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In early December 2014 interested parties to the EISS controversy, as listed below, were advised of the intention of SA Superannuants to post this online resource on 31 January 2015. Each of these parties was provided with a disc holding a set of files very similar to the set of files making up the online resource and invited to examine the files and provide any comments or criticisms. A commitment was given that any comment or criticism would, if the party wished, be added to the online resource at the appropriate location.

Electricity Industry Superannuation Scheme
The Hon Tom Koutsantonis MP, South Australian Minister for Finance
The Hon John Rau MP, South Australian Attorney-General
Mrs Megan Philpott, Acting Ombudsman, OmbudsmanSA
Mercer
Mr Richard Bingham, former State Ombudsman

Responses were received from Mercer, EISS and the State Attorney General. These letters can be read below. An acknowledgement of receipt of the materials was received from the office of the State Treasurer.

Mercer (Australia) Pty Ltd
ABN 32 005 315 917
Darling Park Tower 3
201 Sussex Street Sydney NSW 2000
GPO Box 9946 Sydney NSW 2001
+61 2 8864 6383
Fax +61 2 8915 1529
david.anderson@mercer.com
www.mercer.com.au

MERCER

18 December 2014

Dr Ray Hickman
SA Superannuants
24 Castle Street
MODBURY SA 5092

Subject: Electricity Industry Superannuation Scheme

Dear Dr Hickman

I refer to your letter of 10 December 2014 in relation to the Electricity Industry Superannuation Scheme (EISS) and note your advice that a number of documents prepared by Mercer are to be included in an on-line resource accessible from the SA Superannuants' website.

Those documents were prepared for the EISS Trustee Board and South Australian Treasury in response to specific instructions from those parties. As a result, we will only be responding to any specific queries in relation to these documents from those parties.

We thank you for the opportunity to contribute to the website; however it is not our intention to do so.

Yours sincerely,

David Anderson
Managing Director & Market Leader, Pacific

MFIN14D00565

Government
of South Australia

Office of the
Treasurer
Minister for Finance
Minister for State
Development
Minister for Mineral
Resources and Energy
Minister for Small Business
Level 8
State Administration Centre
200 Victoria Square
Adelaide SA 5000
GPO Box 2264
Adelaide SA 5001
DX 56203 Victoria Square
Tel 08 8226 1866
Fax 08 8226 1896
minister.koutsantonis@sa.gov.au

Dr Ray Hickman
SA Superannuants
GPO Box 2036
ADELAIDE SA 5001

Dear Dr Hickman

On behalf of the Minister for Finance, the Hon Tom Koutsantonis MP, I acknowledge receipt of your letter received in this office on 11 December 2014, about superannuation.

Your enquiry is currently receiving attention and a response will be forwarded at the earliest opportunity.

Yours sincerely

S. Cahill

A/Office Manager to the
Minister for Finance

18 December 2014

SOUTH
AUSTRALIA

22 January 2015

ELECTRICITY INDUSTRY SUPERANNUATION SCHEME

Dr Ray Hickman
SA Superannuants
GPO Box 2036
ADELAIDE SA 5001

Dear Sir

Proposed publication of on-line resource

We refer to your letter dated 10 December 2014 enclosing details of materials that you propose to publish on the internet to convey the concerns of the SA Superannuants with respect to the tax offset provisions applicable to pension members of the Electricity Industry Superannuation Scheme (**EISS**). We do not propose to take any action to stop the Association from publishing the materials if it is determined to do so.

However, you should be aware that we do not take any responsibility for the accuracy or completeness of the materials published and any damage it may cause to EISS or otherwise. In no way should you imply that the materials have been reviewed, sanctioned, endorsed or otherwise supported by the Electricity Industry Superannuation Board or any executive or officer of EISS. The publishing of these materials is at the Association's own risk.

We reserve our rights with respect to any action we may take as a consequence of any costs incurred or any other damage suffered by EISS or any employee or officer of our Board following the publishing of these materials.

Further, we wish to point out the following matters with respect to the materials:

- the assertions made in the paper entitled "You shall know them by what they do" are the views of SA Superannuants and are not matters of fact;
- we consider a number of the assertions made to be erroneous;
- the materials fail to mention the ability of members to apply to the Board to have their pensions paid as though they were being taken as an untaxed pension, as if EISS remain constitutionally protected and pursuant to which the tax offset does not then apply;
- there is no mention of the numerous public meetings held with members and extensive communication materials produced on behalf of EISS to address the questions and issues raised over an extensive period. If you were to provide a complete research facility then it should also include references and links to these materials;
- there is no mention that the Australian Services Union had originally been involved in the concerns of the particular protagonists, but had, after obtaining legal advice and considering the matter over a lengthy period, determined not to take any further action on behalf of the protagonists;

- there is no mention of the Board having sought extensive legal advice about the operation of the tax offset provisions, including an opinion from a leading Queen's Counsel at the South Australian Bar. Such information was provided to the Parliamentary inquiry into this matter, the Ombudsman and to the Superannuation Complaints Tribunal in a related matter and at no stage did any of these independent bodies disagree with the Board's position.

Accordingly, it is misleading to suggest that the Board may not be acting in accordance with its duties as a trustee of EISS or otherwise unlawfully. To the contrary, the Board has taken this matter very seriously and has devoted considerable resources to addressing the issues that have been brought before it over the past eight years or more.

It is also misleading to suggest that the tax offset provisions are illegal. This matter could only be tested by the Supreme Court of South Australia.

Accordingly we consider that your materials are misleading and potentially damaging to the Board, its officers and executive.

For these reasons we do not support you posting the materials in the format you have put and in no way should you suggest that we have reviewed or condoned the statements made therein.

In the end the materials *do not* represent a balanced analysis of the issues and should be clearly marked to that effect.

Yours sincerely

Jon Holbrook
Chief Executive Officer

The Hon John Rau MP

14AGO3017

12 January 2015

Government
of South Australia

Deputy Premier
Attorney-General
Minister for Justice Reform
Minister for Planning
Minister for Housing and Urban Development
Minister for Industrial Relations

45 Pirie Street
Adelaide SA 5000
GPO Box 464
Adelaide SA 5001
DX 336
Tel 08 8207 1723
Fax 08 8207 1736

Dr Ray Hickman
SA Superannuants
GPO Box 2036
ADELAIDE SA 5001

Dear Dr Hickman

Electricity Industry Superannuation Scheme

Thank you for your letter of 9 December 2014 about amendments made to the rules governing the Electricity Industry Superannuation Scheme (EISS) in 2002.

I note that the issue of the amendments to the rules has been a matter of concern to SA Superannuants for some years. Specifically, you believe that the amendments were not valid to the extent that they authorise a method for calculating tax-sourced pensions which has the effect of reducing the costs of employers who are bound by the EISS.

Following the completion in June 2014 of an investigation by the SA Ombudsman into the circumstances of the amendments, you state that your approach is now "to put the facts and documents relevant to the effect of the method on employer costs, and its consequent validity, into the public domain where they can be examined by interested individuals, particularly the 400 members of the EISS pension, and authorities in South Australia and in other Australian jurisdictions."

You have forwarded me a disc containing various documents and commentary which you intend to publish on-line on 31 January 2015. You have invited me to respond to any component of the "on-line resource" which I consider to be incorrect or unfair or deficient in any way. You further state that SA Superannuants will add my response to the on-line resource so that it can be taken into account by readers of the resource.

The issues canvassed in the on-line resource have been the subject of extensive consideration by a number of individuals and entities, both governmental and non-governmental. I note that the Ombudsman's investigation was undertaken pursuant to a reference from the Legislative Council of the SA Parliament. In view of this history, I do not propose to comment on any specific aspects of the material in the on-line resource. My decision in this regard should not be taken as an endorsement (or, for that matter, a repudiation) of any statement of fact or opinion appearing in the on-line resource or of SA Superannuants' decision to publish the material.

In publishing the material (including documents obtained under freedom of information), SA Superannuants should be aware that it may incur liability for breach of confidence or defamation. I recommend that SA Superannuants obtain independent legal advice in this regard.

Yours sincerely

John Rau
Deputy Premier
Attorney-General