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Ombudsman
S.A. Superannuants

Attachment 3

South Australian Government Superannuated Employees Association
trading as:

S.A. Superannuants

Subject: Letter
over EISS tax

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Refer submission

REF TFSEISS-1-5/06

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31 March, 2006

Hon Kevin Foley, MP
State Treasurer of South Australia
GPO Box 2264
Adelaide, SA 5001

Re: Recalculation of Electricity Industry Superannuation Scheme Pensions

Dear Mr Foley,

On behalf of S.A. Superannuants I want to congratulate you, and the Labor Government, on your success in the state election. We hope that, before the next election is held, the matter of the taxation status of the State superannuation pension schemes will have been settled.

We have recently learned something rather disturbing about the change in taxation status of the Electricity Industry Superannuation Scheme (EISS). The December 23, 2004 Mercer Report on Taxation Status of SA Government Superannuation Funds outlines the method being used by EISS to recalculate pensions following the fund's change in taxation status on 1 July, 2000.

A covering letter from your Department's Mr Rick Persse, which accompanied a copy of the Mercer Report sent to Mr Angus Redford, states that it has not been considered by you or by the Government. If this means that you are unaware of what has happened with pension benefits being paid by EISS, since it ceased to be a constitutionally protected fund, then we respectfully ask that you consider the report now.

On page 10 of the Mercer Report, there is a clear statement which reveals that EISS pensions are being recalculated by simply determining the gross value of a rebatable pension which has the same after-tax value as the original (non-rebatable) pension and assuming that the pension is being paid to a single person with no other income.

We have had this confirmed by information provided to us by a member of EISS. He had his pension reduced by more than 17% of its gross value when the tax payable in respect of his pension must have been less than 7% of the pension's gross value on account of his pre July 1983 contributory service.

On our reading of the relevant state legislation there is no legislative authority which would permit an EISS pension to be reduced by more than the amount necessary to avoid or reduce an increase in employer cost arising from the change in taxation status. And yet EISS pensions are being reduced by much more than this. We assume that the saving made in this way is being passed to employers and reducing their costs. Our understanding is that any authority for reduction of pensions to meet tax costs must come from the South Australian State Treasurer.

Could you please provide us with the details of whatever authority EISS is using as its basis for recalculation of pensions?

We do not accept the EISS method for recalculating pensions and consequently could never support its use for the recalculation of pensions payable under the South Australian Superannuation Scheme. We expect that in any recalculation of pensions the reduction will be restricted to that extent which is needed to meet the tax cost of delivering the pension from a taxed source rather than an untaxed source.

When Association President, Ray Hickman, Vice-President, Clive Brooks and I met with you and Mr Deane Prior on 1 December, 2005 we reported back to the Association Executive Committee that the Labor Government would only seek to ensure that any change in pension scheme tax status was cost neutral for the Government and that net savings would be passed to members. Our report was based on the notes we made immediately after the meeting.

If the Labor Government supports the principle that net tax savings should pass to members when a pension fund moves to the taxed environment we do not know what to make of the fact that the EISS is passing all tax savings to employers instead. **Is this happening without the current Government's knowledge or support?**

As well as outlining for us the authority being used by the EISS trustee for recalculation of pensions we request that you confirm the Labor Government's "in principle" position on what should happen with net tax savings in the event of the State Pension Scheme ceasing its constitutional protection.

Yours sincerely,

Vic Potticary, Secretary