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**Re: Superannuation Law Amendments
Same Sex Couples**

The purpose of this letter is to bring to your attention the amendments to the superannuation law requiring regulated superannuation funds to recognise same-sex relationships. The changes amend tax law affecting super death benefits, death benefit termination payments and other Acts that regulate the super industry.

The amendments are:

- The definitions of 'spouse', 'child' and 'relative' in the Superannuation Industry (Supervision) Act 1993 and other super laws *include same-sex partners and their children*;
- The definitions of 'dependant' and 'spouse' in the income tax laws *include same-sex partners and their children for anti-detriment payments a super fund makes*; and
- Same-sex partners and their children under 18 years are treated as dependants for the purposes of taxing super death benefits.

Receipt of Lump Sums

The dependant of a member in a same-sex relationship is able to receive a super lump sum death benefit tax free.

The dependant of a member in a same-sex relationship may now qualify to receive a death benefit as an income stream. The tax treatment depends on:

the deceased member's age when they died;
the dependant's age when the member died; and
whether the fund was a taxed or untaxed fund.

When a member of a same-sex couple makes contributions to their partner's super, the contributions are non-concessional contributions and the super fund should not include them in assessable income nor pay income tax on the contributions. This change applies to contributions made from 1 July 2009.



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Reporting of Spouse Contributions

From 1 July 2009 all super funds must report contributions for a same-sex spouse in the same way they currently report contributions for a different-sex spouse.

Trustees of SMSFs will need to report contributions made for a member by their same-sex spouse.

Super funds can now accept contributions-splitting applications from people in same-sex relationships. 'Contributions splitting' allows a super fund member to apply to their fund to transfer certain concessional contributions made for the member's benefit (commonly employer contributions) to their spouse's super account. This allows the member to boost their same-sex partner's retirement savings. Despite being transferred, all of these split contributions will continue to count towards the member's own concessional contributions cap, rather than that of their spouse.

Please contact our office should you need clarification of the issues raised above or if you should require further information.

Yours sincerely

Steve Vlahos

This letter serves to provide information to address with your superannuation advisor

