bastion SUPERANNUATION SOLUTIONS

SuperNews Autumn 2009

# Changes to Superannuation Announced in the 2009 Federal Budget

From a superannuation perspective, the impact of the 2009 Federal Budget is not as significant as those we have seen in the last few years. While the widely-rumoured changes to transition to retirement income streams did not eventuate, the changes to superannuation are:

- Concessional contribution caps will be halved from 1 July 2009
- The co-contribution matching rate is reduced from 150 per cent to 100 per cent for three years
- The 50 per cent reduction in minimum pension levels for account-based pensions will continue for the next financial year

There will also be a progressive increase in pension age to age 67 by 2023. These changes are outlined in more detail below.

## Reduction of concessional contribution cap from 1 July 2009

The Government will halve the concessional contributions cap from its current limit of $50,000 to $25,000 per annum, with effect from the 2009-10 financial year.

A reduction will also apply to the transitional concessional contributions cap (applicable to individuals aged 50 and over for the 2009-10, 2010-11 and 2011-12 financial years) from $100,000 to $50,000 per annum.

The annual cap on non-concessional contributions is $150,000 per annum for the 2008-09 financial year and will remain at that level in 2009-10. In the future, the non-concessional cap will be calculated as six times the level of the (indexed) concessional contributions cap. There has been no change to the bring forward arrangements which will be capped as $450,000 for 2009-10 financial year.

*As the reduction of the concessional contribution cap does not apply until next financial year fund members should consider contributing more this financial year to take advantage of the higher current concessional contribution ($50,000 or $100,000 transitional) cap.*

Next year's cap reduction means employed superannuation fund members will need to review their salary sacrifice arrangements (taking into account any superannuation guarantee contributions which also count towards the concessional cap) and self-employed members their personal deductible super contributions. In addition in order to meet retirement goals fund members may need to consider drip-feeding contributions over a longer period.

The reduced cap may affect any individuals employing a transition to retirement strategy with salary sacrifice contributions as the reduced cap will limit the amount that can be salary sacrificed tax effectively.

*See separate article in this newsletter for contribution limits and eligibility rules for contributions for the 2008-09 financial year.*

## Temporary reduction of the Government co-contribution from 1 July 2009 to 30 June 2014

The Government will temporarily reduce the superannuation co-contribution matching rate from 150 per cent to 100 per cent for contributions made in 2009-10, 2010-11, and 2011-12 financial years (a maximum co-contribution of $1,000 will apply), and to 125 per cent for contributions made in 2012-13 and 2013-14 financial years (a maximum co-contribution of $1,250 will apply) that is payable on an individual's eligible personal non-concessional superannuation contributions.

| | 2008-09 | 2009-10 & 2011-12 | 2012-13 & 2013-14 | 2014-15 and later |
|---|---|---|---|---|
| Matching rate | 150% | 100% | 125% | 150% |
| Maximum co-contribution | $1,500 | $1,000 | $1,250 | $1,500 |
| Reduction (per $ of income in excess of lower threshold | 5 cents | 3.333 cents | 4.167 cents | 5 cents |

No change was announced to the lower and upper income thresholds for co-contribution eligibility. The 2008-09 shade out threshold is $30,342 with no co-contribution payable if total income exceeds $60,342. The indexed thresholds are yet to be set for the 2009-10 financial year.

The reduced matching rate will still provide a generous incentive for those who are eligible.

### Also in this issue…

## Extension of 50% minimum pension draw down relief from 1 July 2009

The Government will halve the minimum payment amounts for account-based pensions for 2009-10 financial year. Reducing the minimum payment amounts for account-based pensions will assist pension account balances to recover from capital losses from the global recession. This measure extends the pension drawdown relief provided by the Government for 2008/09.

The minimum levels are outlined in the table below.

| | *All Financial Years Except 2008-09 & 2009-10* | | *Special Minimum Limits 2008-09 & 2009-10 Financial Years only* | |
|---|---|---|---|---|
| **Age** | **Minimum payment as % of account balance** | **Annual Pension Level for each $100,000** | **Minimum payment as % of account balance** | **Annual Pension Level for each $100,000** |
| 55 - 64 | 4 % | $4,000 | 2 % | $2,000 |
| 65 - 74 | 5 % | $5,000 | 2.5 % | $2,500 |
| 75 - 79 | 6 % | $6,000 | 3 % | $3,000 |
| 80 - 84 | 7 % | $7,000 | 3.5 % | $3,500 |
| 85 - 89 | 9 % | $9,000 | 4.5 % | $4,500 |
| 90 -94 | 11% | $11,000 | 5.5 % | $5,500 |
| 95+ | 14 % | $14,000 | 7 % | $7,000 |

*Please note that where a pension has been paid in excess of the reduced minimum, the minimum will be the amount paid with no refund allowed.*

## Age pension age to increase to age 67 from 1 July 2017

The qualifying age for the Age Pension for men and women will increase to 67 years of age from July 2023.

The qualifying age will begin to increase from July 2017, by six months every two years.

| From | New age pension age | Affects people born | Current age |
|---|---|---|---|
| 1 July 2017 | 65 years 6 months | 1 Jul 1952 – 31 Dec 1953 | 55.5 – 57 |
| 1 July 2019 | 66 | 1 Jan 1954 – 30 Jun 1955 | 54 – 55.5 |
| 1 July 2021 | 66 years 6 months | 1 Jul 1955 – 31 Dec 1956 | 52.5 – 54 |
| 1 July 2023 | 67 | 1 Jan 1957 – onwards | 52.5 or younger |

This may not be a popular change. The Government is taking this step to reign in pension costs as with advances in medical technology and changes in lifestyle, people are living longer and spending more retirement years in good health. The Age Pension age has not been increased above 65 years since its inception in 1909. When introduced, a male retiring at age 65 would have expected to spend 11 years in retirement with around only half of the male population reaching retirement age. Today, over 85% of the male population reaches retirement age and on average can expect to spend over 19 years in retirement.

The Henry Tax Review report on the retirement income system recommends aligning the superannuation preservation age with this higher Age Pension age so we may see further reform proposals from Government in this area in the near future.

*Please contact our office if you would like any more information on the Budget changes.*

## New legislation to recognise de facto couples in family law

The Family Law Amendment (De Facto Financial Matters and other measures) Act came into effect on 1 March 2009.

This new legislation will see de facto financial matters dealt with by the Family Court and Federal Magistrates Court in the same way as those courts presently deal with financial matters involving married couples. Where agreements are reached, de facto parties will have the ability to negotiate and enter into financial agreements. For married and de facto couples alike, orders or agreements may be made in respect of property settlement, superannuation splitting or spousal maintenance.

This represents a huge change in the benefits available to de facto parties, particularly with respect to spousal maintenance and superannuation splitting.

Over the past few years, various States and Territories have handed over jurisdiction to the Commonwealth with respect to de facto financial matters. The Act will apply to all people ordinarily resident in New South Wales, Victoria, Queensland, Tasmania, the Australian Capital Territory, Northern Territory or Norfolk Island. Western Australia, with its own Family Court, already had provisions within its Family Court Act 1997 for there to be financial agreements and proceedings between parties to de facto relationships. South Australia is yet to relinquish its state-based jurisdiction in this area.

# Superannuation Contributions 2008/09

The amount of contributions that can be made to superannuation on behalf of an individual depends on a member's age and the contribution caps.

The contribution eligibility rules are illustrated in the table below.

| Age | Member's Employer | |
|---|---|---|
| | ***Superannuation Guarantee*** | ***Voluntary*** |
| Under Age 65 | Allowable | Allowable |
| Age 65 - 69 | Allowable | Only if you have worked at least 40 hours in not more than 30 consecutive days in the financial year |
| Age 70 - 74 | Not allowed | Only if you have worked at least 40 hours in not more than 30 consecutive days in the financial year |
| Age 75 and over | Not allowed | Not allowed |

| | **Member** |
|---|---|
| Under Age 65 | Allowable |
| Age 65 - 69 | Only if you have worked at least 40 hours in not more than 30 consecutive days in the financial year |
| Age 70 - 74 | Only if you have worked at least 40 hours in not more than 30 consecutive days in the financial year |
| Age 75 and over | Not allowed |

| | **Member's Spouse** |
|---|---|
| Under Age 65 | Allowable |
| Age 65 - 69 | Only if you have worked at least 40 hours in not more than 30 consecutive days in the financial year |
| Age 70 - 74 | Not allowed |
| Age 75 and over | Not allowed |

The table below summarises the main types of concessional and non-concessional contributions and limits for 2008/09 year as well as the penalties for breaching the caps:

| Type of Contribution | Consists of | Annual Limit 2008/09 | Breach of Cap |
|---|---|---|---|
| Concessional Contributions | Employer contributions (includes superannuation guarantee and salary sacrifice)<br><br>Personal contributions where a tax deduction is claimed<br><br>Certain amounts allocated from a reserve unless the allocation meets the exemptions | $50,000 if aged under 50<br><br>$100,000 if aged 50 or over on 30 June 2009 | Additional tax of 31.5% applies to amounts in excess of the cap in addition to the contributions tax of 15%, making total tax of 46.5%<br><br>These amounts also count towards the non concessional cap and if that cap is breached can be taxed twice. |
| Non-concessional Contributions | Personal contributions for which the individual does not claim a tax deduction<br><br>Contributions made by a spouse<br><br>Amounts in excess of the concessional contribution cap | $150,000<br><br>Members under age 65 at any time in the financial year may contribute up to $450,000 by bringing forward up to two future years' entitlements | Tax of 46.5% applies to amounts in excess of the cap |

Personal injury contributions may also be permitted.

In addition certain payments made into superannuation are also treated as contributions. Previously they have generally been referred to as "rollovers". These include:

- Directed employer termination payments made into superannuation under the transitional $1 million employer termination payment cap.
- Foreign termination payments transferred from overseas funds after a person has taken up residence in Australia.
- Capital gains and capital proceeds from disposal of small business active assets transferred into superannuation under the CGT small business lifetime cap of $1 million.

Please contact our office if you need information on these types of contributions.

### Breach of contribution caps

Punitive taxation applies where the contribution caps are breached so care must be taken to ensure contributions to an SMSF are within the caps. We have seen a number of instances where the contribution caps have been breached in the funds we administer so we do caution clients to be careful.

## Reminder - Transitional in-house asset rules for pre 1999 Unit Trusts end 30 June 2009

Trustees of self managed superannuation funds (SMSFs) that have been investing in "related trusts" and availing themselves of the transitional provisions that exempted further investment from the in-house asset rules need to be aware of the implications of these provisions ending on 30 June 2009.

Many SMSFs were affected by the changes to the in-house asset rules in 1999 because using related unit trusts was a common way to invest in geared investments. The strategy followed was for the SMSF to invest in a private unit trust which in turn borrowed to finance the acquisition of an asset. SMSF trustees would purchase an increasing number of units in the trust or would make additional payments on partly paid units. The loan in the unit trust would be repaid through contributions to the fund and earnings of the unit trust.

Bastion has written to our full administration clients to provide a Fact Sheet on the transitional provisions and options available.

### What should SMSF trustees be doing before 30 June 2009?

Generally Trustees with investments in related companies or unit trusts should ensure they take full advantage of the transitional provisions before 30 June 2009;

It will also be necessary to review any outstanding borrowings as to whether they are likely to be repaid by 30 June 2009. The related unit trusts may need to consider refinancing or other alternative means of funding repayments such as the sale of property. The related unit trust can continue to maintain existing borrowings but from 1 July 2009 will not be able to apply trust income to repay principal as the trustee of the unit trust will be required to distribute all income to the SMSF by making a payment. As a result the trustee of the related trust may need to ensure any remaining borrowings after 30 June 2009 are converted to an interest only facility.

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SMSF trustees should be making best use of the available time in conjunction with their financial advisers to plan alternative strategies.

*Please contact our office if you would like a copy of our Fact Sheet*

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