

Government Reviews and Proposed Super Changes

The outcomes and proposals from recent Governmental reviews will affect the Australian superannuation industry:

- 2 May 2010 saw the Government release the report of the review into Australia's Future Tax System (known as the Henry Review) together with the Government's own response;
- 29 April 2010 the Superannuation System Review (known as the Cooper Review) released its Third Phase Preliminary Report which contains the Cooper Review Panel's views on the issues that relate to self managed superannuation funds (SMSFs) only; and
- 26 April 2010 the Government released its response to the Ripoll Inquiry which reviewed the underlying issues associated with financial services collapses such as Storm Financial and others.

Government's response to the Henry Review

The importance of retirement funding for Australians was underlined by the Government's response to the Henry Review. Specifically from a superannuation perspective the Government proposes the following:

- a gradual increase in the superannuation guarantee (SG) rate to 12 per cent;
- an increase in the SG age limit from 70 to 75;
- a new superannuation contribution of up to \$500 per financial year will be provided by the Government in respect of concessional contributions made by or for workers with adjusted taxable income (ATI) of up to \$37,000; and
- the \$50,000 transitional concessional contributions cap will be extended permanently for individuals aged 50 or over with superannuation balances of less than \$500,000 to allow them to make 'catch up' contributions.

These changes (discussed in more detail below) are intended to deliver improved retirement incomes for workers, boost national savings and help with the challenges of an ageing population.

Increasing the SG rate from 9 to 12 per cent

Commencing from 1 July 2013, there will be a phased increase of the SG rate from 9 per cent to 12 per cent. The SG rate will be increased as follows:

Financial year	SG rate (%)	Increase from previous year (%)
2009-10 to 2012-13	9.00	0.00
2013-14	9.25	0.25
2014-15	9.50	0.25
2015-16	10.00	0.50
2016-17	10.50	0.50
2017-18	11.00	0.50
2018-19	11.50	0.50
2019-20	12.00	0.50

The lead time and phase in will allow employers to take the increased SG contributions into account in future wage negotiations. Individuals who are paid on a total employment cost basis may experience a reduction in cash salary as the SG rate increases.

Increasing the SG age limit from 70 to 75

From 1 July 2013, employees aged 70 to 74 will be entitled to SG contributions, with the SG age limit increasing from 70 to 75.

The new age limit will bring employer obligations in line with the age limit for voluntary and self-employed contributions. Currently, the SG only applies to people aged up to 70. In contrast, employers can make voluntary deductible superannuation contributions for employees under 75, and self employed people can make deductible contributions until they turn 75.

This may increase the cost of employing individuals aged 70 or over.

Government superannuation contribution for low income earners

From 1 July 2012, the Government will provide a superannuation contribution of up to \$500 annually for individuals with an ATI of up to \$37,000. This will ensure that no tax will be paid on SG contributions for those with incomes up to that amount in 2012-13 and is aimed at improving the equity of superannuation taxation arrangements for individuals with a marginal tax rate of less than 30 per cent.

The amount payable will be calculated by applying a 15 per cent matching rate to the concessional superannuation contributions made by or for individuals with an ATI of up to \$37,000. The annual maximum of \$500 will be available where an individual has concessional contributions of \$3,333 or more, and will be paid by the Government into the individual's superannuation account. The \$500 maximum amount will not be indexed.

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Government superannuation contribution for low income earners (cont'd)

The measure will apply with respect to concessional superannuation contributions made from 2012-13, with the first amounts to be paid in 2013-14.

For individuals with an ATI of less than \$37,000, this measure may remove some of the disincentive to make salary sacrifice or personal deductible superannuation contributions. Depending on the amount and type of contributions made, these lower income earners may attract a Government co-contribution of up to \$1,250 (2012-13 and 2013-14 financial years) as well as a \$500 low income earners Government contribution.

Extending the concessional contributions cap for persons aged 50 or over

From 1 July 2012, the \$50,000 transitional concessional contributions cap will be extended permanently for individuals aged 50 or over with total superannuation balances of less than \$500,000.

This measure is intended to allow individuals with low superannuation balances the opportunity to 'catch up' on their superannuation contributions at a time in their lives when they are most able to do so.

This will allow older clients with total superannuation balances under \$500,000 to continue to take advantage of salary sacrifice and transition to retirement strategies.

Other matters

In the interests of community certainty, the Government has detailed a number of policies that it does not intend to implement at any stage. From an SMSF related perspective these include:

- Removing tax free superannuation payments for the over 60s;
- Aligning the superannuation preservation age with pension age;
- The Government offering an annuity product that would allow an individual to purchase a lifetime income stream;
- Reducing the Capital Gains Tax (CGT) discount, or changing grandfathering arrangements for CGT; and
- Removing the benefits of dividend imputation.

The Government's superannuation initiatives will be funded through the introduction of a Resource Super Profits Tax of 40% on profits made from the sale of Australia's non-renewable resources.

Cooper Review's recommendations on SMSFs

The Self-Managed Super Solutions report sets out the Cooper Review Panel's preliminary recommendations on SMSFs with the key recommendations including:

- prohibiting investment in collectables and personal-use assets (such as artworks, jewellery, wine

collections, exotic cars and yachts) with any existing SMSFs that own collectables or personal use assets being provided with a transitional period, up to 30 June 2020, in which to dispose of those assets;

- strengthening the competence and independence of approved auditors;
- an online SMSF resource centre to help SMSF trustees build skills and assist with making better decisions;
- making the ATO's penalty regime more flexible to enable more effective and equitable regulation;

The recommended approach is for the ATO to be provided with the power to issue:

- ✚ administrative penalties against SMSF trustees on a sliding scale reflective of the seriousness of the breach; and
- ✚ relevant persons with a direction to rectify specified contraventions within a specified reasonable time.

- tightening the SMSF registration process, including the introduction of member identity requirements, to reduce instances of fraud and illegal early release schemes; and
- reducing the potential to benefit illegally from related party transactions by prohibiting the acquisition of in-house assets (IHA) and imposing restrictions on the way in which an SMSF can transact with related parties.

The recommended approach is for:

- ✚ the 5% IHA investment limit to be removed so that no IHA investments would be allowed.

For SMSFs with existing IHA investments that they be provided a transitional period, up to 30 June 2020, in which to dispose of their IHA investments (with no new or further IHA investments permissible during the transition period);

- ✚ the law relating to acquisitions and disposals between related parties to be amended so that where an underlying market exists, all acquisitions and disposal of assets between SMSFs and related parties must be conducted through that market. In situations where an underlying market does not exist, acquisitions or disposals of assets between related parties must be supported by a current independent valuation from a registered valuer.

Cooper Review's recommendations on SMSFs (cont'd)

SMSF Review Chair, Jeremy Cooper has noted SMSFs are here to stay, but that the Panel wants them to focus more on investing for retirement savings, rather than related party transactions, collectables and leverage. He noted most SMSFs already do this so the vast majority of SMSFs will not be affected by these particular proposals.

The preliminary recommendations are designed to improve the safety and integrity of SMSFs, while continuing to allow a high degree of self-determination and flexibility for trustees taking responsibility for their own retirement outcomes.

The final report from the Cooper review will be delivered to the Government by 30 June 2010.

Government announcements resulting from the Ripoll Inquiry

The Minister for Financial Services, Superannuation and Corporate Law the Hon Chris Bowen MP released a reform package for the future of financial advice as a result of the Ripoll Inquiry.

These reforms aim to improve transparency and investor protection in the financial planning industry.

Some of the main reforms announced by the Minister include:

- The introduction of a statutory fiduciary duty so that financial advisers must act in the best interests of their clients, subject to a 'reasonable steps' qualification;
- A prospective ban on commissions and volume based payments, in relation to the distribution and advice of retail investment products (including managed investments, superannuation and margin loans with insurance excluded);
- Improvements in access and affordability measures with the removal of advice barriers for super and a review of other areas;
- Asset-based fees will be permitted to be charged but only on ungeared products or investment amounts (as agreed to with the retail investor); and
- Enhanced powers for ASIC in relation to licensing and banning of individuals.

Please note that the all the changes outlined in this newsletter are proposals only at this stage, and will not take effect until the passage of relevant legislation.

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Bastion Superannuation Solutions Pty Ltd
AFSL 278 280 ABN 70 105 016 984
Level 3, 400 Queen Street, Brisbane
GPO Box 1859 Brisbane Qld 4001



Phone: (07) 3004 1100
Facsimile: (07) 3221 9811
Email: info@bastionsuper.com.au
Website: www.bastionsuper.com.au

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