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or

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What Consultation Was There On The Method For Reducing Pensions?

The content and timing of communications between Treasury and the Treasurer, between Treasury and the EISS Board and between the EISS Board and the members of its pension division were such as to make it difficult for pension division members to discern the flawed nature of the rule for calculating EISS taxed-source pensions. It was not until years after authorisation of the rule's use that some members, including Richard Vear and Barry Foster, realised that the rule was reducing pensions by more than the tax cost of paying them from the taxed superannuation environment.

Based on the material set out below SA Superannuants, Richard Vear and Barry Foster claim that there was no effective consultation between the Treasurer and the EISS Board on the method that is being used to calculate EISS taxed-source pensions prior to the method's adoption on 28 June 2002. The only consultation was over reductions to lump sums.

According to an EISS account set out in the EISS document of October 2012 to which access is provided from the HUB document:

- On 2 July 2000 the Treasurer (Hon Rob Lucas MLC) wrote to the EISS Board advising that his intention was to remove the scheme's constitutional protection and to introduce rules to reduce benefits for the effect of the tax changes.
- On 5 July 2000 the Under-Treasurer wrote to the EISS Board advising Treasury's intention for the tax offset i.e. that it would be 15% of the post 1983 portion of lump sums. **No comment was made on pensions.** (emphasis added)

One might have expected the Board to seek information on Treasury's intention for pensions as soon as it received this advice of 5 July 2000 but it did not do so.

The EISS document of October 2012 refers to a 'June 2002' Treasury document as follows:

- Mercer, in its capacity as adviser to the State Government, provided a report to the Under-Treasurer on rule changes for lump sum benefits. This provides the actuary's opinion that the changes do not reduce benefits, nor do they reduce employer costs. Also argues that the maximum practical benefit reduction on lump sums is 15%.
Note: this advice did not discuss the tax offset on pensions. (emphasis added)

In a footnote it is revealed that:

- This report is dated June 2002 on the cover, but 5 September 2002 on page 23. It is unclear when the Board received a copy as it was advice to the Treasurer.

Clearly this must be a document produced in September 2002 dealing with rule changes made in June 2002 i.e. well after the changes were made and still it does not discuss pensions. The account that EISS gives of events leading up to adoption of the rules is chronological and so the document is out of place and this creates an impression that it was taken into account by the Board before the next event listed which was a letter of 7 June 2002. This letter is described as follows:

- The fund secretary wrote to the Under-Treasurer stating that the EISS Board advises that it supports and recommends the proposed rule changes that have been developed by Mr Allan Archer of Mercers

In a footnote it is revealed that:

- There is no formal resolution approving the letter that appears in the Board minutes for this period. This had no material impact on the outcome.

This suggests that the Board did not consider it necessary to give formal approval for the issuing of a statement on 7 June 2002 that supported and recommended adoption of rules that would reduce member benefits including, in the case of the rule for reducing pensions, a rule that the Board appears to have not even seen or considered at that date.

The only possibility for consultation with the EISS Board about the method proposed by the late Mr Allan Archer for reduction of EISS pensions would appear to have been a Board meeting held on 26 June 2002. At this meeting the Board's own account reveals that Mr Archer was explaining to the EISS Board 'the workings of the tax reductions to benefits with the aid of slide copies'. This is the earliest date on which the Trustee could have been given notice about the rule that would be used to reduce pension benefits. The situation is described as follows in Board minutes.

- However, the EISS Board remained confused about this complex issue, and the Chairman asked that this explanation be given again at the July meeting, to provide more time for EISS Board members to consider the material provided. The EISS Board requested that the Scheme's tax adviser be briefed of the matter, and asked to attend the July meeting.

The suggestion made by the Board Chairman to put off further consideration of the working of the rules was accepted. This had the effect of ensuring that the rules were in place before any further consideration could be given to them by the Board because the Treasurer (by this time the Hon Kevin Foley MP) acted to insert the rules on 28 June 2002.

While this sorry example of consultation between Treasury and the EISS Board was occurring there was also advice being given by Treasury to the new State Treasurer, Hon Kevin Foley MP.

When the Ombudsman's report was published SA Superannuants, Richard Vear and Barry Foster learned for the first time that the 30 June 2002 was, in terms of the *Electricity Corporations Act 1994,* the 'relevant day'. This is specified in the Act as the day by which the Treasurer must have inserted any rules for tax changes to benefits and also the day after which he had no power to change those rules. After the relevant day, the rules inserted by the Treasurer can only be changed by the Trustee (i.e. the EISS Board) and any rule changes that would increase employer costs then require the agreement of employers.

In its submission to the Ombudsman, SA Superannuants had pointed out the close proximity of the date on which both EISS and the State Treasurer could have first had knowledge of the intention to use the pension reduction rule (26 June 2002) and the date on which it was in place (28 June 2002). Mr Bingham reported this without comment and as if there was no possibility of this being a sign of an administrative error. When the additional fact of the relevant day being 30 June 2002 turned up in his investigation he still attached no significance to the close proximity of all three dates.

Once SA Superannuants saw that the relevant day was 30 June 2002 its Vice-President Mr Clive Brooks made a freedom of information application to establish how this particular date turned out to be the relevant day and whether EISS was informed of this beforehand. This turned up a set of three documents

1. a 17 May 2002 minute prepared for Treasurer Kevin Foley by Mr Deane Prior. This minute can be read by clicking here.
2. a notice bringing into operation, on 29 May 2002, parts of the *Electricity Corporations (Restructuring and Disposal) Act 1999* that transferred ownership of EISS assets from the Crown to the EISS Board (the Trustee). This notice (first notice) can be read by clicking here.

3. a notice bringing into operation, on 30 June 2002, parts of the *Electricity Corporations (Restructuring and Disposal) Act 1999* that included the part setting the relevant day as 30 June 2002. This notice (second notice) can be read by clicking here.

From the Minute of 17 May 2002 it can be concluded that, on this date or earlier, Treasury knew what method for reduction of EISS pensions would be recommended to the Treasurer for adoption. This raises the question – why was the EISS Board not advised of the intention to use this method until 26 June 2002 (at the earliest)?

From this minute it can also be concluded that there was no imperative to set the relevant day at 30 June 2002. It could have been set later and this would have allowed meaningful consultation with the Board over possible alternatives to the method that Mr Archer had proposed for reducing pensions. A question arising from the setting of the relevant day at 30 June 2002 is – was the EISS Board advised of this date, and its significance, before the relevant day had come and gone? There is no evidence that it was. After the Ombudsman's report became available Richard Vear wrote to EISS asking to be told when the Board had first learned what the relevant day was to be. EISS declined to answer.

The Ombudsman's report (footnote 47 on page 25) included a reference to Mr Deane Prior saying that he had been in attendance at EISS meetings at the time the Board was considering the rule changes. Thus:

- I attended several of the EISS Board meetings during the period when the Board was considering the matter how and the extent of the benefit reduction that was to apply to member benefits. I can clearly recall the Board finding it difficult to understand the explanations that Allan Archer, as actuarial adviser to the Treasurer, was providing in justification for the formula reductions that he was recommending to the Treasurer. The Board was having difficulty in understanding the explanations because of the complex actuarial workings. I also clearly remember, the then chair of the Board, Mr Max Bray, making a comment along the lines; 'well whilst several members are still having difficulty In understanding all this, I guess at the end of the day the Treasurer is going to accept the advice of his actuarial adviser and so we as a board should endorse the proposed formula adjustment'. As I stated at our meeting, the Board's records about this time are probably 'a bit lacking' as it is my recollection that the period immediately before the benefit reduction formula was brought into operation, the secretary of the board became seriously ill and the secretarial role was undertaken by several "stand in persons".

Mr Prior has named one of the people present at a meeting as being 'the then chair of the Board, Mr Max Bray'. Mr Prior says he clearly remembers this and the gist of what Mr Bray said. **But Mr Max Bray was no longer chairman after March 2002.** The new chairman was appointed on 20 March 2002 and there would have been no Board position for Mr Bray to occupy after this date. From Mr Prior's account Mr Bray was present when Mr Allan Archer was explaining the rules to the Board and they were having difficulty understanding him. By the EISS Board's own account this was at the meeting of 26 June 2002, at least three months after Mr Bray had departed the Board.

This is another matter that Richard Vear attempted to clarify after the Ombudsman's report became available. Richard wrote to EISS asking them to confirm Mr Prior's attendance at Board meetings in 2002. Once more EISS declined to answer.

After the rule for reducing pensions was in place it was getting applied for years without EISS making clear to members that pensions were being reduced by much bigger percentages than lump sums. In an October 2002 EISS newsletter members were given an account of the taxation changes to benefits that made it look as if pensions were being reduced in the same way as lump sums. On the second page of this newsletter members were told:

- For the **Lump Sum Scheme**, **Pension Scheme**, **Provident Account** and the **RG Scheme**, the benefit reduction is calculated at the time the benefit is paid. In simple terms, benefits which must be rolled over to another fund are reduced by 15% of the "post 1983 component", while benefits which can be taken in cash are subject to a lesser reduction for certain ages. The reduction formulae are complex, but this is to ensure that you are not disadvantaged.

The October 2002 Newsletter can be read in full by clicking here.

It was not until 2005 that a newsletter appeared which made known the fact that pensions were being reduced by more than the 15% maximum that applied to lump sums. In this newsletter, on its second page, the members were told:

- For lump sum benefits, the contribution tax offset is limited to 15% of the part of the gross benefit due to membership after 1983. This is because when the scheme was untaxed, members always had the option of rolling the benefit over to a taxed scheme. This would result in tax of 15% being deducted on rolling over, which was effectively a contribution tax offset of 15%.

- There is no such limit to the offset on pension benefits. The reduction will depend on the amount of the pension and the tax rates at the time the pension starts, among other things.

- This means that the effect, as a percentage of your original pension, can be greater than 15%. Why is this? Because the improvement in the tax on pensions due to the change in the Scheme's tax gets more valuable as your pension (and your average marginal tax rate) increases.

The last paragraph in this extract skirts around the fact that for most pensions the reductions were greater than the tax cost to the fund of paying the pensions from the taxed superannuation environment with the difference being passed to employers.

The 2005 Newsletter can be read in full by clicking here.

As far as communication between the Board and its pension division members goes there are records of EISS annual statements indicating that the quality of communication was poor. Thus:

- From June 2002 to 2004 Member's Annual statements only provided details on a member's gross pension, with the caveat, "before Benefit Reduction and tax". The reason for the caveat was explained as part of the other benefit explanations within the annual statement. There was never any detail of the pension reduction provided. The detail that was provided in a 2004 annual statement can be read by clicking here.

- This format changed for the June 2005 Statement, members were then provided with 2 values of their gross pension benefits, before and after "Contribution Tax Offset". Again there was no explanation on how the lower gross pension benefit was derived. The details provided for pension values in a 2005 annual statement can be read by clicking here.

- In December 2005, EISS issued the Newsletter referred to above which was headed, "Tax on Benefits & the Contribution Tax Offset". The discussion provided in this of the reduction made to pensions was not credible as an explanation for why pensions were being reduced by more than lump sums.

- In April / May 2006, after many complaints to employers, EISS provided an Excel spreadsheet, "Electricity Industry Superannuation Scheme – Pension Tax Offset Calculator". Started with the words, "How does this work?" A member was then able to plug in their personal details and the current personal income tax rates to calculate their lower gross pension from a taxed source arrangement.

From here on in this document are the items connected to the hyperlinks in the text above

Minute of 17 May 2002

MINUTES forming ENCLOSURE to TF02D02138

RECEIVED
17 MAY 2002
TREASURER'S OFFICE

THE TREASURER

SUPERANNUATION

ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) ACT 1999

Purpose

The purpose of this minute is to seek your approval to issue two notices under clause 1, Part 1 of Schedule 3 of the *Electricity Corporations (Restructuring and Disposal) Act 1999*. The notices will bring into operation certain clauses of Part 4 of Schedule 3 as part of the process of moving the Electricity Industry Superannuation Scheme from the status of a public sector scheme and specifically a 'constitutionally protected superannuation fund', to a fund operating in the private sector.

Background

The Electricity Industry Superannuation Scheme (EISS) scheme is established under Schedule 1 of the *Electricity Corporations Act 1994.*

The EISS scheme was formerly known as the ETSA Superannuation Scheme but was substantially restructured under Schedule 3 of the *Electricity Industry (Restructuring and Disposal) Act 1999*, which dealt with the restructuring and long term leasing of the State's electricity assets.

Schedule 3 of the *Electricity Industry (Restructuring and Disposal) Act 1999*, contemplates the EISS scheme moving into the normal tax environment for superannuation funds where the employer contributions will be taxed on receipt by the fund, and the investment earnings of the fund also taxed. The original intention was for the EISS to have moved from out of the supervisory control of the State Treasurer and become a taxed and Commonwealth regulated scheme on 1 July 2000. However, due to Commonwealth delays, and in particular the need for transitional taxation legislation, the fund remains a constitutionally protected fund as at today. However, the Commonwealth has advised that on 29 May 2002, the Governor General will be promulgating regulations that will have the effect of moving the EISS scheme into the normal tax environment. The implications are that on 29 May 2002, all the taxable assets of the fund will immediately become subject to tax in accordance with a Commonwealth provision deeming that on that date all the assets are rolled out of the fund and then immediately rolled back.

Clause 1 of Part 1 of Schedule 3 provides that Parts 2, 3 and 4 of the Schedule "come into operation in accordance with a notice or notices issued by the Treasurer and published in the *Gazette*." Parts 2 and 3 have already been brought into operation. The commencement of Part 4 has been delayed as it provides amendments to the superannuation provisions under

Schedule 1 of the *Electricity Corporations Act 1994* and the Trust Deed of the scheme, to complement the move of the scheme into the tax environment.

Discussion

On the basis that the Commonwealth is to "delist" the fund which supports the EISS scheme as a constitutionally protected fund on 29 May 2002, it is necessary to bring Part 4 of Schedule 3 of the *Electricity Corporations (Restructuring and Disposal) Act 1999* into operation on 29 May 2002, but suspend those clauses which are not required to come into operation until a date when the scheme rules are fully compliant with the *Superannuation Industry (Supervision) Act 1994* (Cth). Accordingly, it is proposed that the Treasurer issue notices under Clause 1 of Part 1 of Schedule 3 of the *Electricity Corporations (Restructuring and Disposal) Act,* providing that certain clauses of Part 4 come into operation on 29 May 2002, and others on 30 June 2002.

Draft notices have been prepared and are attached.

The principal consequences of bringing the relevant clauses of Part 4 into operation on 29 May 2002 are that; (1) the assets in the EISS fund which are currently owned at law by the Crown will transfer to being assets of the EISS trustees, (2) the "Board" will change to the "Trustee" and (3) the Auditor General will no longer be responsible for the audit of the fund's accounts. The principal consequences of bringing the relevant clauses into operation on 30 June 2002 are that the Treasurer will no longer be required to approve of changes to the rules.

Whilst it would be possible to remove the clause requiring the Treasurer's approval for rule changes on the same day that the assets shift to being assets of the Trustees, it is considered appropriate to keep this power until 30 June because an important power is linked to this provision. Clause 11 of Schedule 1 of the *Electricity Corporations Act 1994* provides that until the requirement for the Treasurer to approve all rule changes is removed, the Treasurer has the power to insert into the scheme, rules to decrease the gross benefits to take account of the fact that the fund will be paying part of the tax which until 29 May is fully paid by the member. It is considered prudent for the Treasurer to retain the power to modify the rules in relation to taxation until 30 June just in case there is need to modify the first set of rule changes.

Recommendation

It is recommended that you sign the two attached notices and arrange for them to be formally published in the *Gazette* on 23 May 2002.

Noted/Approved

17/5

Treasurer

D R Prior
DIRECTOR, SUPERANNUATION (POLICY)

17 May 2002

Click here to go back

First Notice transferring ownership of EISS assets to the EISS Board (the Trustee)

NOTICE UNDER THE ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) ACT 1999

I, **KEVIN OWEN FOLEY MP**, Treasurer of South Australia (the "Treasurer") hereby give notice, pursuant to clause 1 of Schedule 3 to the *Electricity Corporations (Restructuring and Disposal) Act 1999,* that Part 4 of Schedule 3 to the *Electricity Corporations (Restructuring and Disposal) Act 1999,* shall come into operation on 29 May 2002, with the operation of the following clauses of Part 4 suspended until a date fixed by subsequent notice; clauses (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (l), (m), (p), (r), (s), (t), (u), (y), (zc).

DATED this 21 day of May 2002.

THE COMMON SEAL OF THE TREASURER)
was hereunto affixed by authority of the)
Treasurer and in the presence of:)

K. WORDEN

Witness

EISS Part 4 notice No 1 May 2002.doc

Click here to go back

Second notice setting the relevant day at 30 June 2002

NOTICE UNDER THE ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) ACT 1999

I, **KEVIN OWEN FOLEY MP,** Treasurer of South Australia (the "Treasurer") hereby give notice, pursuant to clause 1 of Schedule 3 to the *Electricity Corporations (Restructuring and Disposal) Act 1999,* that clauses (i), (s), and (t) of Part 4 of Schedule 3 to the *Electricity Corporations (Restructuring and Disposal) Act 1999,* shall come into operation on 30 June 2002.

DATED this 21 day of May 2002.

THE COMMON SEAL OF THE TREASURER)
was hereunto affixed by authority of the)
Treasurer and in the presence of:)

TREASURER
FAITH AND COURAGE

...K. WORDEN...............................

Witness

EISS Part 4 notice No 2 May 2002.doc

Comment: Before the 30th of June 2002 clause 4 of the trust deed had a sub-clause (1) which read

4. (1) The Board may, by instrument in writing, vary or replace the Rules with the approval of the Treasurer.

The effect of the notice bringing clause *s* of part 4 of schedule 3 of the *Electricity Corporations (Restructuring and Disposal) Act 1999* into operation on 30 June 2002 was to change this sub-clause to:

4. (1) Subject to the relevant law, the Trustee may, by instrument in writing, vary or replace the Rules.

This change set the relevant day as 30 June 2002 and saw the Treasurer lose his power to vary or replace the rules that he had inserted, only two days earlier, on 28 June 2002.

Click here to go back

October 2002 Newsletter

Electricity Industry Superannuation Scheme

Adding power to your financial future.

Superannuation newsletter

Of the Electricity Industry Superannuation Scheme

In this newsletter we look at:

- making additional voluntary contributions to super,
- explain surcharge tax assessments, and
- explain Scheme taxation changes.

NEW - Additional voluntary contributions at any level

If you think that your main benefit from the Scheme will not provide you with enough savings for a comfortable retirement, you can now give your superannuation a boost by making extra contributions.

The main advantage of saving extra for retirement in this way is the special tax treatment your super savings enjoy. Also low fees apply when you save extra in the Scheme.

Additional voluntary contributions can be any multiple of 1½% of your salary. They grow each year with investment earnings, net of tax and net of administration fees, and are paid out in addition to your main benefit.

Additional voluntary contributions do not attract any extra employer subsidy.

If you want to know more, send an email request to eiss@mercer.com for an Information Sheet, or call 08 8404 5707.

How much do I need in retirement?

There are two main points to consider when estimating how much superannuation you will need in retirement - the lifestyle you want in retirement and how long you expect your savings will need to last. Your financial adviser can help you estimate a target figure that will give you the income you need in retirement.

Salary sacrifice

The Scheme can accept member contributions on a "pre-tax" basis (also known as salary sacrifice). This can apply to your normal "flexible contributions", up to 9%, and to "additional voluntary contributions".

However, not all employment arrangements allow for full salary-sacrifice and some arrangements may impose conditions - you should check with your employer about these.

Your financial adviser will be able to tell you whether salary sacrifice is an appropriate way for you to contribute to your superannuation.

Again, email eiss@mercer.com for an Information Sheet, or call 08 8404 5707.

October 2002

Issued by the Electricity Industry Superannuation Board
ABN 57 923 283 236
Level 5, 108 North Terrace
Adelaide SA 5000.
Email – eiss@mercer.com

Surcharge assessments

We understand that the Australian Taxation Office will soon send out surcharge assessments dating back to 1996/97. These assessments apply to higher income earners and to members who have not supplied their Tax File Number.

Now that the Scheme is taxed, as is the case with most other private-sector superannuation funds, it will pay these surcharge assessments. Surcharge debts will then accrue in a sep account in the Scheme. When the time comes for a benefit to be paid from the Scheme, it will be reduced by the amount of the surcharge debt accrued.

If you want to reduce or eliminate any surcharge debt on an ongoing basis, you can make additional voluntary contributions to the Scheme to offset the debt.

Superannuation Guarantee

From 2002, the Superannuation Guarantee rate increased from 8% to 9% of salary. This is the last of the legislated rises in employer superannuation contributions.

For L Sum Scheme, Pension Scheme, Provident Account A and RG Scheme members, your benefits are automatically adjusted as necessary to meet the higher minimum level. However, in most cases, there is no change as your benefits provided are already well in excess of the minimum level.

For **Accumulation Scheme** members, higher employer contributions are now credited to your account.

Scheme taxation changes

As part of the process of moving to a taxed status, the State Treasurer has now reduced gross-of-tax benefits in the Scheme.

The implementation is complex, but we can confirm that your after tax benefit will be no less than you would have received under the old arrangements. You will not be disadvantaged by this change in tax status.

The reduction arrangements differ by Scheme:

For the **Accumulation Scheme**, the account balances as at 30 June 2002 have been reduced to reflect the tax paid. In future any employer contributions and salary-sacrifice contributions will be reduced by the 15% tax.

For the **Lump Sum Scheme**, **Pension Scheme**, **Provident Account A** and the **RG Scheme**, the benefit reduction is calculated at the time the benefit is paid. In simple terms, benefits which must be rolled over to another fund are reduced by 15% of the "post 1983 component", while benefits which can be taken in cash are subject to a lesser reduction for certain ages. The reduction formulae are complex, but this is to ensure that you will not be disadvantaged.

When reduced benefits are paid, they are taxed at lower rates than before, so there is no overall change in the size of your benefit.

Tax on investment earnings

Tax on investment earnings only applies to those members who join the Scheme after 30 June 2002 and to the new additional voluntary contributions. Investment returns used in calculating benefit crediting rates for those who joined prior to 30 June 2002 are not taxed, while those used in calculating additional voluntary contribution balances are taxed.

Appeal rights

We do not believe that any member will be disadvantaged by the tax changes. If, however, you believe that you are disadvantaged, you can make an appeal to the Superannuation Board using the special arrangements set out in the legislation. Call the Scheme Secretary on 08 8404 5707 for details.

Please note: This newsletter is designed to assist you to understand your superannuation benefits. It should not be taken as advice. If you require assistance as to what course of action is best for your particular circumstances, you should speak with a licensed financial adviser.

Click here to go back

Tax on benefits, & the 'Contribution Tax Offset'

What is the 'Contribution Tax Offset'?

The Contribution Tax Offset is an adjustment to your benefit when you take it from the Scheme. It is a way of allowing for changes to the taxation of the Scheme that happened on privatisation.

So are benefits lower now?

No. Under the method that is used to calculate the Contribution Tax Offset, your benefit (after tax) cannot be lower than before privatisation. The privatisation legislation and the Scheme Rules do not allow this.

In some cases, benefits may in fact be higher. For example, when the offset on pensions is calculated, we assume that the pension is your only income. If you have other income (from investments or part time work), you may well be better off.

What were the changes to the Scheme?

Most super funds ('taxed funds') in Australia are taxed in 3 ways:

1. On the way in – Employer contributions and salary sacrifice member contributions are taxed at 15%
2. In the Scheme – Investment earnings are taxed at 15% (with allowance for deductions)
3. On the way out – Benefits are taxed in a complicated way (this is actually a tax on the member, not the fund)

However, some Government schemes (such as the ETSA scheme before privatisation) are known as 'untaxed funds'. This is because only the benefit is taxed, not the fund. But, the tax on benefits is higher than for a taxed fund.

On privatisation, the Scheme moved from being
- an 'untaxed fund' with higher taxes on benefits

to being
- a 'taxed fund' with lower taxes on benefits, but tax on employer contributions and investment earnings.

So how did the tax on lump sum benefits change?

A lump sum benefit is split into several parts for calculating tax. The main two are the parts of the benefit that are due to service before 1983 (called the 'pre 83 portion'), and service after 1983 (the 'post 83 portion').

The change in tax is on the post 83 portion. For retirement benefits, the tax rate on this part went down by either 15% or 16.5%, depending on the amount of the benefit.

What about pensions?

All pension benefits are taxed as normal income (regardless of the fund), but pensions paid from a taxed fund are entitled to a 15% tax rebate on the entire pension.

So the tax on benefits went down, but why is the Contribution Tax Offset needed?

Pre-privatisation, the Scheme didn't pay tax at all, and the members paid tax on their benefits at a higher rate than most super benefits. Now, the Scheme pays tax on contributions and returns, and the members pay less tax on their benefits.

If benefits were unaffected, the members would get higher net benefits (due to less tax on benefits), but the cost of the Scheme would go up (due to the tax that is now paid by the Scheme). The legislation covering privatisation allowed benefits to be reduced to offset the increased cost of the Scheme. This is the Contribution Tax Offset.

A simple example may make this clearer. Suppose your retirement benefit is a lump sum of $100 and the benefit tax is 31% (pre-privatisation) or 16% (post-privatisation).

Before privatisation, you would have received $100 on retirement, and paid $31 in tax, leaving you $69 in your pocket.

Now that the Scheme is taxed, the Scheme will have already paid a total of $15 in tax by the time you retire. If your gross benefit was still $100, your tax would be $16, giving you $84 in your pocket, ie $15 better off and giving the Scheme an extra cost of $15.

So the Scheme deducts a Contribution Tax Offset of $15 from your benefit, leaving you with $69. This pays for the $15 of tax that the Scheme has already paid – and you are no worse off, because your net benefit is unchanged.

How does it work?

The steps involved are:

1. Calculate the gross benefit according to the Scheme rules
2. Calculate the net benefit assuming it was paid from an untaxed Scheme (ie before privatisation)
3. Calculate the gross benefit payable from a taxed Scheme that would give the same net benefit

The Contribution Tax Offset is the difference between 1 and 3.

For lump sum benefits, the Contribution Tax Offset is limited to 15% of the part of the gross benefit due to membership after 1983. This is because, when the Scheme was untaxed, members always had the option of rolling a benefit over to a taxed Scheme. This would result in tax of 15% being deducted on rolling over, which was effectively a Contribution Tax Offset of 15%.

There is no such limit to the offset on pension benefits. The reduction will depend on the amount of the pension and the tax rates at the time the pension starts, amongst other things.

This means that the offset, as a percentage of your original pension, can be greater than 15%. Why is this? Because the improvement in the tax on pensions due to the change in the Scheme's tax gets more valuable as your pension (and your average marginal tax rate) increases.

ELECTRICITY INDUSTRY SUPERANNUATION SCHEME

Adding power to your Financial Future

Issued by the...

Electricity Industry Superannuation Board

ABN 57 923 283 236

Level 1, 100 Greenhill Road, Unley SA 5061 Tel: 08 8404 5707

Email: inquiries@electricsuper.com.au

The main thing to remember is that the offset will not leave you worse off after tax at the time your benefit is paid.

The Scheme office has put together a spreadsheet that looks at the calculation of the offset for pensions, which we can pass out to anybody who is interested.

What benefits does this apply to?

The Contribution Tax Offset applies to all benefits paid from Divisions 2, 3 and 4.

Benefits in Division 5 were adjusted for tax in 2002, and tax has been deducted from contributions credited to member's accounts since that time.

Does the Contribution Tax Offset lessen the value of the indexation of pensions? No.

But if pensions are being increased by 4%, and your gross pension was reduced, aren't you losing out?

No. Perversely, the Contribution Tax Offset can increase the value of the indexation of pensions in some circumstances.

What are the options if you don't like the calculation of the tax offset?

There are two options.

Firstly, you can formally appeal to the Board in writing. This is allowed under the Act of Parliament that covers the Scheme. You must be able to show that you are receiving a lower benefit after tax than you would have before privatisation.

Secondly, you can request that your benefit be calculated as if the Scheme was still an untaxed fund. This means that your benefit won't be reduced by the tax offset, but you will pay the higher tax rates on your benefit. If you are receiving a pension, you will not be able to claim the 15% tax rebate.

If you are considering either option, we would urge you to first discuss it with the Scheme's Executive Officer.

Where is more information available?

You can talk to the Scheme office on 8404 5707, or via email on inquiries@electricsuper.com.au. We recommend that you put your queries in writing, as the matter is complex, and this prevents misunderstandings.

Click here to go back

Member Statement for 2004

Personal Details for the Pension Scheme (Division 3)

Name:		Scheme Salary:	$80,560.00
Employee Number:		Accrued Contribution Points:	347.37
Date of Birth:		Standard Contribution Points:	326.00
Date Joined Scheme:	17/08/1968	Standard Contribution Rate:	5.13%
Date Joined Employer:	12/01/1965	Current Contribution Rate:	9.00%
Date Benefits Accrue:	20/08/1977	Undeducted Contributions:	$37,122.67
Eligible Service Date:	12/01/1965	Final Scheme Salary:	$75,400.03

Your Benefits (before Benefit Reduction and tax) at a Glance

Retirement Benefit:	**$1,767.41**
Death Benefit for Spouse: Fortnightly Pension	**$1,394.65**
Invalidity/Disability Pension per fortnight:	**$2,091.98**

Account Balances

	Member Contribution Account	**Additional Voluntary Contributions Account**	**Member Contributions with reduced interest pre 1990**
Balance as at 1 July 2003	$160,134.46	$9,694.47	$119,447.99
Plus: Contributions	$6,690.86	$5,700.00	$6,690.86
Less: Tax on contributions	$0.00	$855.00	$0.00
Investment Return (refer note 6)	$21,089.21 12.641%	$1,407.77 – 9.682%	$15,841.11
Balance as at 30 June 2004	**$187,914.53**	**$15,947.24**	**$141,979.96**

Surcharge Debt Account:
(Refer note 7 overleaf)

	Surcharge Debt Account
Balance as at 1 July 2003	$0.00
Plus: Surcharge Payments to ATO	$1,477.31
Investment Return (refer note 6)	$117.33
Balance as at 30 June 2004	**$1,594.64**

Comment: it is two years after the rule for reducing pensions was authorised but members still at work are not being advised of the extent of the reduction that will be made to their pensions as a result of the scheme's change in tax status.

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Member Statement of 2005

Electricity Industry Superannuation Scheme - 2005

Summary of Your Benefits (before benefit tax)

	Before contribution tax offset 2004	Before contribution tax offset 2005	After tax offset 2005
Retirement Benefit: Fortnightly Pension	$1,767.41	$2,009.44	$1,659.45
Invalidity Pension per fortnight:	$2,091.98	$2,235.97	$1,845.29

For the benefit shown "After tax offset" we have deducted an allowance for contribution tax payable by the Scheme, but it is before the payment of income tax. Please read the benefit statement guide for further information.

Account Balances

	Member Contribution Account	Additional Voluntary Contributions Account	Member Contributions with reduced interest pre 1990	Surcharge Debt Account
Balance as at 1 July 2004	$187,914.53	$15,947.24	$141,979.96	$-1,594.64
Plus: Contributions	$7,211.49	$9,612.31	$7,211.49	$0.00
Plus: Amounts rolled in	$0.00	$0.00	$0.00	$0.00
Plus: Co-contributions	$0.00	$0.00	$0.00	$0.00
Less: Tax on contributions	$0.00	$1,441.87	$0.00	$0.00
Less: Surcharge Tax	$0.00	$0.00	$0.00	$-978.45
Investment earnings	$28,174.26	$2,717.16	$21,423.04	$-310.50
Balance as at 30 June 2005	**$223,300.28**	**$26,834.84**	**$170,614.49**	**$-2,883.59**

Your Details for the :heme (Division 3)

Name:		Employee Number:	
Date of Birth:		Date Joined Employer:	
Things that affect your benefit:			
Date Joined Scheme:	17/08/1968	Scheme Salary:	$84,186.00
Date Benefits Accrue:	20/08/1977	Final Scheme Salary:	$80,589.72
Contribution details:			
Accrued contribution Points:	368.42	Standard Contribution Points:	338.00
Current Contribution Rate:	9.00%	Standard Contribution Rate:	5.13%
Things that affect the tax on your benefit:			
Eligible Service Date:	12/01/1965	Undeducted Contributions:	$37,122.67

What does all this mean?
Please check the accompanying guide to your benefit statement. If this does not answer your questions, please contact the Scheme.

Comment: the pension reduction is revealed for the first time in this 2005 statement. It is a reduction of 17.4%. This reduction is described as being 'an allowance for contribution tax payable by the scheme' when it is a reduction much greater than that needed to pay tax.
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