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**Ruling**

**Subject: Non-arm's length income and limited recourse borrowing arrangement**

**Questions**

1. If a superannuation fund (the Fund) enters into a limited recourse borrowing arrangement (LRBA) and borrows at a nil interest rate, will the discount amount of interest (that is, the difference between interest calculated using an arm's length interest rate and a nil interest rate) be considered a superannuation contribution received by the Fund?

2. Will income derived by the Fund from this nil interest rate loan arrangement as described in the facts, be non-arm's length income of the Fund pursuant to section 295-550 of the Income Tax Assessment Act 1997 (ITAA 1997)?

3. If the income derived from this nil interest rate loan arrangement is considered non-arm's length income pursuant to section 295-550 of the ITAA 1997, would this non-arm's length income' be considered a contribution to the Fund?

4. If the asset used as security is sold at a loss thereby reducing the amount due under LRBA, would the value of the shortfall in the loan repayments be considered a contribution to the Fund as a result of the debt forgiveness provisions?

**Answers:**

1. No

2. Yes

3. No

4. No

**This ruling applies for the following periods**

Year ended 30 June 2014, 2015, 2016 and 2017

**The scheme commenced on**

1 July 2013

**Relevant facts**

The Fund was established several years ago. The Fund is a regulated self managed superannuation fund (SMSF).

A private company (the Company) is the corporate trustee of the Fund. The trustee of the Fund is also the trustee of a family trust (the Family Trust), will lend between a significant amount to the Company, in its capacity as trustee of the Fund.

The directors of the Company are Taxpayer A and Taxpayer B.

The Family Trust is controlled by the members of the Fund.

Taxpayer A and Taxpayer B are the only members of the Fund.

Each member of the Fund is receiving two pensions from the Fund.

Neither member of the Fund has a superannuation interest in the Fund that is an accumulation interest.

The Fund is a 'complying superannuation fund' within the meaning of section 45 of the Superannuation Industry (Supervision) Act 1993 (the SIS Act).

At 30 June 2012, the Family Trust had total assets of a specific amount and total liabilities of almost equal value. It is stated that the Family Trust has sufficient liquid assets to make the loans to the Fund.

The amount lent will be advanced as two or more separate loans, but each loan will be made on the same terms (apart from the amount of the particular Advance and the asset purchased using that Advance).

The borrower must repay the loan as a single lump sum at the end of the loan term, or earlier as agreed between the borrower and lender (specific clauses 10 and 11 of the sample loan agreement).

No term has been specified in the sample loan agreement provided. However, the applicant's advisers have stated that the loan agreement under which the relevant monies will be advanced will have a term of several decades. They explained that the term of several decades would be a maximum period and not all money will be advanced at once.

The borrower may prepay all, or some, of the loan without any penalty on any date agreed between the lender and borrower (clause 12 of the sample loan agreement). The applicant's advisers stated that this will usually occur as particular investment opportunities arise. They indicated that most of the borrowed money would be repaid as the Fund chooses to realise particular investments.

Although the sample loan agreement contains clauses for the payment of interest on the amount borrowed (clauses 6 to 9 of the sample loan agreement) and Schedule 1 to the loan agreement refers to the interest rate as '0% or such other rate as agreed between the Lender and Borrower in writing from time to time', paragraph D of the Background recitals in the sample loan agreement states that the Lender has agreed to a nil interest rate and the applicant's advisers have stated that the loan 'would have a 0% interest rate'.

It is stated that the loan will be made on terms that ensure it satisfies the requirements of the SIS Act to be a LRBA. Clauses 28 to 29 of the sample loan agreement, however, refer more broadly to the 'Superannuation Law' as defined in that agreement.

The lender will be granted a first ranking mortgage or charge over the asset acquired with the amount borrowed (clause 14.1.1 of the sample loan agreement). The asset acquired with the borrowed amount will be held on trust for the Fund by an entity (the Custodian) that is not yet in existence (sample Declaration of the Custody Trust, paragraph C of the Background recitals in the sample loan agreement and clauses 3.2 and 3.3 of the sample loan agreement).

The lender's rights against the borrower or the Custodian in relation to any default on the borrowing (or the borrowing and charges related to the borrowing) are limited to rights relating to the acquired asset (clauses 16 and 17 of the sample loan agreement).

Although there is the ability under the sample loan agreement for the lender to require the borrower to procure the provision of a personal guarantee from each member of the Fund (in their personal capacity) as security for the borrower's performance under the loan agreement, the applicant's advisers stated that no such guarantees will be required by the lender.

The Fund will have a vested and indefeasible interest in the acquired asset and any other assets comprising the Custody Fund (which includes all the income of the Custody Trust). The Fund will be absolutely entitled to the acquired asset and any other assets comprising the Custody Fund as against the Custodian (clause 8 of the sample Declaration of Custody Trust).

The Custodian will deposit any interest, income or other proceeds that the acquired asset generates, or any accretions or accruals attributable to the acquired asset, into a bank account or accounts designated by the Fund (clauses 5 and 6 of the sample Declaration of Custody Trust).

The Custodian will be a new company. The members of the Fund will be the directors and shareholders of the trustee company.

Listed ASX shares will be acquired with the borrowed money. To comply with section 67A of the SIS Act a separate loan will be made in respect of the shares acquired in each particular company (or in each different class of shares acquired in a particular company).

All of the units to be issued by a unit trust which is to be established as part of this arrangement will be acquired with another amount of the borrowed money.The unit trust will invest the money paid to acquire the units in cash and interest bearing securities. All the units in the unit trust will be held by the Fund.

The Family Trust will lend 100% of the value of the assets to be acquired and held for the benefit of the Fund.

**Relevant legislative provisions**

Income Tax Assessment Act 1997 Section 295-545.

Income Tax Assessment Act 1997 Subsection 295-545(2).

Income Tax Assessment Act 1997 Section 295-550.

Income Tax Assessment Act 1997 Subsection  295-550(4).

Income Tax Assessment Act 1997 Subsection 295-550(5).

Income Tax Assessment Act 1997 Paragraph 295-550(5)(a).

Income Tax Assessment Act 1997 Paragraph 295-550(5)(a).

Income Tax Assessment Act 1997 Paragraph 295-550(5)(b).

Income Tax Assessment Act 1997 Subsection 995-1(1).

**Reasons for decision**

**Summary**

The discounted amount of interest is not considered a superannuation contribution.

The income to be derived by the Fund through the Custody Trust will be non-arm's length income of the Fund.

The non-arm's length income derived by the Fund from this loan arrangement is not considered a superannuation contribution.

In regard to the debt forgiven, it is the Commissioner's view that the capital of the fund has not been increased. The outstanding debt amount forgiven is equal to the asset value lost. Therefore, the forgiveness of the debt does not result in a contribution.

**Detailed reasoning**

**Whether the discounted amount of interest is a superannuation contribution?**

The Commissioner has set out his view of the meaning of contribution as it is used in relation to superannuation funds in Taxation Ruling TR 2010/1 titled Income tax: superannuation contributions. At paragraph 4 the Commissioner states:

In the superannuation context, a contribution is anything of value that increases the capital of a superannuation fund provided by a person whose purpose is to benefit one or more particular members of the fund or all of the members in general.

Therefore, for a contribution to be made to a superannuation fund the transaction must have two features. Firstly, that the transaction must increase the capital of the superannuation fund and secondly that it was the purpose of the person to benefit one or more of the members of the fund.

In this case, it needs to be determined if the capital of the fund has been increased as a result of there being no obligation to pay interest on the money borrowed under the loan contract.

The Commissioner discusses his view of the ordinary meaning of 'borrow' and 'loan' in Self Managed Superannuation Funds Ruling SMSFR 2009/2 titled Self managed superannuation funds: the meaning of 'borrow money' or 'maintain an existing borrowing of money' for the purposes of section 67 of the Superannuation industry (Supervision Industry (Supervision) Act 1993. At paragraph 48 of that ruling the Commissioner recognises that while the obligation to pay interest may evidence the existence of a borrowing or loan of money it is not a necessary feature.

The fact that there is no interest payment obligation under the loan or borrowing arrangement between the Fund trustee and the related party does not result in an increase in the assets of the Fund. Therefore the discounted amount of interest (that is, the difference between interest calculated using an arm's length interest rate and a nil interest rate) is not considered to be a superannuation contribution received by the Fund.

In addition, a saving on expense of an SMSF in the circumstances described in this case appears to be similar to the circumstances outlined in examples 2 and 5 in TR 2010/1:

Example 2 - no contribution made by a free service

� Jasmine has a self-managed superannuation fund of which she is the sole member. She is a chartered accountant and has significant experience in general accounting, taxation and superannuation matters. Jasmine prepares the accounts and income tax and regulatory return for her self-managed superannuation fund each year without remuneration.

� By ensuring the fund does not incur a liability in having the fund accounts prepared, Jasmine does not increase the capital of the fund and there is no contribution.

Example 5 - no contribution made by employer sponsor

� Mega Pty Ltd is the employer sponsor of the Mega Staff Superannuation Fund. The vast majority of Mega's current employees are members of the Mega Staff Superannuation Fund. Mega pays the wages of five individuals who are employed to provide assistance to the trustees and administrators of the fund and to assist other Mega employees with questions concerning the fund and their benefits as members. Mega Pty Ltd does not seek to recover from Mega Staff Superannuation Fund the wages paid to these individuals.

� As with Example 2, by ensuring the fund has not incurred these liabilities in operating the fund, Mega Pty Ltd does not increase the capital of the fund and there is no contribution.

Consequently, the purpose of a person in offering a low interest loan to an SMSF does not fall for consideration if there has been no increase in the capital of the Fund.

**Whether the income derived from this nil interest rate loan arrangement is considered non-arm's length income pursuant to section 295-550 of the ITAA 1997**

Section 295-545 of the ITAA 1997 provides that the taxable income of a complying superannuation fund is split into a non-arm's length component and a low tax rate component. The note to subsection 295-545(1) explains that a concessional rate of tax applies to the low tax component, while the non-arm's length component is taxed at the highest marginal rate. These rates are set out in the Income Tax Rates Act 1986.

Subsection 295-545(2) of the ITAA 1997 provides that the non-arm's length component for an income year is the entity's non-arm's length income for that year less any deductions to the extent that they are attributable to that income. The phrase 'non-arm's length income' has the meaning given by section 295-550. Subsection 295-550(5) provides that:

Other income \*derived by the entity as a beneficiary of a trust through holding a fixed entitlement to the income of the trust is non-arm's length income of the entity if:

(a) the entity acquired the entitlement under a \*scheme, or the income was derived under a scheme, the parties to which were not dealing with each other at \*arm's length; and

(b) the amount of the income is more than the amount that the entity might have been expected to derive if those parties had been dealing with each other at arm's length.

**Fixed entitlement to trust income**

Clauses 5, 6 and 8 of the sample Declaration of Custody Trust together clearly demonstrate that the Fund holds a fixed entitlement to the income of the Custody Trust for the purposes of subsection 295-550(5) of the ITAA 1997. Further, the applicant's advisers agree with that conclusion. If that conclusion were wrong, any income derived by the Fund as beneficiary of the Custody Trust would be non-arm's length income of the Fund pursuant to subsection 295-550(4).

**Scheme**

The term 'scheme' is defined in subsection 995-1(1) of the ITAA 1997 to mean:

(a) any arrangement; or

(b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

The term 'arrangement' is also defined in subsection 995-1(1) of the ITAA 1997 to mean:

any arrangement, agreement, understanding, promise or undertaking, whether expressed or implied, and whether or not enforceable (or intended to be enforceable) by legal proceedings.

The Full Federal Court in Allen v Federal Commissioner of Taxation (2011) 195 FCR 416; [2011] FCAFC 118; (2011) 2011 ATC 20-277; [2012] ALMD 3059; (2011) 84 ATR 853. (Allen) considered the term 'arrangement' as defined for the purposes of former subsection 273(7) of the Income Tax Assessment Act 1936 (ITAA 1936) - the immediate predecessor of subsection 295-550(5) of the ITAA 1997. That term was defined in terms almost identical to a combination of the definitions of 'scheme' and 'arrangement' in the ITAA 1997. The court held that the series of steps undertaken by the parties that resulted in the acquisition of a fixed interest in the trust estate and the relevant distribution of income from that trust estate were readily seen to be an 'arrangement' to which the various entities were parties, and those results were readily seen to be the consequence of that arrangement . See (2011) 195 FCR 416, at 433 - 434.

Similarly, for the purposes of applying subsection 295-550(5) of the ITAA 1997 in the present case, the scheme involves the series of steps undertaken by the parties that results in the Fund's acquisition of its fixed entitlement to the income of the Custody Trust and any derivation of income by the Fund through holding that entitlement. These steps include the establishment and operation of the LRBA between the Fund and the Family Trust (which includes the establishment and operation of the Custody Trust in favour of the Fund in respective of each of the assets acquired with the borrowed money).

Similarly further, those results are readily seen to be the consequence of the scheme. As such, it is readily concluded that, for the purposes of paragraph 295-550(5)(a) of the ITAA 1997, the Fund would acquire its fixed entitlement to the income of the Custody Trust under a scheme and any income derived through holding that entitlement would be derived under a scheme.

**Not dealing at arm's length**

Subsection 995-1(1) of the ITAA 1997 provides that in determining whether parties deal at arm's length, consider any connection between them and any other relevant circumstances.

In Federal Commissioner of Taxation v AXA Asia Pacific Holdings Ltd [2010] FCAFC 134; (2010) 189 FCR 204; (2010) 2010 ATC 20-224; [2011] ALMD 2345; (2010) 81 ATR 180, Justice Dowsett of the Full Federal Court summarised propositions which emerge from the numerous cases in which the expression 'not dealing with each other at arm's length' or similar expressions have been considered, as follows:

� in determining whether parties have dealt with each other at arm's length in a particular transaction, one may have regard to the relationship between them;

� one must also examine the circumstances of the transaction and the context in which it occurred;

� one should do so with a view to determining whether or not the parties have conducted the transaction in a way which one would expect of parties dealing at arm's length in such a transaction;

� relevant factors which may emerge include existing mutual duties, liabilities, obligations, cross-ownership of assets, or identity of interests which might enable either party to influence or control the other, or induce either party to serve a common interest and so modify the terms on which strangers would deal;

� where the parties are not in an arm's length relationship, one may infer that they did not deal with each other at arm's length, and that the resultant transaction is not at arm's length;

� however related parties may, in some circumstances, so conduct a dealing as to displace any inference based on the relationship;

� un-related parties may, on occasions, deal with each other in such a way that the resultant transaction may not properly be considered to be at arm's length. (See (2010) 189 FCR 204, at 213. Although Justice Dowsett dissented in the application of those propositions in that case, the other judges, Justices Edmonds and Gordon, did not disapprove of his summary of those propositions.)

In that case Justices Edmonds and Gordon further stated that:

Any assessment of whether parties were dealing at arm's length involves 'an assessment [of] whether in respect of that dealing they dealt with each other as arm's length parties would normally do, so that the outcome of their dealing is a matter of real bargaining': (See (2010) 189 FCR 204, at 231.) It is clear that the parties in this case are not in an arm's length relationship. Both members of the Fund are:

(a) the directors and shareholders of the private company - the corporate trustee of both the Family Trust (the lender) and the Fund (the borrower);

(b) to be the directors and shareholders of the Custodian;

(c) the only members of the Fund;

(d) objects of the Family Trust; and

(e) said to control the Family Trust.

Further, the Full Federal Court in Allen held that former paragraph 273(7)(a) of the ITAA 1936 - the immediate predecessor of paragraph 295-550(5)(a) of the ITAA 1997 - does not require that the 'dealing' consist only of the actual derivation of the income in question by 'the entity', but that the evident legislative intention of the provisions is to permit regard to be had to the totality of the steps that result in the entity's acquisition of its fixed entitlement to the income of the trust and any derivation of income by the entity through holding that entitlement. (See (2011) 195 FCR 416, at 434). In this case that means that regard may be had to the establishment and operation of the LRBA between the Fund and the Family Trust (which includes the establishment and operation of the Custody Trust in favour of the Fund in respective of each of the assets acquired with the borrowed money).

Assessing the circumstances holistically, it is clear that the parties will not be dealing with each other in respect of the LRBA as arm's length parties would do. Aspects which, taken together, the Commissioner considers lead to that conclusion include:

� the lender is not by way of the charging of interest under the loans or by any other means compensated for the opportunity cost in lending the principal or for the additional risk assumed in relation to recovery of the principal in the event of the borrower's default under a loan given the limited recourse nature of the loans and lack of other security;

� rather than regular periodic repayments of the principal sum, only a single lump repayment at the end of a loan term, which could be as much as several years, is required;

� 100% of the value of the assets to be acquired will be lent, rather than a lower loan to value ratio given the nature of the assets to be acquired with the borrowed funds, namely shares and units in a unit trust, and given the limited recourse nature of the loans;

� no insistence by the lender on the giving of personal guarantees by the members of the Fund as security for the borrower's performance under the loans; and

� the absence of mechanisms in the lender's favour to protect the underlying value of the units in a private unit trust to be acquired with the borrowed funds, particularly given the limited recourse nature of the loans, lack of other security, and the kind of 'cash' assets in which the unit trust proposes to invest.

**Amount of income greater than might be expected if dealing at arm's length**

The final requirement of subsection 295-550(5) of the ITAA 1997, which is set out in paragraph 295-550(5)(b), is that the amount of the income (derived by the entity as a beneficiary of a trust through holding a fixed entitlement to the income of the trust) is more than the amount that the entity might have been expected to derive if the parties had been dealing with each other at arm's length.

If the parties in this case were dealing with each other at arm's length, the amount of income the Fund might be expected to derive through the Custody Trust is either:

Ÿ nil - on the basis that no lending on the proposed terms by the Family Trust might be expected and therefore no income might be expected to be derived by the Fund through the Custody Trust; or

Ÿ is less than under the proposed arrangement - on the basis that the Family Trust might be expected to lend on commercial terms that involve lower than 100% loan to value ratios given the nature of the assets to be acquired with the borrowed money and the limited recourse nature of the loans. Therefore, the substantially lower borrowed amounts available to be invested might be expected to generate less income to be derived by the Fund through the Custody Trust than under the proposed arrangement.

Either way, the final requirement of subsection 295-550(5) of the ITAA 1997 is satisfied.

**If the income derived from this loan arrangement that has a nil interest rate is considered a non-arm's length income pursuant to section 295-550 of the ITAA 1997, would this non-arm's length income' be considered a contribution for the Fund?**

As discussed previously, whether an amount is considered to be a contribution depends on whether the capital of the superannuation fund is increased and whether the person's intention in increasing the capital of the fund is for benefiting one or more particular members or all of the members in general.

Paragraphs 6 to 9 of TR 2010/1 explains that:

6. Not every increase in the capital of a fund is a superannuation contribution as a person who increases a fund's capital must have the purpose of benefiting one or more particular members of the fund or all of the members in general.

7. A person's purpose is the object which they have in view or in mind. Generally, a person will be said to intend the natural and probable consequences of their acts and likewise their purpose may be inferred from their acts. This is a determination of a person's objective purpose, not their subjective intention.

8. A person will not normally have a purpose of benefiting a member of the fund if the transaction they carry out is in no way dependent upon the identity of the other party as a superannuation provider or they are simply fulfilling the terms of a contract or arrangement entered into on a commercial or arm's length basis.

9. By contrast, an objective determination of a person's purpose may in some cases lead to the conclusion that the person's purpose is to benefit one or more particular members of the fund or all of the members in general. This may occur when a transaction or arrangement is entered into because of a connection or relationship between the person and the superannuation provider or cannot be explained by reference to commercial or arm's length dealings.

On the facts, the transactions that increase the value of the Fund's asset are the payments resulting from the investments in the shares and the related unit trust. An objective determination of a person's purpose is that the payments made in relation to these assets has no purpose other than to provide a commercial based return on the investment made.

As mentioned previously, the Fund holds a fixed entitlement to the income of the Custody Trust for the purposes of subsection 295-550(5) of the ITAA 1997. Consequently, the income received would be an amount that is distributed from a fixed trust under the terms of the deed and the actual distributable income would be the earnings from the arm's length underlying investment. Therefore, it could not be said that it is something paid for the purposes of providing superannuation benefits to the members. It is the Commissioner's view that the income derived, simply a receipt of income from an investment and would therefore not be a contribution.

**If the asset used a security is sold at a loss reducing the amount due under LRBA, would the value of the shortfall in the loan repayments be considered a contribution to the Fund as a result of the debt forgiveness provisions?**

Generally, the SIS Act prohibits a trustee of a superannuation fund from borrowing money, there are a few limited exceptions. A question has arisen as to whether a contribution would be made if a lender were to forgive the debt of a trustee, particularly in relation to the LRBA covered by subsection 67(4A) of the SIS Act.

For the LRBA exception in section 67A of the SIS Act to apply, the money borrowed is applied for the acquisition of a single acquirable asset and that asset is held in a holding trust. Under the arrangement the Fund trustee acquires a beneficial interest in the asset. Pursuant to paragraph 67A(1)(d), in the event that the Fund trustee defaults on the loan any recourse that the lender has under the arrangement against the Fund trustee is limited to rights relating to the acquirable asset.

In the LRBA case described, the single acquirable asset is sold and the proceeds applied to reduce the amount of the loan outstanding, but did not extinguish it completely. Nevertheless, the LRBA between the Fund trustee and the related party lender, the lender is unable to take any further recovery action to recover the outstanding amount from the Fund trustee. Consequently, by operation of the LRBA contract the loan amount outstanding after the proceeds from the sale of the asset is offset against the amount outstanding is forgiven.

In this case, the rights of the lender in the event of default by the borrower are set out in section F in the terms of the sample loan agreement. To satisfy the section 67A of the SIS Act these must limit the rights of the lender to the single acquirable asset held in the holding trust.

In the event that the Fund trustee defaults and the lender receives less from the sale of the asset in the holding trust than the outstanding loan balance, they have not forgiven the loan, they have pursued their rights to the full extent available under the loan arrangement. Therefore, the capital of the fund has not been increased. The outstanding debt amount forgiven is equal to the asset value lost. In this instance, the forgiveness of the debt does not result in a contribution. This circumstance described is specifically covered in paragraph 180 of TR 2010/1 which states:

Similarly, the capital of the fund would not be increased when a lender exercises their right of recourse against the asset in circumstances where the value of the asset is less than the amount outstanding on the loan. This will be so even if the lender exercises both the right of recourse against the asset and requires a guarantor to satisfy any difference between the value of the asset and the outstanding loan amount.

However, the above answer would be different if the lender actually did forgive the loan without pursuing its right to the asset.

**Other relevant Comments**

**Legislative intent**

This conclusion is entirely consistent with the legislative intent of section 295-550 of the ITAA 1997 and its predecessors.

The earliest predecessor of section 295-550 of the ITAA 1997 - former section 23F of the ITAA 1936 - was introduced in 1964 as a result of the Report of the Commonwealth Committee on Taxation, 1961 (the Ligertwood Report) which recommended legislative amendments to counter the numerous ways identified by the Committee in which a taxpayer could constitute a superannuation fund with income, that would have accrued to the taxpayer in the ordinary course of events, and thus be received virtually tax free. See Ligertwood Report [740] & [741].

Of particular relevance to the circumstances of this case was the second example given in the Ligertwood Report of a situation which the recommended legislation was to address:

"A director-controlled superannuation fund is set up by a private company, primarily for the benefit of those employees who are also shareholders and directors. The directors then cause the company to make interest-free loans to the fund which invests the proceeds. The income derived by the fund from its investments is exempt under Section 23(j) and when this income is eventually paid to the directors in a lump sum on their retirement, only 5 per cent thereof will be taxed in the hands of the beneficiaries or alternatively the amount may be wholly free from tax". See Ligertwood Report [740(2)].

Further, the Full Federal Court in Darrelen Pty Ltd v Federal Commissioner of Taxation [2010] FCAFC 35; (2010) 2010 ATC 20-180; (2010) 183 FCR 237; [2010] ALMD 4701; (2010) 78 ATR 916 stated that the policy underlying former section 273 of the ITAA 1936, and its predecessors, is to enable the Commissioner to deny the concessional taxation of income which has been diverted from taxpayers not enjoying that status.

Similarly, the Explanatory Memorandum to the Superannuation Legislation Amendment Bill (No.2) 1999 which inserted former subsections 273(6) and (7) of the ITAA 1936 - the immediate predecessors of subsections 295-550(4) and (5) of the ITAA 1997 - explained at paragraph 2.13 that:

Section 273 is designed to prevent income from being unduly diverted into superannuation entities as a means of sheltering that income from the normal rates of tax applying to other entities, particularly the marginal rates applying to individual taxpayers.

The main effect of the scheme in this case, being the movement of income producing capital through a non-arm's length dealing from entities who would pay marginal or company tax rates on such income into the concessionally taxed superannuation fund is clearly intended to be addressed by section 295-550 of the ITAA 1997 and its predecessors.