceptions). In super, however, tax is integrally embedded year after year into the member balances and, with compound interest, affects the final benefit significantly. Given Australia's taxes on each of contributions (to which certain caps apply), earnings and benefits — not to mention foreign tax rules, anti-detriment clawback and tax-free earnings in pension phase[3], we are unable to adapt foreign experience to our funds, as the issues are specific to Australia. Given the long period over which the impact of taxation is embedded in member balances, understanding and dealing with taxation risk, in accordance with applicable tax law, is an important part of each trustee's statutory and general law obligation to perform its duties and exercise its powers in members' best interests. It is not an optional extra.

This presentation focuses on what trustees, with their fiduciary obligations, should be considering when they formulate policies, make elections, implement allocations to demonstrate that they have a considered, documented and appropriately disclosed approach.

II. The APRA approach

Being a principles-based regulator that eschews prescription where possible, we are keen to listen to alternative approaches, and cost-benefit arguments. We accept that in practice, theoretically accurate calculations must give way to reasonable practical approximations to keep costs down in this increasingly competitive industry. We are not however willing to countenance trustees who do not have a considered position that can be adequately explained to members and disclosed as per the law. The rationalisation that market practice accords with the trustee practice, or a mere assertion that re-designing operations would be complex without supporting analysis, are unacceptable.

[3] APRA has no policy preference in regard to the tax regime, merely the requirement that for any given regime, trustees should optimise member interests lawfully and be able to demonstrate it.

Apart from the legal risk that disgruntled members might with hindsight pursue trustees for sub-optimal policies (which may not also have been properly articulated or disclosed), exposing other members to avoidable costs, the long term opportunity loss to affected members would be material. The obverse of this 'problem' is of course an opportunity: the competitive advantage the tax-savvy trustee can enjoy relative to others. APRA has noted that some pro-active trustees are already using this in marketing for members.

Despite ongoing efforts, the 'holy grail' of a fully engaged and financially literate membership remains just that, awaiting Dan Brown's forthcoming fantasy block buster! Adding this to the positively engagement-resistant nature of tax to mere mortals, what do we get? Apathy piled onto phobia. We cannot therefore rely on the membership to divine the tax underpinnings of trustee processes, any more than the air-traveller can be expected to figure out the aerodynamics of the aircraft he is travelling in. Trustees cannot outsource the consideration of taxation policies and must ensure members receive the appropriate taxation treatment within the fund.

This inherent deficit of information and knowledge on the part of members is one reason for prudential regulation. This is legitimate APRA territory.

Whilst tax (e.g. concessional tax rates, salary sacrificing, franking credits, foreign tax credits, deferred income, capital gains concessions, and tax-exempt pension earnings) has been a feature of the Australian superannuation system for some time now,[4] recent changes have increased its importance. These include changes to concessional and non-concessional contributions, the inability to rollover redundancy benefits, refunds of excess franking credits, changes to the treatment of foreign tax credits and the deductibility of insurance premiums. Demographic changes (transition to retirement for those aged 55+, greater incidence of pensions due to tax-free benefits post age 60 and more flexible draw-downs for account-based pensions) have led to more funds having members in accumulation and pension phases, and sometimes the same member in both. The ability of members to retain money in the super system post retirement (i.e. no more compulsory cashing during their entire life time) has extended the period during which tax (amongst other risks) has to be managed in members' interest.

III. Why now?

Presentations by two prominent experts[5] at ASFA 2009 suggested that their experience is that trustee engagement on this issue leaves much to be desired. Discussions during those presentations and elsewhere have confirmed that the themes of their presentations are relevant in moving the industry to better practice. Gone are the days when super was a benevolent, almost paternalistic, arrangement run by well-meaning amateurs without the scrutiny applied to commercial enterprises. Today it represents members' **entitlement** that must be appropriately and competitively managed through well-considered assurance processes. The discussion as result of the ASFA presentations indicated that members who rightly expect trustees to be appropriately looking after their super interests including tax might not be able to be so assured in many cases. While given the complexities, trustees can and should take expert advice in forming a

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[4] The Australian system followed the approach of the rest of the world till 1983, i.e. no tax on contributions, no tax on investment earnings and but tax on end benefits.

[5] Ross Stephens and Gabriel Szondy, ASFA Conference 2009: 'Are your tax policies in the best interest of members?'

view about the appropriate course to take in respect of tax issues, the onus on initiating such advice and acting on it must rest with the trustee.

IV. The ATO update[6]

Before we go further into the broader tax area, I would like to update you on the ATO's tax compliance activities last year and their current focus.

The ATO has a continuing focus on ensuring that APRA-regulated funds meet their reporting obligations in an accurate and complete manner. Their 2008/09 audit programme covered:

- Member Contributions Statements;
- Lost Member Statements;
- Unclaimed Superannuation Money Statements; and
- 'Departing Australia' Superannuation Statements.

In 2008/09 the ATO conducted 120 accuracy and completeness audits. It found that relative to 2007-08, 62 per cent of funds were in breach of at least one audit issue (45 per cent in 2007/08). The most common issues included:

- lost members reported with incorrect or nil account balances, including some with million dollar account balances (where it is hard to believe they are really lost);
- contributions still being received for members reported lost;
- lost members so reported, not fitting the criteria;
- information held (such as TFN) not being reported;
- transfers to ERFs not reported;
- non-reporting and / or non-payment of unclaimed super money;
- members over the age of 65 still being recorded on the lost members register;
- funds not remitting incorrect co-contribution receipts to the ATO with the payment variation form within 28 days;
- member contribution statements with missing or incorrect employer and rollover information; and
- the work on excess contributions tax indicating an 8-10 per cent error rate in contributions reporting across a wide range of funds resulting in avoidable inconvenience to members, when contacted by the ATO.

The ATO has been working with funds, administrators, software providers and professional associations to foster better compliance and risk management[7], and encourage voluntary disclosure. A 'Lost Members reporting protocol' has been published on the ATO website providing guidance. The ATO are also developing similar guidance for Unclaimed Superannuation Money and Member Contribution reporting, in consultation with the industry.

In 2009/10 the ATO is strengthening its focus on:

- member Tax File Number quotation by funds in their Member Contribution reporting;

[6] APRA thanks the ATO for supplying the information contained in this section.
[7] the ATO Better Practice guide on reporting by APRA-regulated funds which discusses risk management: http://www.ato.gov.au/download.asp?file=/content/downloads/n15103.pdf

- member subject to Excess Contributions Tax subsequently applying unsuccessfully to the ATO to exercise discretion to disregard contributions; and
- the reporting of former temporary residents, where identification of all superannuation interests is critical.

The corrective actions strongly suggested by the ATO include:

- enhancing reporting software;
- re-lodgement of incorrect data;
- reviewing and implementing revised fund procedures; and
- reviewing and implementing stringent quality control checks.

By way of assisting the industry, the ATO issues private binding rules on application; consults with the industry; reviews compliance with tax obligations such as PAYG; undertakes surveys to analyse tax revenue trends; reviews the international investment strategies; performs client risk reviews; and monitors trends such as exempt current pension claims and fund mergers.

All of this should spur trustees into action. As an incentive, the ATO has helpfully scheduled another lot of audits and reviews in 2009/10. In tax, as in karmic law, you cannot escape the ‘fruits’ of your action!

V. The crucial role of risk management

Trustee license conditions require all material risks to be identified and controlled on an ongoing basis. Given the impact of taxation on member benefits, the pro-active management of tax risk and its communication (so that members may understand their entitlements, as SIS requires) becomes relevant. Disclosure will be a question of degree, i.e. how much detail it is reasonable to expect trustees to communicate as a part of their normal operations. Given the push for simpler disclosure documents, a balance has to be achieved between providing critical information and insomnia-curing arcane minutiae (e.g. the details of foreign tax regimes and FIFO/Specific Parcel Selection for CGT calculations). The trustee should however provide further information upon member request.

There are two aspects in regard to the trustees’ broader duties on taxation. The first is a ‘fund as a whole’ management of tax but this is clearly distinguishable from the allocation of tax charges / benefits to the relevant members in an equitable manner. In principle, these dual duties are no different to the responsibilities in relation to unit pricing and crediting rates — an area where the industry has done much to improve both the overall process and the equity to members in the last few years. In regard to devising optimal structures that comply with the law, and in making the available elections, analysis and professional advice should assist trustees.

Super is a heavily outsourced industry. The outsourcing standard sets out the applicable requirements. While selecting, monitoring and implementing outsourcing arrangements, care should be taken to also consider the capacity to furnish tax information accurately, in time and in a suitable format so the trustees can in turn discharge their obligations. APRA’s recently concluded review of a sample of fund administrators shows that significant improvement in trustee oversight is called for.

VI. Some illustrative examples for trustee attention

I will now refer to a few aspects of tax management that the prudent and proactive trustee will have already considered in developing and implementing suitable policies in members' interest. Tax experts will have many other esoteric instances, which are beyond my simple mind.

a) Deferred tax

Arising out of the timing of having to account for unrealised capital gains and losses (in general, the tax law recognises them upon realisation[8]), prudent accounting calls for recognising the future liability of unrealised gains embedded in member returns and balances so as not to overstate benefits. Conversely, unrealised losses are also recognised as an asset, to the extent they are able to be absorbed by future gains, realised or unrealised, on a going concern basis. This does not, as a rule, impact the current year's tax obligation. It only affects allocations at the member level in the current and future years[9].

In the aftermath of the GFC, APRA has noticed that some funds had built up significant deferred tax assets, way beyond the conventionally accepted 2 per cent of assets limit, and has been quizzing trustees on their policy and rationale[10]. How confident is the trustee of being able to access the losses in future, having regard to asset allocations, economic outlook, member transfers and rollovers in the light of liberalised portability and the ongoing industry consolidation? We have impressed on the auditing profession the need to 'stress test' this contingent asset.

It is not acceptable for trustees to respond 'this is a temporary problem and markets are quickly returning to normal'. It is incumbent on trustees to learn from experience — while markets may return to higher levels, there will be future investment downturns and trustees should adopt appropriate policies and practices in advance — and not only at the time! The fabled death of market cycles is grossly exaggerated. Permit the prudential pragmatist in me to parody the poet Percy Shelley: 'If spring comes, can winter be far behind?'

I wonder if one approach to this contingent asset might be to allocate only a portion of the DTA to members, leaving the balance as an unallocated reserve, which can be reviewed for allocation to members as time goes by, lending greater credence to asset recognition in member statements. This should minimise the inequity of over-estimating the asset.

The potential inequity to the remaining members in not getting deferred tax right could be significant.

From an equity perspective, members who leave the fund, change investment options or commence a pension would not be able to realise the DTA, unless this is captured in the relevant calculations.

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[8] Note the exception in the rules on Taxation of Financial Arrangements.
[9] I acknowledge the tax effect of member level allocations on accounts-based pensions such as minimum / maximum levels and taxes deducted at source.
[10] The accounting standards do not impose a cap.

b) Anti-detriment clawback on death benefit lump sums

Enacted in 1988 to compensate death benefit recipients for the cumulative effect of contribution taxes, the provision enables trustees to pay a top-up to eligible beneficiaries and claw it back from the ATO, by deducting a grossed up amount in the fund's tax return thereafter. This has received increasing attention from media commentators in recent times, perhaps as our population ages and the growing competition in the industry impels trustees to seek avenues for distinguishing their product offerings. This has helped more trustees focus on the issue, which they should have been considering all along in any event.

In many cases the top-up could be a significant proportion of the final benefit to the beneficiary.

APRA believes that a prudent trustee acting in members' interests should have a considered and disclosed policy on anti-detriment benefits. Given its beneficial effect on members, any trustee who chooses not to provide the benefit should be able to demonstrate the rationale for such determination. As members are entitled to understand their benefit entitlements, it is reasonable that the position of the trustee is explained in their product offering. In the absence of any indication to the contrary, members and other stake-holders would have a reasonable expectation that it would be paid.

A number of common perceptions, and some myths, seem to prevail:

- It is an optional benefit for the trustee to offer: Given the obligation to properly evaluate the options that increase member benefits, APRA does not accept that trustees can ignore it. It is an excess tax being reclaimed along with its time effect, similar to reclaimable franking credits. How many trustees would make a conscious decision not to claim franking credits?
- The calculation of the top-up is complex: This has some substance, given that the cumulative impact of paying contribution taxes over time has to be assessed. The ATO itself has an acceptable alternative formula for this (ATO ID 2007/219) that can be used in eligible situations, and the Institute of Actuaries of Australia has issued guidance to its members in this regard[11]. As noted previously, some approximation may be necessary in complex areas, but we will not accept the approximation being set by default as 'zero'.
- There may not be sufficient cash-flow in the member's investment option to allow payment of the top up before claiming the clawback: 'Perfect equity' as an ideal may suggest funding it out of the relevant member's existing cash-flow, in which case the benefit will never be realised (I doubt this possibly could have been the law-makers' intention). As Ross Jones in his ASFA speech in 2008[12] pointed out, practical equity must necessarily accept a measure of cross-funding between various options and members inter se. In this regard, it is noted that benefit payments may be able to be made in instalments. SIS allows limited borrowing for paying benefits. Funds which have periodical tax payment obligations to the ATO are able to adjust such receivables. The ATO also allows applications to vary tax instalments.
- It is essential to have reserves to pay anti-detriment: Holding reserves may be one, but is not the only, way in which the benefit could be paid, with the

[11] Discussion Note: An Update on Anti-detriment Calculations, September 2009: IAA
[12] 'Some Thoughts on Equity: the Holy Grail, or the Poisoned Chalice?' Ross Jones, ASFA 2008

reserve presumably to be replenished upon paying the final tax or receiving the net refund. Here the reserve is being used as a suspense account. Reserves are optional under SIS, as the law stands. They are a mechanism to smooth, subject to the applicable safeguards, different types of outcomes over a long period, rather than being the proxy for a short term suspense account. They are also an accounting construct, following the calculation of unallocated fund earnings which are themselves subject to accruals that change over time (in addition to any forfeiture). Anti-detriment payments however are actual cash-outflows, the contra to the top-ups being a reduction to the year's tax payable. It is difficult to come up with a better quality debt!

- The fund is in an overall tax loss situation resulting in the top-up not able to offset a tax payment: This does create material timing and equity issues in paying the top-up until the fund gets into a tax-paying situation. This is particularly pronounced in a composite fund with pension and accumulation members. Advice should be taken. One possibility could be to make the top up and the related claim only in a year when the fund has wiped out the carried forward tax losses and has earned sufficient taxable income.
- Some trust deeds do not explicitly allow them: It would be wise to take legal advice on this, given the clear obligation to maximise member interests. If this is the case, trustees should consider steps to amend the governing rules.
- Market practice indicates many funds do not pay: As I said previously, this is no argument at all. In some instances, market practice is simply code for un-informed 'herd' syndrome and / or unwillingness to deal with any issues other than simple ones.
- As a matter of industry practice, the cumulative contribution taxes paid by funds have not been captured as a data field, and in any case, no such information is being made available in the industry in respect of rollovers: This is not so much a reason, as one lacuna rationalising another. The question is, why not? Since its introduction 22 years ago, the industry has had ample time to work out the data capture and information exchange. Note also that there are funds which make anti-detriment payments, despite this.[13]
- Account-based pensioners do not qualify for anti-detriment: Upon the death of the pensioner, the residual capital has been held to move from the pension phase back to the accumulation phase, with the fund earnings then becoming taxable. Following this rationale, the return of the residual value would represent a lump sum payment and be eligible for anti-detriment. The National Tax Liaison Group, an effective coordination arrangement between the industry and the ATO, has taken up this, among a range of issues, for clarification.
- Almost all member statements issued by the industry, when referring to death benefits, are silent on whether anti-detriment is payable and if so, how much. This is true. Members may legitimately claim that they do not have an adequate understanding of their entitlements. Again, why not?
- It is too hard: The ATO has issued public rulings in 2007, 2008 and 2010. They are willing to assist further. APRA exhorts trustees who are concerned to do the right thing and properly deal with this issue, to approach the ATO.
- What about DB funds? The relevant legislative provision caters for them by referring to the death benefit 'not being reduced' (note the usage 'being increased', relevant for DC funds). Contribution taxes apply identically to DB and DC. Subject to the governing rules (which may be amended if necessary), DB trustees should be able to claim anti-detriment. If, as is possible, they cannot be allocated to the deceased member as the death benefit definition

[13] In addition to contribution taxes, the top-up includes the earnings thereon forgone over time. The data would therefore only be a necessary first step in calculating the top-up.

(usually related to final average salary and period of membership in DB funds) does not provide for any top-up, they would still improve the fund solvency — to the advantage of all remaining members. Note that the pooling concept applied in DB may not lend itself to member-wise allocation of top-ups, unless the governing rules explicitly provide for it.

On its part, APRA will be checking trustee policies practices and rationale in its reviews, as part of its risk assessment during reviews and where necessary, making judgements on trustee capacity and fitness.

c) Fund-wide release of deferred tax liabilities when members move into pension phase intra-fund

Again this is an allocation issue in relation to member benefits, the ATO being interested where allocations impact the tax liability. The theory goes like this: when a member moves into pension phase in the same fund, any accumulated deferred tax liabilities in respect of unrealised capital gains are no longer required. Being a book accrual rather than a cash payment, this should be released to augment the member balance.

In practice, APRA's discussions with the industry to date have revealed the following:

- In a large fund, unless a segregated pension assets approach is adopted (either in the accounting ledger or by way of memorandum accounts) it is quite difficult to work out the release. It may not always be practical to have a segregated approach in large funds. Memoranda books, being de-linked from the main accounting records, raise their own reconciliation issues. (Incidentally this reveals a hitherto little publicised advantage of SMSFs and SAFs — their smallness makes them more nimble in this particular regard!).
- The practical manner in which the fund 'as a whole' tax liabilities must be worked out and paid militates against easily apportioning this benefit. As a result, many funds may simply allocate the DTL burden and subsequent release across all members — accumulation and pension. Consider the inequity that arises at the point an accumulation fund starts offering pensions as well: members who have contributed to DTL in the past would now share their release with future accumulation members. A few large retail funds however do release the benefit specifically to those who enter the pension phase, considering it a competitive advantage. Many industry funds which have commenced a pension section to retain members recognise the edge this offers.
- A practical issue: what happens if, at transition, the member had a deferred tax asset that had boosted the balance — as some funds might find themselves now, in the wake of the GFC: does the trustee write down the balance to reflect that the underlying loss, in all equity, cannot give rise to a future tax credit, as previously envisaged? Provided the trustee has considered this adequately and is able to explain the rationale, such depletion would be consistent over investment cycles and across all transitioning members, and more equitable. Watch out here for anti-selection: the member may transfer to another fund with the full balance and then move into pension phase in that fund.
- It has been suggested that a large inward rollover into accumulation followed by a move intra-fund into pension would be inequitable to the other members who had contributed to the DTL. While possible, this can be overcome through the appropriate recognition of the existing DTL at entry. Conceptually, this is

no different to ensuring that entrants, exits and stayers are treated equitably in respect of significant items. If the unit pricing recognises the DTA at entry and the entry price allows for it, there should be no impact on other members when the DTL is extinguished.

With the demographic bulge of retirees, and the advent of transition to retirement pensions, the issue will only become more prominent in future.

d) The formulation of investment strategies in the context of foreign tax regimes and the treatment of such taxes in Australia

Foreign tax credits and their interaction with the Australian regime so that they are able to be used effectively are relevant to member interests, by avoiding wasted tax credits. Trustees, in setting investment strategies and choice menu options must carefully consider, with professional advice as necessary, these implications. Whilst it may be appropriate to accept the loss of such credits in view of the overall investment returns and diversification, this must be a conscious process, rather than a post-facto rationalisation.

e) The timing of contribution and other taxes withheld vs. their actual payment to the ATO

This is relevant to equitable allocation of tax costs as part of a defensible crediting rate / unit pricing policy. Trustees must make tax payments on defined dates. If the relevant tax has been deducted from the members ahead of this time, the opportunity loss of income thereon should be considered. Again trustees must evidence consideration of equity, cost and convenience.

VII. Successor Funds

Ongoing industry consolidation has witnessed an increasing use of the 'successor funds' mechanism (where trustees do not seek member consent to transfer them to another fund, but proceed only after ensuring that 'equivalent rights' are provided). Given the importance of tax to final outcomes, trustees assessing equivalence obviously need to consider the broader level tax treatment: if for example the sending fund pays anti-detriment, and the receiving fund does not, how can equivalence be concluded?

Trustees should ensure that if they use advisers these elements are covered by their advice.

VIII. What will APRA do, having highlighted the issue for industry attention?

We will not (in the normal course) delve into the intricacies of tax as it affects super, but will require trustees to show that they have, with appropriate professional assistance, considered tax in determining their approach on key issues that affect members. As a good practice measure, with the trend towards post-tax reporting, should member statements explicitly include additional tax information in a meaningful manner? (for example: 'your death benefit of $xxx will be augmented by an anti-detriment payment of $yyy as at 30 June zzzz'; 'your accumulation balance of $xxxx will benefit from a release of past deferred tax liability debited to you of $yyy if you move to pension phase within the fund as at 30 June zzzz'; 'your lump sum balance would be tax-free (post 60)'; 'your lump sum balance would qualify for a tax-free threshold of $150,000, including any amounts used up to date'; 'your tax-free component will result in x percent of any pension paid being tax-free till age 60').

IX. Conclusion

Given competition, licensing, compulsion and consolidation, the industry is no longer the 'poor cousin' of other financial services industries. If anything, ageing populations make greater refinement in this industry, responsible for a significant portion of personal savings, more important to the economy. It is time the industry matched its undoubted financial clout with commensurate sophistication in this area. This will separate the outstanding funds from the merely functional, giving them a deserved competitive advantage.

If all this sounds daunting, here is the good news: most of the issues are industry-wide. So should be the solutions, which could then be tailored to individual fund rules and systems as necessary. A pro-active industry can and should step up to the task by collaborating with the various stakeholders: trustees, investment managers, custodians, administrators, IT, other professionals, the ATO and the regulators. If we can devise the Hills' Hoist, invent the Victa lawn-mower, and discover H.Pylori to better treat stomach ulcers, surely 'tax-savvy super' is not beyond our collective capability?

APRA looks forward to the industry leadership to determine standards and good practices that will ensure members can have confidence that their trustees are taking appropriate decisions in their interests.

An optimist's vision:
'As good quality tax treatment is available in the market, it will be provided in the fund.'
The reality in super funds in the year ????