Treasury reveals ‘terrible’ plan to tax super funds’ unrealised profit

Hannah Wootton *Reporter*

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Financial advisers have slammed an unexpected move from the government to tax unrealised gains and losses in superannuation funds, warning there would be “massive pushback” on the proposal.

Treasury announced on Tuesday that it would include “all notional gains and losses” in its calculation of earnings under the Albanese government’s controversial plan [https://www.afr.com/policy/tax-and-super/the-24-words-that-reignited-the-super-wars-20230223-p5cmw3] to crack down on generous superannuation tax concessions.

Peter Burgess suggests Treasury should reconsider taxing unrealised gains in super funds. **Ben Searcy**

Under the proposal, earnings on balances above $3 million will be taxed at 30 per cent instead of the current 15 per cent.

But taxing unrealised profits – in the formula proposed by Treasury for calculating super funds' tax rates, earnings would be calculated as the annual difference in the fund's value each financial year – was at odds with the broader tax system, experts warned.

"I don't know of any system where we have taxed unrealised growth," head of technical services at self-managed super fund specialist advisers Lyn Formica said. "That's not quite what they announced [on Tuesday]. Then, they said future earnings ... but we don't pay tax now on [earnings] when they're unrealised gains and this fact sheet indicates that I'm going to be paying tax on the movement in my balance."

She suggested the government was making "knee-jerk changes to a small portion of tax concessions" with its crackdown on high balances, saying that it did not seem like "sensible government".

Pitcher Partners client director Brad Twentyman said the proposal to tax notional gains was "terrible".

"I can't think of anywhere else where it happens ... it's always been a key advantage of a self-managed super fund, that you don't pay tax along the way, you only do when you sell investments," he said.

"This is a massive surprise for the industry. They'll [the government] get massive pushback on that, I'd be surprised if that got up."

The SMSF Association's newly appointed CEO, Peter Burgess, said he welcomed the fact that the Australian Tax Office would calculate funds' earnings under Treasury's proposal but said it should take "a different approach" when it came to notional earnings.

"We like the fact that the ATO will be doing the calculation, instead of pushing that back onto funds [https://www.afr.com/policy/tax-and-super/labor-super-cap-could-force-a-property-and-asset-sell-off-20230223-p5cn2h], that was the bit we were most concerned with," he said.

"But the bad thing is they're basing it on total super balance which means it will pick up those unrealised gains.

“This may be the price we pay if we want the ATO to do that calculation because the ATO can only do that based on the material provided to them .... but the better approach would be the ATO does it but using a different [calculation] method.”

These changes will largely hit SMSFs, with most accounts with balances over $3 million being in the self-managed sector. APRA-regulated super funds already calculate members’ annual interests as including unrealised earnings.

Ms Formica said she “would expect” the tax office to recognise any tax paid on earlier valuations and the ultimate realised value of an asset if it had dropped in value when it was sold, however.

She warned super fund members against changing how they managed their retirement savings before more detail on the proposed reforms was hashed out.

“I think in the fullness of time we’d understand more, and we can think through strategies to make the best of the change, which may still involve money in superannuation.”

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