



# Technical Update

## 2009 Federal Budget summary

13 May 2009

**In one of the most eagerly anticipated Budgets in decades, the Federal Government announced a range of measures of interest to advisers and clients including:**

- Halving the cap on concessional super contributions.
- Temporarily reducing the super co-contribution.
- Halving the minimum drawdown rates for account-based super pensions for 2009/10.
- Removing tax deferral for shares issued under Employee Share Schemes.
- Retention of previously legislated personal income tax cuts and low income tax offset changes.
- An increase to the maximum Age Pension payment for singles and couples.
- A phased increase in the Age Pension age to 67.
- Introduction of a Government funded paid parental leave scheme.
- Introduction of a means test for the private health insurance rebate.
- Abolition of the Pension Bonus Scheme (excluding registered participants).
- Removal of tax-free super/pension payments from the Commonwealth Seniors Health Card income test.

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## Superannuation changes

### Reduction in contribution caps

*Date of effect: 1 July 2009*

The concessional contribution (CC) caps for those under and over age 50 will be halved from 1 July 2009. As a consequence of these changes, the annual non-concessional contribution (NCC) cap will become six times the CC cap (as it applies to those under age 50). The table below shows the caps for the current financial year, those that were scheduled to apply for 2009/10 and the new reduced caps for 2009/10.

Contribution cap	2008/09	2009/10 (before Budget)	2009/10 (after Budget)
<b>Concessional contributions (CC) cap</b>			
<ul style="list-style-type: none"> <li>• Under age 50<sup>1</sup></li> <li>• Over age 50 (until 30/6/2012)<sup>2</sup></li> </ul>	\$50,000 \$100,000	\$55,000 \$100,000	\$25,000 \$50,000
<b>Non-concessional contributions (annual NCC) cap<sup>3</sup></b>	\$150,000	\$165,000	\$150,000
<b>3-year NCC cap<sup>4</sup></b>	\$450,000	\$495,000	\$450,000
<b>CGT cap<sup>1</sup></b> (lifetime limit for eligible business owners)	\$1,045,000	\$1,100,000	\$1,100,000

<sup>1</sup> These thresholds are indexed in line with movements in Average Weekly Ordinary Time Earnings (AWOTE) in increments of \$5,000 (rounded down).

<sup>2</sup> This cap is not indexed.

<sup>3</sup> This cap is equal to six times the CC cap from 1 July 2009. It will change when the CC cap is indexed.

<sup>4</sup> This cap only applies to individuals less than 65 on the first day of the financial year. The year in which the 3-year cap is initially triggered determines the value that can be contributed during the 3-year period.

The reduction to the CC cap will affect salary sacrifice and transition to retirement pension strategies. In addition, the NCC cap will not be increased for 2009/10. Grandfathering arrangements will apply to ensure that the employer funding rate for existing defined benefit arrangements in place at 12 May 2009 are deemed to meet the new reduced cap.

#### Comments:

- Clients have six weeks to make the most of the higher 2008/09 CC cap. For this purpose, contributions must be received and recorded by the fund no later than 30 June 2009.
- From Budget night to the end of June, advisers should give priority to the following:
  - Check clients' year-to-date CC contributions<sup>1</sup> and have those under the relevant threshold consider making the most of the current year caps.
  - Some clients may wish to implement a prospective salary sacrifice arrangement for the remaining six weeks of this financial year, or if they are eligible, make personal contributions up to the CC cap for which they can claim a tax deduction.
  - Clients eligible to claim a deduction for personal contributions may wish to consider selling CGT assets (such as shares) and contributing the proceeds to super before 30 June 2009. That is, make a personal deductible contribution up to the higher 2008/09 CC cap to reduce or eliminate any CGT liability.
  - For funds with reserves (especially SMSFs), consider distributing reserves before 30 June 2009, especially if the amounts will count towards the CC cap.

<sup>1</sup> Refer to page 23 of MLC's [Facts and Figures 2008/2009](#) guide at [mlc.com.au](http://mlc.com.au).

**Note:** The rules are complex but in most cases amounts distributed from fund reserves would count toward the CC cap unless they are explicitly related to certain pension liabilities, or are considered to be fair and reasonable and represent less than 5% of each of the receiving member's entitlements respectively.

- From 1 July 2009, ensure clients reduce any salary sacrifice arrangements so that their total concessional contributions do not exceed \$25,000 if under age 50, or \$50,000 if age 50 or over. It is very important to take into account employer contributions made under Superannuation Guarantee (SG) requirements, voluntary employer contributions or employer contributions separately made for insurance cover within super or for super fees. The consequence of exceeding the CC cap is that the client is liable for an additional 31.5% tax (and the excess also counts toward their NCC cap).
- The reductions to the caps make it less likely that older individuals can top up their super benefit in the years immediately preceding retirement. Younger people will therefore need to contribute more over their lifetimes despite competing priorities of home and family.
- The strategy of combining salary sacrifice with a transition to retirement pension may become less attractive given the reduction in the CC cap (see example below).
- The halving of the transitional CC cap of \$100,000 (originally intended to apply for five years up to 30 June 2012), means that individuals who are 50 or over at 1 July 2009 have a reduction to the maximum they can contribute of \$150,000 (ie three years worth of CC contributions at \$50,000 instead of \$100,000).
- The grandfathering of the notional concessional contribution rate for defined benefit funds is likely to be similar to the rules introduced as part of the contribution cap regime. Salary sacrifice amounts above the grandfathered funding rate would be caught by the new rules if they exceeded the cap.

**Example: Transition to retirement**

John, aged 55, earns a salary of \$90,000 pa and receives 9% SG contributions from his employer. He wants to commence a transition to retirement pension (TRP) on 1 July 2009 and would like to salary sacrifice \$30,000 pa (or the maximum amount he can up to his concessional contribution (CC) cap).

He currently has \$300,000 in super, which he will use to purchase the TRP, and will draw enough income from the pension each year to maintain his after-tax income of \$67,000 pa. Based on the proposal to halve the CC cap, John will only be able to salary sacrifice \$30,000 for the first three years<sup>2</sup>. After year three, he will need to sacrifice a smaller amount equal to the difference between the reduced CC cap (indexed) and his SG contributions.

As the following table shows, although this strategy will still increase John's retirement savings (compared to not doing the strategy at all), it will be less attractive following the Government's decision to reduce the CC cap.

Value of investments					
After year	Without strategy	With strategy (before Budget)	Value added by strategy (before Budget)	With strategy (after Budget)	Value added by strategy (after Budget)
1	\$331,175	\$334,813	\$3,638	\$334,813	\$3,638
5	\$482,887	\$504,301	\$21,414	\$502,468	\$19,581
10	\$751,588	\$831,808	\$80,220	\$818,021	\$66,433

**Assumptions:** The analysis uses the personal tax rates applying from 1 July 2009. John's super consists entirely of the taxable component. He continues to receive 9% SG contributions based on his package of \$90,000 pa, even when he salary sacrifices into super. Both the super and TRP investment earn a total pre-tax return of 8% pa (split 3.5% income and 4.5% growth). Investment income is franked at 30%. John receives a tax-free income from the TRP from age 60. Salary doesn't change over the 10-year period. Neither the super nor TRP investment are cashed out.

<sup>2</sup> This differs to the pre-Budget position, where John would have been able to salary sacrifice \$30,000 each year for 10 years.

### Example: Lower CC cap

Paul, aged 47, is employed and earns a salary of \$100,000 pa. Before the Budget changes were announced, Paul intended to make salary sacrifice contributions (starting in the 2009/10 financial year) to take full advantage of his indexed CC cap of \$55,000. Given Paul's employer makes SG contributions of \$9,000, he planned to sacrifice \$46,000 in 2009/10.

Following the Government's proposal to halve the CC cap to \$25,000 (indexed), Paul will only be able to salary sacrifice up to \$16,000 in 2009/10 (ie \$25,000 - \$9,000). As he had intended to make full use of the previous indexed CC cap of \$55,000, he still has \$30,000 in pre-tax salary he could use to boost his retirement savings.

He therefore decides to invest the after-tax equivalent of \$19,800 pa in super as a personal after-tax (non-concessional) contribution. The table below shows how this revised approach would compare to his original strategy if implemented over a ten-year period. In this example, Paul would be around \$100,000 worse off as a result of this change.

	Salary sacrifice up to former CC cap	Salary sacrifice up to reduced CC cap plus after-tax contributions
Value of investment after 10 years	\$755,548	\$655,431

**Assumptions:** A 10-year comparison. Both Paul's salary and the CC cap is indexed at 3% pa. The pre-tax investment return is 8% pa (split 3.5% income and 4.5% growth). Investment income is franked at 30%. All figures are after income tax (at 15% in super) and capital gains tax (including discounting). The analysis uses the personal tax rates applying from 1 July 2009 when determining the after-tax amount he invests in super each year as a personal after-tax contribution (in the post-Budget scenario only). These rates are assumed to remain constant over the investment period. Lump sum tax is ignored, as both investments are held in super.

### Reduced Government co-contribution

*Date of effect: 1 July 2009 – 30 June 2014*

As anticipated, there has been a reduction to the maximum rate and amount of Government co-contributions for eligible clients who make personal after-tax contributions to super. This is a temporary reduction and applies in the five years from 2009/10 to 2013/14. From 2014/15 the co-contribution again increases to a maximum of \$1,500. The reduction to the maximum rate and amounts of the Government co-contribution are summarised in the table below.

Contribution year	Matching rate %	Maximum co-contribution
2009/10	100%	\$1,000
2010/11	100%	\$1,000
2011/12	100%	\$1,000
2012/13	125%	\$1,250
2013/14	125%	\$1,250
2014/15 onwards	150%	\$1,500

### Example: Government co-contributions

Sarah, aged 55, is employed and earns \$35,000 pa. She would like to invest \$1,000 a year for five years and is considering the following options:

1. Investing outside super in a unit trust, or
2. Investing inside super and receiving a Government co-contribution each year.

As the table below shows, although Sarah will still be better off investing in super, she will have \$2,078 less for her retirement as a result of the proposal to reduce the maximum co-contribution on a sliding scale.

	Invested outside super	Invested in super (before Budget)	Invested in super (after Budget)
Co-contribution – year one <sup>1</sup>	Nil	\$1,313	\$875
Value of investment after 5 years	\$5,849	\$13,590	\$11,512

<sup>1</sup> The co-contribution amounts are calculated using the lower threshold of \$30,342 which applies in the 2008/09 financial year, indexed by 3% pa.

**Assumptions:** A five-year comparison based on an after-tax investment of \$1,000 pa. The super investment (only) attracts a co-contribution. The pre-tax investment return is 8% pa (split 3.5% income and 4.5% growth). Investment income is franked at 30%. All figures are after income tax (at 15% in super and 31.5% outside super) and capital gains tax (including discounting). These rates are assumed to remain constant over the investment period. No lump sum tax is payable by Sarah as she will be age 60 in five years time.

## Pension drawdown relief continued

*Date of effect: 1 July 2009 – 30 June 2010*

In a press release on 18 February 2009, the Government announced that clients in account based pensions, allocated pensions and term allocated pensions (TAPs) would only be required to draw down half their calculated minimum income requirement<sup>3</sup> for 2008/09. This relief has been extended for a further 12 months to 30 June 2010.

The reduced drawdown rates are set out in the table below.

Age at start of pension and each 1 July	Original percentage of account balance (pa)	Reduced drawdown % for 2009/10
Under 65	4%	2%
65-74	5%	2.5%
75-79	6%	3%
80-84	7%	3.5%
85-89	9%	4.5%
90-94	11%	5.5%
95 or more	14%	7%

### Comments:

- Advisers will need to assess whether clients on 'minimum' payments wish to reduce to the new 'halved' minimum. Many funds will default to the original minimum so new or amended instructions may be required. Clients signing up on pension Product Disclosure Statements which have the original rules may need to ensure they provide a written notice stating they wish to receive the reduced minimum for 2009/10.
- As with drawdown relief for 2008/09, it is unclear from the Budget statements whether the relief would extend to lifetime and fixed term defined benefit pensions in SMSFs.

<sup>3</sup> Subject to fund rules, for account based pensions, the minimum payment requirement is based on both regular income payments and lump sum withdrawals. The reduced drawdown requirements also apply to equivalent annuities.

## **Portability of super between Australia and New Zealand**

*Date of effect: Unknown*

The Australian and New Zealand Governments have agreed to establish a portability scheme that would allow members of funds in each country to transfer their super benefits between complying superannuation entities in each jurisdiction.

This measure is intended to support moves to generate a single economic market between Australia and New Zealand.

### **Comments:**

- It is unclear whether there would be a tailoring of laws in each country toward a broadly consistent regime – particularly in relation to contribution eligibility rules, tax treatment of contributions and benefits, and access ages or restrictions.
- Unless uniform rules are introduced, presumably the tax treatment that applies to benefits would be that of the country of residence of the client for tax purposes. So, if an NZ citizen moved to Australia and transferred their NZ benefit to an Australian complying scheme, they would be taxed on the benefit under Australian rather than NZ rules, regardless of the concessions (or not) that may have applied to the contributions and earnings accrued in the NZ arrangement.
- It is unclear whether the contribution caps would be modified for transfers of NZ entitlements to Australia. In Australia, presumably the Government would want to mitigate activities that effectively circumvent the contribution caps. That is, disallow Australians accumulating a large entitlement in NZ with the intent of transferring it to Australia pre retirement where earnings related to pensions are exempt in the fund and benefits tax free from age 60.
- It is not clear whether the tax component data from each country would need to be recorded in case the client wanted to re-transfer their benefits to the other country.

## **Payment of small accounts to the ATO**

*Date of effect: 1 July 2010*

The Government has announced that the following accounts will need to be transferred to the ATO:

- Accounts with balances under \$200 related to clients identified as 'lost', and
- Accounts that have not been active for five years (no contributions or withdrawals) where the fund cannot identify the owner.

Currently, super providers are only required to transfer lost or inactive accounts when they are classed as unclaimed benefits from age 65, or they relate to unclaimed temporary resident benefits.

### **Comment:**

Clients with insurance being funded from an accumulated entitlement may want to ensure their contact details are up-to-date.

## **Super Guarantee and Ordinary Time Earnings**

The ATO is due to issue its final ruling on Ordinary Time Earnings (OTE) which, from 1 July 2008, is the minimum amount on which an employer must calculate their SG liability. This ruling is due to be released on 13 May 2009 and will include salary paid while on parental leave and other ancillary leave payments in the definition of OTE for SG purposes.

However, the Government intends to make it clear that SG contributions based on OTE will not need to include such leave payments at least until the end of the review period for the paid parental leave scheme in 2013.

## Personal taxation changes

### First Home Owners Boost extended

*Date of effect: Current*

The First Home Owners Boost will be extended until 31 December 2009, but at a lower rate from 1 October 2009. Eligible first home buyers entering into contracts between 1 July 2009 and 30 September 2009 (inclusive) will receive a total of \$14,000 for established homes and \$21,000 for new homes.

Eligible first home buyers entering into contracts between 1 October 2009 and 31 December 2009 (inclusive) will receive a boost of \$3,500 for the purchase of established homes and \$7,000 for the purchase of new homes. When combined with the existing First Home Owners Scheme, eligible participants will receive a total of \$10,500 for established homes and \$14,000 for new homes during this period.

### Paid parental leave scheme introduced

*Date of effect: 1 January 2011*

This Government funded scheme will apply to parents in respect of births and adoptions that occur on, or after, 1 January 2011.

The scheme will provide 18 weeks of leave paid at the 'federal minimum wage', which is currently \$543.78 per week. The payments under the scheme will be included in taxable income. To be eligible for the scheme, a parent in paid work must have:

- Worked continuously with one or more employers for at least 10 of the 13 months before the expected date of birth or adoption,
- Worked at least 330 hours in those 10 months, which is equivalent to around one full day of work each week, and
- An adjusted taxable income of \$150,000 or less in the financial year prior to the date of birth or adoption of the child.

The scheme is in addition to any employer funded parental leave and will be available to contractors, casual workers and the self-employed.

Parents who receive paid parental leave will not receive the Baby Bonus (except in the case of twins or multiple births) or Family Tax Benefit Part B during the 18 week paid parental leave period.

People who elect not to receive paid paternity leave or who don't qualify will continue to receive the current forms of family assistance such as the Baby Bonus, where eligible.

SG will not apply to payments under the paid parental leave scheme, although this will be considered when the scheme is reviewed three years after commencement (in 2013).

### Employee share scheme changes

*Date of effect: 12 May 2009*

Shares and rights issued as part of an employee share scheme will be taxed in the year of receipt. This means employees who receive salary through discounted company share packages will no longer be able to defer paying tax on the discount. Additionally, the current exemption for the first \$1,000 of shares issued will be limited to people with an adjusted taxable income of less than \$60,000.

#### **Comment:**

The requirement to pay tax upfront makes employee shares schemes a much less attractive remuneration option. Employers and employees should review the impact on existing schemes and make appropriate changes to remuneration options. Additional complexity will apply to members of foreign schemes.

## Tax on foreign employment income changed

*Date of effect: 1 July 2009*

The exemption for certain foreign employment income earned by Australians working overseas for a continuous period of 91 days or more will only apply to income earned:

- As an aid worker,
- As a charitable worker,
- Under certain types of Government employment, or
- On projects that are in the national interest.

Other forms of foreign employment income will generally become taxable and taxpayers will be entitled to a foreign income tax offset for foreign tax paid on this income, which will relieve double taxation for these individuals.

### **Comment:**

This announcement may impact employees engaged in foreign service (eg international assignees), in particular those employees working in jurisdictions with lower personal income tax rates than Australia. Becoming a non-resident for tax purposes will become more attractive from a tax perspective.

## Private health cover rebate and Medicare levy surcharge changes

*Date of effect: 1 July 2010*

The following private health insurance rebate and Medicare levy surcharge rates will apply to higher income earners in 2010/11 and future years:

Income levels <sup>1</sup>	Private health insurance rebate	Medicare levy surcharge
Singles earning \$75,001 – \$90,000 Couples earning \$150,001 – \$180,000	20% up to age 65 25% for those aged 65-69 30% for those over age 70	1% 1% 1%
Singles \$90,001 – \$120,000 Couples earning \$180,001 - \$240,000	10% up to age 65 15% for those aged 65-69 20% for those over age 70	1.25% 1.25% 1.25%
Singles earning more than \$120,001 Couples earnings more than \$240,001	Nil Nil	1.5% 1.5%

<sup>1</sup> All income thresholds will continue to be indexed.

For singles earning less than \$75,000 and couples earning less than \$150,000, the existing 30%, 35% and 40% private health insurance rebates for the respective age groups will remain.

### **Comment:**

Affected clients may reduce the cash flow impact of the reduced rebate by making changes to their policy (eg increasing the excess payable or reducing cover for ancillary benefits).

## **Medicare levy low income thresholds extended**

*Date of effect: 1 July 2008*

The Medicare levy low income threshold will increase to \$17,794 (up from \$17,309) for individuals and \$30,025 (up from \$29,207) for individuals with families from 1 July 2008. The threshold will also increase by \$2,757 (up from \$2,682) for each dependant child or student.

The Government will also increase the Medicare levy threshold for pensioners below Age Pension age to \$25,299 (up from \$22,922) with effect from 1 July 2008. This increase will ensure pensioners below Age Pension age do not pay the Medicare levy when they do not have an income tax liability.

## **Cap on extended Medicare safety net benefits introduced**

*Date of effect: 1 January 2010*

A cap on Medicare benefits payable under the extended Medicare safety net will be introduced for a range of items with excessive fees, such as assisted reproductive technology items.

## **Family Tax Benefits changes**

### **FTB Part A to be indexed by CPI**

*Date of effect: 1 July 2009*

This measure will make FTB Part A consistent with other family payments, such as FTB Part B and the Baby Bonus. Currently, the maximum rate of FTB Part A for children under the age of 16 is benchmarked to a proportion of the combined couple rate of pension payments, or adjusted by the CPI, whichever is higher.

### **Pause to indexation of upper income thresholds of FTB Part A, FTB Part B and Baby Bonus**

*Date of effect: 1 July 2009*

The upper income thresholds for family payments will remain at their current level until 1 July 2012. This includes:

- The FTB Part B primary earner income threshold, which will remain at \$150,000,
- The income threshold for receiving the dependency tax offsets, which will remain at \$150,000,
- The Baby Bonus eligibility threshold, which will remain at \$75,000 of family income in the six months following the birth or adoption of a child (equivalent to \$150,000 a year), and
- The higher income-free area of FTB Part A, which will remain at \$94,316 of family income (plus \$3,796 for each child after the first).

These thresholds would ordinarily be indexed by CPI.

## **Deductions for non-commercial losses removed**

*Date of effect: 1 July 2009*

Excess deductions from unprofitable business activities (such as hobby farms) can no longer be used to reduce salary and wage income for those with an adjusted taxable income of more than \$250,000.

Excess deductions for these taxpayers will be quarantined to the business activity. The existing rules will continue to apply to taxpayers with an adjusted taxable income of \$250,000 or less.

Taxpayers will still have the ability to apply to the Commissioner of Taxation for relief from the rules if there are exceptional circumstances, or because the nature of the activities means a taxpayer is temporarily carrying on an uncommercial business but the activities they are undertaking are nonetheless independently assessed as commercially viable.

## Personal income tax rate and threshold changes confirmed

Previously announced changes to the personal income tax rates and thresholds have been confirmed. These changes are highlighted in bold below.

Current thresholds (2008/09)	Tax rate <sup>1</sup>	Thresholds in 2009/10	Tax rate <sup>1</sup>	Thresholds in 2010/11	Tax rate <sup>1</sup>
\$0 - \$6,000	0%	\$0 - \$6,000	0%	\$0 - \$6,000	0%
\$6,001 - \$34,000	15%	\$6,001 - <b>\$35,000</b>	15%	\$6,001 - <b>\$37,000</b>	15%
\$34,001 - \$80,000	30%	<b>\$35,001</b> - \$80,000	30%	<b>\$37,001</b> - \$80,000	30%
\$80,001 - \$180,000	40%	\$80,001 - \$180,000	<b>38%</b>	\$80,001 - \$180,000	<b>37%</b>
\$180,001 +	45%	\$180,001 +	45%	\$180,001 +	45%

<sup>1</sup> Does not include the Medicare Levy.

## Low income tax offset enhancements confirmed

The Government has confirmed the maximum low income tax offset will continue to increase progressively to reach \$1,500 per year from 1 July 2010. As a result, the amount of tax-free income low-income earners can receive each year (and the upper limit to which a partial offset can be claimed) will gradually increase.

	2008/09	2009/10	2010/11 (and thereafter)
Maximum offset	\$1,200	\$1,350	\$1,500
Upper income threshold <sup>1</sup>	\$60,000	\$63,750	\$67,500
Maximum tax-free income	\$14,000	\$15,000	\$16,000

<sup>1</sup> The lower income threshold will remain at \$30,000 for all years.

## Tax payable and potential tax savings

The following table shows the amount of tax payable and tax saved in future financial years for a range of taxable incomes, when compared to the current (2008/09) financial year.

Taxable income	2008/09 Tax payable <sup>1</sup>	2009/10		2010/11	
		Tax payable <sup>1</sup>	Tax saved	Tax payable <sup>1</sup>	Tax saved
\$20,000	\$900	\$750	\$150	\$600	\$300
\$40,000	\$5,200	\$4,900	\$300	\$4,450	\$750
\$60,000	\$12,000	\$11,700	\$300	\$11,250	\$750
\$80,000	\$18,000	\$17,850	\$150	\$17,550	\$450
\$100,000	\$26,000	\$25,450	\$550	\$24,950	\$1,050
\$120,000	\$34,000	\$33,050	\$950	\$32,350	\$1,650
\$140,000	\$42,000	\$40,650	\$1,350	\$39,750	\$2,250
\$160,000	\$50,000	\$48,250	\$1,750	\$47,150	\$2,850
\$180,000	\$58,000	\$55,850	\$2,150	\$54,550	\$3,450
\$200,000	\$67,000	\$64,850	\$2,150	\$63,550	\$3,450

<sup>1</sup> Does not include the Medicare Levy, or tax offsets other than the low income tax offset.

## Tax-free incomes for older Australians

People aged 60 or over will still be able to receive unlimited tax-free incomes from pension investments commenced from a taxed super fund. The table below shows the amount of taxable income that can be received tax-free by older Australians in other circumstances.

People who are:	Tax-free incomes <sup>1</sup>		
	2008/09	2009/10	2010/11
Aged 55 to 59 using pension investments <sup>2</sup>			
• Singles	\$44,211	\$45,789	\$48,158
• Per member of a couple	\$44,211	\$45,789	\$48,158
Eligible for SATO not using pension investments			
• Singles	\$28,867	\$29,867	\$30,685
• Per member of a couple	\$24,680	\$25,680	\$26,680

<sup>1</sup> Does not include the Medicare Levy, but includes the low income tax offset and SATO, where applicable.

<sup>2</sup> Assumes no income from other sources is received.

## Other taxation changes

### Basis for taxing managed investment trusts confirmed

*Date of effect: 1 July 2008*

The Government will introduce capital gains tax (CGT) rules for managed investment trusts (MITs) to ensure profits on the sale of assets receive concessional CGT treatment and are not taxed as income. This applies primarily to the disposal of shares in a company, units in a unit trust and real property investments.

The Government will allow MITs to make an irrevocable election to apply the CGT rules to calculate their taxable income on the disposal of such assets. MITs will be able to make the election in their first income year that commences on or after 1 July 2008, subject to appropriate integrity rules.

### FBT exemption for donations to deductible gift recipients confirmed

*Date of effect: 1 April 2008*

Donations made by employees to registered charities (referred to as 'deductible gift recipients') under salary sacrifice arrangements will not give rise to an FBT liability. This measure is effective from the 2008/09 FBT year, which ended on 31 March 2009 and confirms the press release issued by the Assistant Treasurer on 24 February 2009.

#### Comment:

This measure will ensure that employees who make donations from pre-tax salary will not be subject to tax. This ensures consistency with employees who make personal donations for which they can claim an income tax deduction.

### Withholding introduced for distributions by closely held trusts

*Date of effect: 1 July 2010*

Closely held trusts will need to withhold amounts from trust distributions at the top marginal tax rate where taxpayers have not provided a TFN to the trustee. This will ensure that taxable distributions to a beneficiary of a closely held trust, including a family trust, are included in the beneficiary's tax return. Individuals who have tax withheld by trustees can claim a credit for that tax in their tax return. The measure, which will apply from the 2010/11 income year, will not apply to income upon which tax is directly payable by the trustee of the trust, such as income assessable to minors.

## **Limited CGT rollover relief introduced for fixed trusts**

*Date of effect: 1 November 2008*

The Government will introduce a limited CGT rollover for assets transferred between fixed trusts that have the same beneficiaries with the same entitlements and no material discretionary elements. As a result of this measure, trustees of eligible trusts will be able to defer the CGT consequences of the asset transfer until the receiving trust subsequently deals with the asset. This will allow eligible trusts to restructure without immediate CGT consequences. The measure will be accompanied by appropriate integrity rules.

## **Foreign income anti-tax deferral rules to be repealed**

The Government will reform the foreign income anti-tax deferral rules. The current rules, including the Controlled Foreign Company (CFC) and Foreign Investment Fund (FIF) regimes are extremely complex and impose a high compliance burden on taxpayers. These rules affect foreign subsidiaries of Australian companies and foreign investments made by Australian taxpayers in foreign companies, foreign trusts and overseas life policies.

As part of the new reform package, the Government will:

- Repeal the current FIF rules and replace them with specific anti-avoidance measures, and
- Rewrite and simplify the CFC rules. However, the Government will not provide a blanket exemption from the CFC rules for listed public companies.

### **Comment:**

The reforms should reduce compliance costs and ensure managed funds remain internationally competitive.

## **Small business tax break extended**

*Date of effect: 13 December 2008*

The small business and general business tax break will be extended to allow a bonus deduction of 50% to small businesses with a turnover of less than \$2 million that acquire an eligible asset between 13 December 2008 and 31 December 2009 where it is ready for use by 31 December 2010. The previously announced 30% and 10% bonuses continue to apply to all other businesses.

## **PAYG instalment changes for small business**

*Date of effect: 1 July 2009*

In an effort to align the PAYG instalments paid by small businesses more closely with their actual tax liabilities, the Government will reduce the instalments for those who pay quarterly based on their previous year's tax adjusted by GDP growth. For the 2009/10 financial year, the Government will reduce the GDP adjustment factor for calculating quarterly instalments under this method from around 9% to 2%.

## **Entrepreneurs' tax offset income test deferred**

*Date of effect: 1 July 2009*

The current entrepreneur's tax offset can reduce up to 25% of tax payable by a small business that has an annual aggregated turnover of less than \$50,000. This offset will phase out when the business reaches an aggregated turnover of \$75,000.

In the 2008 Federal Budget, the Government announced 'income tests' that would apply and restrict access to the offset for business' with high alternate sources of income. In the 2009 Federal Budget, the Government announced it will defer this income test for another 12 months and will consult on what form it takes at that time.

## Social security changes

Unless otherwise stated, all measures in this section are proposed to take effect on 20 September 2009.

### Pension payments to increase

The Government announced an increase to the Age Pension to take effect from 20 September 2009. The full rate single pension will be increased by \$32.49 a week, while the full rate pensioner couples (combined) pension will be increased by \$10.14 a week.

These increases will be provided in two forms: through an increase in the base rate of pension for singles and an increase through the new Pension Supplement for both singles and couples.

For the basic single pension rate, the Government will provide a \$30 per week increase. For the new Pension Supplement, the Government will provide a:

- \$2.49 per week increase for singles; and
- \$10.14 per week combined increase for couples.

The above increase will also apply to pensioners who receive the Veterans' Service Pension and Income Support Supplement.

Another important change is the consolidation of the existing Goods and Services Tax Supplement, Pharmaceutical Allowance, Utilities Allowance and Telephone Allowance together with the increases noted above, into the new Pension Supplement.

These increases in assistance will apply to recipients of the Age Pension, Service Pension, Disability Support Pension, Carer Payment, Bereavement Allowance, Widow B Pension, Wife Pension, Income Support Supplement and to War Widow/ers. The new Pension Supplement will also be provided to Widow Allowees, Partner Allowees and other income support recipients over Age Pension age.

For Commonwealth Seniors Health Card holders and veterans eligible for the Gold Card, a new Seniors Supplement will be introduced. The existing Seniors Concession Allowance and the Telephone Allowance will be consolidated into the new Seniors Supplement. The single rate of the Seniors Supplement will include an extra \$129 a year, to bring it to two thirds of the rate paid to couples combined.

### New index for pensioners

To ensure base pension rates keep up with community living standards, the Government announced a new price index will be developed to index base pension rates. Designed specifically for households who rely on the pension, the new Pensioner and Beneficiary Living Cost Index will generally be higher than the CPI. The CPI will still be used to index relevant eligibility thresholds.

### Age Pension age to increase

*Date of effect: 1 July 2017*

The qualifying age for the Age Pension and the Commonwealth Seniors Health Card for men and women will be increased to 67 years, at a rate of six months every two years, beginning in 2017, to reach 67 on 1 July 2023.

#### Comment:

The Government is currently reviewing a recommendation from the AFTS (Henry) review panel to align the super preservation age with the higher Age Pension age from 2017. Further analysis of potential gaps between employment and access to super may be required in industries or arrangements where compulsory retirement must occur at an earlier age than the proposed Age Pension age.

### Pension income test taper rate change

The income test taper rate will change from 40% to 50%. The asset test taper rate is unchanged at \$1.50 per \$1,000 of assets above threshold.

## **Pension Bonus Scheme to close**

While the scheme will close to new entrants, existing members may continue to accrue entitlements. Instead it is proposed that 50% of the first \$500 per fortnight of employment income will not be counted in the income test.

## **Changed income definition for Commonwealth Seniors Health Card**

*Date of effect: 1 July 2009*

The definition of adjusted taxable income for the purposes of the Commonwealth Seniors Health Card will not include the gross tax-free superannuation pension income which was previously announced in the 2008/09 Budget. However, the Government will proceed to include income that is salary sacrificed to superannuation in the income assessment with effect from 1 July 2009.

### **Comment:**

The Government's decision to reverse their stance on including tax-free income payments/withdrawals for clients over age 60 (as well as any Tax Free component paid out to clients under age 60) is a significant win for clients. This would certainly have been influenced by their recent difficulties in having this measure passed through the Senate. It will also enable clients to take larger one-off super/pension payments in a particular year without affecting their entitlement to the Seniors Health Card.

## **Increased assistance for veterans**

For veterans who do not receive the Service Pension or Income Support Supplement, the Government will simplify the payment of allowances by incorporating the Pharmaceutical Allowance and Telephone Allowance into a new Veterans' Health Care Supplement.

The Veterans' Health Care Supplement will be paid fortnightly from 20 September 2009. There will be two rates of payment – \$156 per year where only one of either the Pharmaceutical Allowance or Telephone Allowance is received; or \$312 per year to replace both allowances.

The Service Pension qualifying age will remain at the current level (60 for men, and progressively increasing to 60 for women).

## **Residential aged care fees to increase**

The Government has decided that of the \$32.49 per week increase in the single base pension, \$22.40 per week will flow to the residential aged care provider and \$10.09 will flow to the pensioner. This is to enable older Australians who reside in aged care facilities to have some money left after paying their fees and to meet the rising health and care costs they face.

## **Residential aged care fees to be protected for self-funded retirees**

As the rate charged to self-funded retirees is linked to the rate paid by pensioners, an increase in the Age Pension of this size would normally mean the fees faced by self-funded retirees would increase.

The Government recognises a sudden cost increase for existing self-funded retiree residents would be an unfair burden. It has therefore decided that those in residential aged care on 19 September 2009 will have their existing fee levels protected until they leave. Those that enter aged care after this date will have any cost increase phased in over four years.

The arrangements for self-funded retirees will also apply to protected part-rate pensioners who do not receive the full pension increase.

## **Student income support to increase**

*Date of effect: 1 January 2010*

The Youth Allowance Parental Income Test threshold is to be increased from \$32,800 to the threshold for maximum rate FTB Part A (\$42,599). The taper rate will decrease to 20% (from 25%) of parental income above the threshold. However, the increases to the threshold for additional children will no longer apply. The parental income test currently applies to students aged less than 25. This will reduce, in stages, to 22 in 2012.

From 1 January 2011, the personal income test for Youth Allowance and Austudy will be relaxed. The threshold at which the benefits are reduced will be increased to \$400 per fortnight (currently \$236). There will be a 50% taper rate up to income of \$480 per fortnight and 60% thereafter.

## **Carer Supplement to be introduced**

*Date of effect: 30 June 2009*

Those receiving Carer Payment and Carer Allowance will receive a non-taxable, non-means tested payment. The payment amount will be:

- \$600 pa to all Carer Allowance recipients for each person in care, and
- \$600 pa to all Carer Payment recipients.

As people receiving Carer Allowance almost invariably receive Carer Payment, they will receive at least \$1,200. The first payment will be made before 30 June this year, while regular payments will commence from 1 July 2010.

## **Australia's Future Tax System review panel recommendations**

In addition to the Budget, the Government released the report by the Australia's Future Tax System review panel (chaired by Ken Henry). The press release provides the following summary of recommendations:

- Maintaining the Superannuation Guarantee at 9%, not extending the Superannuation Guarantee to the self employed and retaining the \$450 per month threshold,
- Gradually increasing the Age Pension age to 67 years,
- Gradually aligning the age at which people can access their superannuation savings (the preservation age) with the increased Age Pension age,
- Improving the fairness and coherence of the pension means tests, possibly through a single test, and improve incentives to work beyond retirement age,
- Reducing the complexities resulting from the interactions between the tax-transfer system and the aged care sector,
- Maintaining tax assistance to superannuation but improving the fairness of concessions for contributions, including by broadening access to them, and considering whether the current cap on concessions is appropriate,
- Improving the ability of people to use their superannuation to manage longevity risk, and
- Improving the awareness and engagement of individuals with the retirement income system.

At this stage, the Government has only responded to two of the recommendations:

- Supporting a phased increase to the Age Pension age
- Reducing the concessional contribution caps.

## **Harmer pension review report**

In addition to the Budget and the AFTS review report, Dr Jeff Harmer has released his report of the review into measures to strengthen the financial security of seniors, carers and people with disability. The key findings were that the basic structure of Australia's pension system is sound although it needs some reforms to meet both short and long term challenges.

The Review has developed 30 findings across five major areas:

- The adequacy of the rate of the pension,
- Indexation arrangements for pensions,
- The design and delivery of pension payments,
- The concessions and services that support the pension system,
- The targeting and long-term sustainability of the pension system.

Some of the recommendations made have been adopted by the Government in this Budget including:

- Increases to pension rates,
- Removal of the Pension Bonus Scheme,
- A new price index to index the base pension, and
- A simplified pension supplement scheme.

## References

12 May 2009, [Budget Papers](#)

12 May 2009, [Australia's Future Tax System Review, Report on strategic issues.](#)

27 February 2009, [Pension Review Report](#), Dr Jeff Harmer

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