

Good morning,

Our submission is in the form of this letter to ATO and our Federal Government Member. We ask the Henry Review to consider this issue, although we realise that the Review cannot per se implement change, and in any case its timetable means change before 30 June 2009 is outside its TOR.

[removed for privacy reasons]

Federal Member for Bonner, Ms Kerry Rea
[removed for privacy reasons]

Dear Madam or Sir,

Re: 2008 - 09 compulsory pensions from [removed for privacy reasons]

In common with many hundreds of thousands of Australians, we are self-funded retirees and Trustees and members of our self-managed super Fund, regulated by the ATO. We appreciate that the super mechanism gives these funds' assets beneficial tax treatment.

However, as we understand it, the applicable Commonwealth legislation also forces us as Trustees of our Fund once in pension-paying mode, to pay ourselves as members a pension EVERY year. These annual pensions must be between a legislated minimum and maximum related to the Fund's assets - the percentage-based Pension Valuation Factors (PVFs).

In 2008 -09, we each find that:

1. we have no financial need to receive even the minimum pensions from our Fund;
2. the Fund, to pay our pensions, must sell its (our hard-earned!) assets, either shares or managed funds invested in shares or property; and 3.

commonsense and all financial advice indicate that only a maniac would unnecessarily sell such assets in this worst market for 80+ years. The All Ordinaries index is down 48% since November 2007. Thus, as Trustees, this legal imposition to pay members their pensions conflicts with our statutory duty to maximise the Fund's benefit to them.

To have to pay these pensions will unnecessarily deprive us of hard-earned assets, cause us permanent hardship by making us poorer, and bring us both closer to becoming financial liabilities on the Commonwealth. This is not in our interests, nor those of the Australian Government.

ATO, is there any legal way of this Fund's not paying minimum pensions in 2008 - 09, please? If, as we understand, there is no available way within the present laws, then please put this disadvantaging requirement before the Henry Review of Taxation.

Member for Bonner, assuming the answer is negative, we ask you to put to Government as a matter of urgency that the law be amended as soon as possible and in any case before 30 June 2009, to allow this discretion. As the Prime Minister has said more than once, these unusual times demand unusual actions. We think this could most easily be done by abolishing the minimum, perhaps only for a year or two.

We look forward to early replies from each of you.

Chris Nichols
Trustees, Nichols Superannuation Fund
26 January 2009

Pete Nichols

Thanks, Chris and Peter Nichols