



File Name:

27 August 2007

The Board of Taxation
c/- The Treasury
Langton Crescent
CANBERRA ACT 2600
taxboard@treasury.gov.au

Dear Sir/Madam

REVIEW OF THE TAXATION TREATMENT OF OFF-MARKET SHARE BUYBACKS

Thank you for the opportunity to comment on the *Review of the Taxation Treatment of Off-Market Share Buybacks* Discussion Paper ("Discussion Paper"), released for comment on 16 July 2007.

The Association of Superannuation Funds of Australia Limited Ltd. (ASFA) is a not-for-profit body representing the interests of superannuation funds, their trustees and members. ASFA members include industry funds, corporate, public sector and retail funds, together with service providers to the superannuation industry. Collectively the ASFA membership represents approximately 80% of members holding superannuation accounts and about 80% of total Australian superannuation assets.

Main Recommendation

In recent years superannuation funds have participated in and benefited from off-market share buybacks. ASFA remains broadly supportive of the existing tax treatment for off-market share buybacks.

Benefits for All Shareholders

As set out in the Discussion Paper, off-market share buybacks have become popular. They are an effective mechanism for companies to manage their capital and release excess franking credits.

All shareholders benefit from share buybacks. Those that choose to participate gain the benefit from the existing taxation treatment, while those that do not participate benefit from improved earnings per share for the company.

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As the benefits of share buybacks flow to both participants and non-participants, ASFA sees no need to change the existing rules.

Spread of Benefits Received by Superannuation Funds

Where a superannuation fund benefits from a share buyback, those benefits flow through to its members. That is, the benefits are not held by the superannuation funds but are distributed more broadly in the form of increased earnings to the fund members, thus increasing the retirement savings of the Australian population.

ASFA suggests that any review of the current off-market buy-back rules should fully consider the effect those changes may have on the retirement savings of all Australians and the impact on the Government's broader retirement incomes policy.

Recommended Change

Though superannuation funds benefit from, and are supportive of, the current buyback arrangements, we accept there may need to be modest changes to ensure the integrity of the current regime.

Superannuation funds are generally long-term investors and we would be concerned about short-term benefits from participating in a buyback after any announcement has been made.

As such, ASFA would support restrictions on the ability to participate in a buyback after the announcement has been made, particularly if the sole purpose of the purchase is participating in the buyback.

Should you require any further information, please contact Robert Hodge, Principal Policy Advisor, ASFA on 02 9264 9300.

Yours sincerely,

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