



The Hon Stephen Jones MP
Assistant Treasurer and Minister for Financial Services

The Hon Matt Keogh MP
Minister for Veterans Affairs' and Defence Personnel

MEDIA RELEASE

25 July 2022

EXPOSURE DRAFT LEGISLATION: TAXATION OF MILITARY SUPERANNUATION BENEFITS

The Albanese Government is introducing legislation to ensure that no veteran pays higher income tax because of the Federal Court decision in *Commissioner of Taxation v Douglas* (the *Douglas* decision). A draft bill, *Treasury Laws Amendment (Measures for a later sitting) Bill 2022: Taxation of military superannuation benefits*, and associated draft explanatory material, have been released for public consultation.

The *Douglas* decision found that certain veterans' invalidity pension payments in the Defence Force Retirement and Death Benefits (DFRDB) and Military Superannuation Benefits (MSB) schemes are superannuation lump sums for income tax purposes rather than superannuation income stream benefits.

The draft legislation confirms the lump sum tax treatment for affected members of the DFRDB and MSB. The Government's approach means that affected veterans in the DFRDB and MSB schemes will not only retain the income tax benefits of the *Douglas* decision but also retain the resulting benefits of changes in their taxable income, such as Family Tax Benefit entitlements and the childcare subsidy.

While the veteran community has broadly welcomed the *Douglas* decision, and many veterans have benefited from the decision, the Government is concerned that a number of veterans are facing higher end of year tax liabilities.

Therefore, the Government will also introduce a non-refundable tax offset to prevent any adverse income tax outcomes for affected veterans in the DFRDB and MSB schemes. This will reverse higher end of year tax liabilities that would have occurred for some of these veterans and enable the ATO and CSC to include the impact of the new offset in determining fortnightly tax withholding, in order to address higher withholding that has occurred due to the *Douglas* decision. This offset will be for those veterans adversely affected by the Court's decision, in MSB and DFRDB schemes that started on or after 20 September 2007, and will apply retrospectively as well as prospectively.

The Government has also decided to extend these changes to Spouse and Children's pensions paid to a spouse or child following the death of a member of a DFRDB or MSB scheme affected by the *Douglas* decision to ensure these beneficiaries are no worse off.

The draft Bill also retrospectively and prospectively reverses the impact of the *Douglas* decision in relation to all schemes other than the invalidity benefits and death benefits for beneficiaries of invalidity pensioners paid from the DFRDB and MSB schemes that commence on or after 20 September 2007. This will ensure that payments in all other schemes that may have been within the wider scope of the Court's decision will continue to be taxed as superannuation income stream benefits, which is consistent with the intent of the current superannuation tax law.

The draft Bill reflects the Government's commitment to ensure veterans are not left worse off due to the *Douglas* decision and that veterans who benefited from the decision retain these outcomes.

Submissions are invited by email to superannuation@treasury.gov.au. More information about the consultation process is available on the Treasury [website](#).

Submissions close on 5 August 2022.

Ends

Media contact: Tom Iggulden (Jones) : 0448 081 191 | tom.iggulden@treasury.gov.au

Stephanie Mathews (Keogh) : 0407 034 485 | stephanie.mathews@defence.gov.au