

# CORRS IN BRIEF

13 MAY 2009

## SUPERANNUATION REFORMS CONTINUE: FEDERAL BUDGET 2009-2010

### CONCESSIONAL CONTRIBUTIONS

The concessional contributions cap of \$50,000 per annum which was introduced with effect from 1 July 2007 has been halved to \$25,000 per annum (the cap will be indexed). The transitional concessional contributions cap which exists until 30 June 2012 for those aged 50 to 74 has also been halved from \$100,000 to \$50,000 per annum (this transitional cap will not be indexed). These changes will take effect from 1 July 2009.

Concessional contributions are often described as "deductible contributions" on the basis that the contributor (typically an employer) is entitled to a full deduction for the amount of the concessional contribution. An employer can contribute in excess of the caps and still obtain a deduction for the full amount of the contribution, however an excess concessional contributions tax of 31.5% (in addition to the 15% contributions tax) is levied on the employee.

The non-concessional contributions cap remains unchanged at \$150,000 for the 2009-10 income year (or \$450,000 over 3 years). This cap will only increase as and when the new concessional contributions cap of \$25,000 is increased due to indexation.

The concessional contributions amount for defined benefit superannuation funds is calculated under the tax regulations and referred to as "notional taxed contributions". It is unclear how the changes will impact defined benefit funds where the "notional taxed contributions" exceed the new concessional contributions caps.

The Government estimates that this measure will save approximately \$2.8 billion over the forward estimates period and will *"introduce greater equity into the system by targeting reductions at those with relatively more private resources so the impact will be predominantly on higher income earners."*

### ACCOUNT-BASED PENSIONS

The statutory rules for account-based pensions and annuities specify minimum payment standards with the minimum payment calculated according to a specific formula. In short, the minimum

#### What are the key superannuation changes?

The pace of reform for superannuation looks set to continue with a number of significant changes to superannuation announced in the 2009-2010 Federal Budget.

In summary, the changes include:

- bringing to an early end the transitional period for people aged 50 or over to contribute up to \$100,000 per annum as concessional contributions and reducing that cap to \$50,000 per annum until 30 June 2012;
- a reduction in the concessional contributions cap for people aged under 50 from \$50,000 to \$25,000 per annum;
- an extension of the draw-down relief for account-based pensions in the 2009-2010 income year;
- a temporary reduction in the matching rate for the Government's co-contribution scheme, beginning with a rate of 100% (ie \$1.00 for each dollar of eligible personal contributions) until 30 June 2012;
- an amendment to the unclaimed money regime with a requirement to pay small and lost accounts as unclaimed money; and
- an extension of the CGT rollover relief for superannuation fund mergers.

The Government has also released the report from Australia's Future Tax System Review Panel into strategic issues for the retirement income system in Australia which recommends an increase in the preservation age to 67 years and the retention of the 9% rate for superannuation guarantee contributions.

Finally, employers should consider the superannuation guarantee implications of the Paid Parental Leave initiative in light of the ATO's view of ordinary time earnings. Further changes are likely in relation to the ATO's view of ordinary time earnings and we will provide more details as they become available.

#### Who do the changes impact?

The changes are far-reaching and have significant impacts on a wide range of stakeholders within the superannuation industry including superannuation funds, fund staff and members, trustees, administrators, self-funded retirees, employers and employees.

#### What do you need to do?

Consider the impact of the changes on your business. All forms of member and employee communication items such as product disclosure statements, member booklets, annual reports, web content, policies and procedures (eg handling of unclaimed money), and salary sacrifice arrangements are likely to warrant revision in light of the proposed changes. We can help you unravel some of the complexities associated with the reforms and their impact on your business.

payments are calculated by reference to age and the value of the member's account balance as at 1 July each year.

Earlier this year, the Government acknowledged that most pensioners and annuitants had been adversely impacted by the current downturn in global financial markets in terms of their pension and annuity account balances since 1 July 2008. In turn, the Government announced temporary legislative relief in response to these issues which reduced by 50% the minimum annual payments for account-based pensions and annuities for the 2008-09 income year.

The Government has extended the drawdown relief and confirmed that it will continue to apply for the 2009-10 income year in respect of account-based, allocated and market-linked (term allocated) pensions. This Budget measure is likely to be welcomed by self-funded retirees on the grounds that the global downturn is likely to have generated significant capital losses for these retirees. The relief will lessen the need for self-funded retirees to sell assets at a loss to otherwise meet the minimum withdrawal requirements. This measure is estimated to cost \$27 million over 2 years.

## GOVERNMENT CO-CONTRIBUTION SCHEME

The Government has announced that with effect from 1 July 2009, it will temporarily reduce the matching rate and the maximum co-contribution payable on eligible personal superannuation contributions.

At present, the maximum co-contribution is 150% of the eligible personal contributions a person makes during the income year (up to a maximum of \$1,000 of personal contributions). This means that if an employee is earning less than \$30,342, a \$1,000 personal contribution will attract a \$1,500 Government co-contribution. The maximum amount of \$1,500 phases out by 5 cents per dollar of income so that when the contributor's income is \$60,342 or more, the Government co-contribution is nil.

As part of this Budget measure, the Government has announced it will reduce its matching of super contributions by workers earning less than \$60,342 from \$1.50 for every dollar contributed to:

- \$1.00 for every dollar contributed for the 2009-10, 2010-11 and 2011-12 income years (a matching rate of 100%);
- \$1.25 for every dollar contributed for the 2012-13 and 2013-14 income years (a matching rate of 125%); and
- \$1.50 for every dollar contributed from 2014-15 onwards (a matching rate of 150%).

The effect of this is that employees earning less than \$30,342 who contribute \$1,000 from their post-tax income will see their co-contribution reduce from a maximum of \$1,500 this income year to \$1,000 for the next three income years (assuming their income level remains the same).

## SMALL / LOST ACCOUNTS AND UNCLAIMED MONEY

The Government has made no secret of its alarm at the growing number of small and lost superannuation accounts in the system. As a response to this, it has announced that from 1 July 2010, superannuation funds will be required to transfer to the ATO as unclaimed monies, those accounts:

- with balances less than \$200 (referred to as "small accounts"); and
- which have been inactive for a period of 5 years and have insufficient records to identify the owner of the account.

Former holders of these accounts will still be able to reclaim their money from the ATO.

This is a significant departure from the current rules which only permit lost account balances to be paid as unclaimed money when a member reaches age 65 and cannot be found by a fund trustee, or when a member dies and the trustee cannot ensure the benefit is likely to be received by the person entitled to the death benefit. Superannuation funds and their administrators will need to closely examine the detail associated with this initiative (in particular, what amounts to an "inactive account") and revise existing policies and procedures in advance of 1 July 2010 when the new regime commences.

## CGT ROLLOVER RELIEF

The Government has enhanced the CGT loss roll-over relief it announced on 23 December 2008 in relation to superannuation fund mergers.

In summary, the relief will permit:

- merging superannuation entities in a net capital loss position to elect to roll over assets with accrued capital gains as well as assets with accrued capital losses; and
- the transferring superannuation entity's previously realised net capital losses to be transferred to the continuing superannuation entity and the rollover or transfer of revenue losses to the continuing entity.

The roll-over relief will be extended by one year to 30 June

2011 and will now also apply to mergers involving pooled superannuation trusts and the complying superannuation business of life insurance companies. These extensions of the existing relief will no doubt find favour in the industry and potentially facilitate further consolidation between some funds who would otherwise be hampered by the significant tax disadvantages associated with a merger.

## AUSTRALIA'S FUTURE TAX SYSTEM REVIEW PANEL

Concurrent with the Budget, the Government launched a Report on the retirement income system prepared by the Australia's Future Tax System Review Panel. [Click here](#) for a copy of the report.

The Review Panel made a number of recommendations in the Report, including the following:

- the existing 3-pillar structure of Australia's retirement income system should be retained – consisting of a means tested Age Pension, compulsory saving through the superannuation guarantee system, and voluntary savings for retirement;
- the current superannuation guarantee system provides an adequate rate of compulsory saving and should be retained at 9%; and
- the age at which Australians can access their superannuation (ie the preservation age) should be gradually increased to 67 years (which complements the Government's policy decision to adopt the Report's recommendation to increase the Age Pension age to 67 years).

The change in the preservation age to 67 years and retention of a 9% rate for superannuation guarantee contributions is likely to generate considerable debate within the superannuation industry with a plethora of differing views on the merits of such proposals. This measure is closely aligned with the Government's plan to progressively increase the Age Pension age to 67 by 2023, starting with a phased introduction and a new Age Pension age of 65.5 from 1 July 2017.

## PAID PARENTAL LEAVE AND ORDINARY TIME EARNINGS

Employers should be mindful of the Paid Parental Leave

initiative (designed to commence with effect from 1 January 2011) which was announced 2 days prior to the Budget and the impact on them in terms of their potential superannuation obligations. In the Budget Papers, reference is made to the ATO's advice to the Government that salary paid on parental leave and other ancillary leave payments are "ordinary time earnings" for superannuation guarantee purposes. In other words, an employer should take into account paid parental leave when calculating their 9% compulsory superannuation guarantee contributions for employees.

Whilst the Budget pronouncements are consistent with a view expressed by the ATO in draft *Superannuation Guarantee Ruling 2008/D2*, they represent a noteworthy departure from the ATO's view in the existing *Superannuation Guarantee Ruling 1994/4* on the meaning of ordinary time earnings. If the view is finalised as part of the new ruling, employers will no doubt need to consider their existing policies and possibly revise their approach to this issue.

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