



Tax Laws Amendment (Simplified Superannuation) Bill 2006

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Tax Laws Amendment (Simplified Superannuation) Bill 2006

Date introduced: 7 December 2006

House: House of Representatives

Portfolio: Treasury

Commencement: Royal Assent or 1 July 2007 or 20 September 2007, depending on the provision.

Purpose

This particular Bill implements the bulk of the governments proposed reforms of the retirement savings and income system announced by the Treasurer as part of 2006–07 budget. The bill also rewrites large amounts of existing superannuation legislation, deleting it from the *Income Tax Assessment Act 1936* and inserting equivalent provisions into the *Income Tax Assessment Act 1997*.

Acts Amended

This Bill amends the following Acts:

- the *Income Tax Assessment Act 1997* (ITAA 97)
- the *Income Tax Assessment Act 1936* (ITAA 36)
- the *Income Tax Rates Act 1986*
- the *Tax Administration Act 1953*
- the *Income Tax (Transitional Provisions) Act 1997*
- the *Superannuation Industry (Supervision) Act 1993*
- the *Taxation (Interest on Overpayments and Early Payments) Act 1983*
- the *Fringe Benefits Tax Assessment Act 1986*
- the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*
- the *Retirement Savings Accounts Act 1997*
- the *Superannuation (Unclaimed Money and Lost Members) Act 1999*
- the *Social Security Act 1991*, and
- the *Veterans' Entitlement Act 1986*.

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Background

Prior to the 2006–07 budget, the Government had been under some pressure to reform the taxation of superannuation funds. Industry had lobbied hard for either a reduction, or elimination, of the tax on tax deductible contributions and the investment earnings of complying superannuation funds.¹ Thus, the Treasurer’s proposals in the 2006–07 budget came as a complete surprise to the superannuation industry.

However, the need to simplify the taxation rules relating to superannuation had been highlighted in January 2006 in a government taskforce report entitled ‘Rethinking Regulation’. One of the report’s major recommendations was that:

The Australian Government should give high priority to comprehensive simplification of the tax rules for superannuation.²

As will be seen, the following proposals, though complex to implement, will have this effect.

The Proposed Changes in Brief

The following section gives a brief overview of the major proposed changes to the tax and other arrangements for superannuation funds. The current situation in various areas is outlined and the relevant proposed changes will be given directly afterwards.

Age-based deduction limits

Employer contributions made to a complying superannuation fund or retirement savings account are fully tax deductible to the employer up to the age-based deduction limits.³

Self-employed persons (whose income from an employer is less than 10 per cent of their total income) get a full tax deduction on the first \$5 000 of personal contributions plus 75 per cent of the remaining personal contributions up to the age-based deduction limits.⁴ The deduction limits are:

Table 1: Age based limits on employer tax deductible contributions per employee

Age of employee (years)	Deduction limit 2006–07
under 35	\$15 260
35 to 49	\$42 385
50 and over	\$105 113

Source: Australian Taxation Office: TD 2006/42

Deductions are restricted for employees aged 70 and under.⁵

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Proposed changes

The above age based limits on tax deductible contributions are proposed to be scrapped and replaced with a limit of \$50 000 p.a. in pre-tax and \$150 000 p.a. post-tax contributions. These limits are to be indexed to changes in Average Weekly Ordinary Time Earnings (AWOTE) in \$5 000 increments.⁶ For most superannuation fund members, the limit on post-tax contributions is proposed to apply from the date of announcement, 9 May 2006 (see Transitional Arrangements below).⁷

An exception to the proposed limit on after-tax contribution applies to the Capital Gains Tax Exempt component arising from the sale of a small business and capital amounts arising from the sale of assets where no profit was made. A contribution limit of \$1m (indexed) will apply to the sum these amounts (see detailed comment in Main Provisions section below).⁸

Further, self employed persons are to be eligible for a full deduction on their superannuation contributions, up to the proposed limits.⁹ Finally, employers will be able to claim a tax deduction for contributions made on behalf of their employees, who are under 75 years of age.¹⁰

Transitional arrangements – Tax deductible and other contributions

Subject to an applicable work test (see Attachment 1), people will be able to make up to \$1 million in post-tax contributions between 10 May 2006 and 30 June 2007.¹¹

For those aged 50 and over, transitional arrangements have been proposed. For the years 2007–08 to 2001–12, this group will be able to have a total of \$100 000 p.a. contributed to a superannuation fund as salary sacrifice contributions and/or contributions (known as concessional contributions in this Bill) made on their behalf by their employer. Employers could claim a tax deduction for amounts they contribute.¹²

Further proposed transitional arrangements, for those under age 65, in respect of after-tax contributions have been announced. These include:

- the \$150,000 annual limit on post-tax contributions is to be averaged over three years. This means that it would be possible for a person to contribute up to \$450 000 of post-tax contributions in any one year after 1 July 2007
 - but in these circumstances no further contribution could be made for the following two years,¹³ and
 - this averaging limits is on a ‘use it or lose it’ basis. This means that if a person does not contribute the full \$150 000 in any one year, the left over amount cannot be transferred to the next financial year, and

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- post-tax contributions made to a superannuation fund between 1 July 2005 and 9 May 2006 will not count towards the \$150 000 limit. This means that post-tax contributions made before budget night are not taken into account for these purposes.¹⁴

Government co-contribution for low income earners

The government's superannuation co-contributions scheme is available only to those who are 'employed' for superannuation purposes. Generally this refers to someone who receives more than ten per cent of their assessable income from employment.

Proposed changes

The government proposed to extend access to the co-contributions scheme to the self employed from 1 July 2007.¹⁵

Taxation of superannuation benefits

This section describes the taxation arrangements that apply to superannuation benefits. A superannuation benefit is the amount of money in the superannuation fund or retirement savings account to which the fund member or retirement savings account holder is entitled. Most benefits are payable on termination of employment and will often be subject to preservation, that is, restrictions on the age before which the benefits can be taken.

The taxation of superannuation benefits is complex due to changes made on 1 July 1983 and 1 July 1988. These changes were aimed at avoiding retrospectivity by applying new taxation treatment to only those portions of benefits attributed to service after 1 July 1983 and 1 July 1988.¹⁶

Eligible termination payments (ETP) and Pensions

Eligible termination payments are lump sums usually paid on retirement or resignation from a job and include 'golden handshakes' as well as lump sum payments from superannuation funds, approved deposit funds, and retirement savings accounts. Eligible termination payments are taxed differently from other income.

The various components of an eligible termination payment and their respective taxation treatment are provided in the following table:

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Table 2 Current Tax rates on Eligible Termination Payments

Eligible termination payment component	Maximum Tax Rate (add Medicare levy)
Pre-July 1983 component —the amount of an eligible termination payment that relates to superannuation benefits accrued with respect to employment before 1 July 1983.	5% of amount is taxed at marginal tax rates
<p>Post-June 1983 component—refers to superannuation benefits accrued with respect to employment or fund membership after 30 June 1983. This component is the amount of the eligible termination payment reduced by the total amount of all the other eligible termination payment components. These benefits are taxed according to whether the superannuation fund's earnings were taxable and the age of the benefit recipient, as follows.</p> <p>Person less than Preservation age (generally 55):</p> <p>Taxed element: a post-June 1983 component is a taxed element if the fund is subject to 15% tax on investment earnings of the fund (i.e. most superannuation funds). 20%</p> <p>Untaxed element: a post-June 1983 component is an untaxed element if the fund is not subject to 15% tax on investment earnings (e.g. some government superannuation funds and golden handshakes for employees). 30%</p> <p>Person over their preservation age:¹⁷</p> <p>Taxed element:</p> <ul style="list-style-type: none"> – from \$0 to \$135 590 – balance <p>Untaxed element:</p> <ul style="list-style-type: none"> – from \$0 to \$135 590 – balance 	
Undeducted contributions —member contributions (since 1 July 1983) not subject to a tax deduction (not included for reasonable benefit limits purposes—see below).	Exempt
CGT exempt component —an exemption from capital gains tax (on a total maximum capital gain of \$500 000) can be claimed on the sale of a small business where the proceeds are used for retirement.	Exempt
Concessional component —until 1 July 1994, this included any approved early retirement scheme payment, bona fide redundancy payment or invalidity payment. From 1 July 1994, eligible termination payments no longer have a concessional component, except where an eligible termination payment with a concessional component was rolled over (transferred to) a complying superannuation fund before 1 July 1994 and subsequently paid out by the fund.	5% of amount is taxed at marginal tax rates
Post-June 1994 invalidity payments —the recipient's disability must be verified.	Exempt
Non-qualifying component —that part of an eligible termination payment that represents investment income accruing between the time of purchasing an annuity (other than by a rollover) and the time of payment.	Full amount taxed at marginal tax rates
<p>Excessive component—Portion of the excessive component that reflects the taxed element of the post 30-June 1983 component. 38%</p> <p>The remainder of the excessive component. 45%</p>	

Sources: Chapter CCH Master Superannuation Guide 2006–07 and ATO Taxation Determination TD 2006/42

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Proposed changes

Significant changes are proposed to the taxation of superannuation benefits. Briefly, these measures are:

- lump sums from superannuation funds that have been subject to the superannuation fund income tax (known as a ‘taxed’ fund) will be free of all tax upon receipt after 60 years of age
- normal superannuation lump sums from a taxed fund received before 60 years of age will be subject to a simplified set of tax arrangements. The simplification comes from abolishing various components making up an eligible termination payment
- lump sums paid from an ‘un-taxed’ superannuation fund to a person over 60 years of age will be subject to reduced taxation
 - an ‘un-taxed’ superannuation fund is one that has not been subject to the superannuation fund income tax, and
- normal lump sums from an un-taxed fund received by those under 60 years of age will be subject to the same kind of taxation regime as under current arrangements, but at reduced rates.¹⁸

The impact of these changes would be to eliminate many of the classifications in the table 2 above. For example the classifications of ‘pre July 1983, concessional, post June 1983, non-qualifying, excessive and CGT exempt’ components would disappear. This would produce a much simpler taxation regime for superannuation benefits.

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The following table, from Treasury's 'Detailed outlined of the proposed measures and the outcome of consultations', compares the current and proposed arrangements for the taxation of ETPs from a taxed source.

Table 3: Current and proposed tax rates on taxed eligible termination payments

Component	Current tax treatment	Proposal
Pre-July 1983	5 per cent taxed at marginal rates	Exempt component
Concessional	5 per cent taxed at marginal rates	
Undeducted contributions	Exempt	
Post-June 1994 invalidity	Exempt	
Capital gains tax exempt	Exempt	
Non-qualifying	Marginal rates	
Post-June 1983	Taxed as per table below	
Excessive	38 per cent	Abolished

Taxable component

Taxpayers age	Current tax treatment (for post-June 1983)	Proposal
Under 55	20 per cent	20 per cent
Age 55-59	Up to threshold (\$140 000) — 0 per cent Over threshold — 15 per cent	Up to threshold (\$140 000) 0 per cent Over threshold — 15 per cent
Age 60 and over	Up to threshold (\$140 000) — 0 per cent Over threshold — 15 per cent	Exempt

Sources: Treasury: 'A Plan to Simplify and Streamline Superannuation – Detailed Outline', 9 May 2006, p. 14. and Treasury: 'A Plan to Simplify and Streamline Superannuation – Outcome of Consultation', 5 September 2006, p. 2.

The \$140 000 low rate ETP threshold (to be known as the 'ETP cap') is to be indexed by AWOTE from 1 July 2007 in \$5 000 increments.¹⁹

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Un-taxed source

The following table summarises the current and proposed tax applying to post-June 1983 lump sum benefits paid from an un-taxed source. Such lump sums are generally paid from government or corporate defined benefit superannuation schemes.

Table 4: Current and proposed tax on unfunded or untaxed eligible termination payments

Taxpayers age	Current system	New system
Under 55	30% Excessive component — 47%	30% up to \$1 000 000 Top MTR above
Age 55-59	Up to threshold (\$140 000) — 15% Over threshold — 30% Excessive — 47%	Up to threshold (\$140 000) — 15% Over threshold to \$1 000 000 — 30% Over \$1 000 000 — Top MTR
Age 60 and over	Up to threshold (\$140 000) — 15% Over threshold — 30% Excessive — 47%	Up to \$1 000 000 — 15% Over \$1 000 000 — Top MTR

Sources: Treasury: 'A Plan to Simplify and Streamline Superannuation – Outcome of Consultation', 5 September 2006, pp. 20–21. 'A Plan to Simplify and Streamline Superannuation – Detailed Outline', 9 May 2006, p. 48.

The term MTR in the above tables refers to 'top marginal tax rate (45 per cent in 2006–07 and later years plus Medicare levy of 1.5 per cent).

A significant change is that the \$1m threshold noted in the above table is to be indexed to AWOTE, in increments of \$5 000 from 1 July 2007.²⁰

Reasonable benefit limits

The amount of concessional tax superannuation benefits a person is allowed to receive over his or her lifetime is limited by reasonable benefit limits (RBLs). The table below shows the lump sum and pension reasonable benefit limits. The pension reasonable benefit limit is available provided that at least 50 per cent of the total benefit received by a person is taken in the form of a pension or annuity that satisfies the pension and annuity standards.

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Table 5: Current Reasonable Benefit Limits

Reasonable Benefit Limits	2006–07
Lump sum	\$678 149
Pension	\$1 356 291

Source: Australian Taxation Office: TD 2006/42

Proposed change

The reasonable benefits regime is proposed to be abolished with effect from 1 July 2007.²¹

Death benefits

All death benefits paid on or after 1 July 1994 are subject to pension reasonable benefit limits. Death benefit payments made directly to the dependants of a deceased member are exempt from tax up to the deceased person's pension reasonable benefit limit. When paid to a person other than a dependant, death benefit payments become eligible termination payments. The post-June 1983 death benefit eligible termination payment is taxed at 15 per cent if paid from a taxed source and 30 per cent if paid from an untaxed source, up to the deceased person's pension reasonable benefit limit. Any amount above the deceased person's pension reasonable benefit limit is treated as an excessive component and is taxed at 38 per cent or 47 per cent depending on the source of the payment.

Proposed change

With the proposed elimination of the RBLs the entire lump sum death benefit, no matter what its size, will be paid tax free to the dependent of the deceased, as described above.

Death benefit pensions paid would be taxed under the proposed arrangements for other superannuation pensions.

However, a death benefit pension would not be able to revert to a non-dependent, if the dependent receiving such a pension died. Rather, it would have to be commuted (i.e. cashed out) to the non-dependent beneficiary. The resulting lump sum would be subject to the same tax treatment as other ETP lump sums (see above), though the entire taxable component of any such lump sum would be taxed at 15 per cent.²²

Employer Eligible Termination Payments (Golden Handshakes)

A common form of executive remuneration is to pay a departing employee or board member a large lump sum on their leaving a company. If the amount is not otherwise tax exempt (for example an invalidity payment) currently, these amounts are taxed at:

- if they are *under 55*—30 per cent, and

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- if they are *over 55*—15 per cent on the first \$139 590 and 30 per cent on amounts over this level.

These taxes could be avoided if the payment was transferred into a superannuation fund.

Proposed changes

The proposed changes are:

- an employer ETP paid in these circumstances would be divided into exempt and non—exempt amounts. The exempt amounts (made up of payment such as an invalidity payment) would not be subject to further tax
- if the person receiving a non—exempt payment is *under 55* this amount is taxed at 30 per cent on the first \$140 000 (indexed) and the top marginal tax rate (45% in 06–07 plus Medicare Levy of 1.5%) on amounts above this level
- if the person receiving a non—exempt payment is *above 55*, the tax is 15 per cent on the first \$140 000 (indexed) and the top marginal tax rate above this level, and
- these amounts would no longer be able to be transferred into a superannuation fund.²³

These proposed changes will limit the capacity of anyone receiving a ‘golden handshake’ to receive these amounts on a tax free basis, and would now only apply to payments received under employment contracts signed on or after 9 May 2006 (see following section). Payments made under contracts signed before 9 May 2006 would be taxed under the current arrangements.²⁴

Proposed changes ETPs – transitional arrangements

For those who were employed under existing contracts as at 9 May 2006, and who receive an ETP, specified in these contracts before 1 July 2012 the following transitional arrangements will apply:²⁵

- if the person is *under 55* years of age, amounts up to \$1 000 000 taxed at 30 per cent, amounts over \$1 000 000 at the top personal marginal tax rate plus Medicare Levy
- if the person is *over 55* years of age, amounts up to \$140 000 taxed at 15 per cent, amounts between \$140 000 and \$1 000 000, at 30 per cent, for amounts over \$1 000 000 will be taxed at the top marginal tax rate plus Medicare levy, and
- these ETP can be rolled into a superannuation fund before 1 July 2012. However, amounts over \$1 000 000 will be taxed at the top marginal tax rate plus Medicare Levy.²⁶

Payment of Pensions

Currently, the rate at which pensions and annuities are paid are either:

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- fixed in the annuity contract between the recipient and the provider
- determined by the rules of the particular superannuation scheme, or
- subject to limits on how much, or how little, may be paid over a financial year.

The rules governing these payments relate to 12 different pension and annuity products and are the source of a great deal of confusion.²⁷

Proposed changes

The proposed standards for pensions qualifying for concessional tax treatment under the new arrangements are:

- the payment of a minimum amount per year
- there would be no upper limit on the annual amount paid (including cashing out the entire amount of capital backing the pension)
- there would be no provision for an amount to be left over when the pension ceases, and
- the pension would be transferred only on the death of the recipient to their dependant(s), or cashed out as a lump sum to the dependant's estate.²⁸

The following table illustrates the proposed minimum annual pension payment rates, by age of the recipient.

Table 6: Proposed superannuation pension payment rates p.a.

Age	Per cent of account balance (average)
55–64	4
65–74	5
75–84	7
85–89	9
90–94	11
95+	14

Source: Treasury: 'Draft amendments to the Superannuation Industry (Supervision) Regulations 1994 – Simplified Superannuation – Schedule 7.

These factors would apply only to income streams purchased after 20 September 2007. The current arrangements will remain in place for income streams purchased before that date.²⁹

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Tax concessions on pensions paid from a superannuation fund and the pension & annuity tax offset

Where a person:

- receives an eligible termination payment
- uses it to purchase an annuity or pension from a taxed superannuation fund, and
- the person is 55 or more years of age,

the person is entitled to a tax offset, at 15 per cent, on the assessable part of the annuity or pension payment that is not in excess of the person's reasonable benefit limit.³⁰

Proposed changes

From 1 July 2007, pensions paid from a taxed source are proposed to be tax free, if the recipient is 60 years of age or older. Thus the need for the pension an annuity rebate for this particular group will disappear.

Pensions paid from a taxed source to those between the ages of 55 and 59 would continue to be taxed under current arrangements.³¹ This implies that the current pension and annuity rebate would continue to apply to pensions paid from a taxed superannuation fund for those in this age group.

Further, pensions from an untaxed source (e.g. the Commonwealth Superannuation Scheme Standard Indexed Pension) will qualify for tax offset equal to 10 per cent of the gross income paid per year. This offset would only be available to recipients over 60 years of age.³²

Accessing superannuation before retirement

Preserved superannuation benefits can be accessed on compassionate grounds and severe financial hardship.

From 1 July 2005, a person, who has reached their preservation age, may access their superannuation benefits in the form of a non-commutable income stream without having to retire or leave their current employment. Further, an allocated pension taken under these provisions can be stopped at any time and restarted at a later date.³³ These measures were designed to cater for more flexible working arrangements towards the end of a person's working life.

Proposed change

A proposed change would allow no more than 10 per cent of the account balance of a transition to retirement pension to be withdrawn in any one year.³⁴

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Compulsory payout of superannuation benefits

From 1 July 2004, a member's benefits in a superannuation fund must be paid out to that member when any one of the following applies:

- the member has reached age 65 (but not yet 75) and is no longer gainfully employed at least at a part time equivalent level
- the member is no longer gainfully employed for at least 30 hours each week and reaches age 75 before 1 July 2004
- the member reaches age 75 after 30 June 2004, or
- the member dies.³⁵

For these purposes a member is 'gainfully employed to a part time equivalent level' if the member was gainfully employed for at least 240 hours during the previous financial year.³⁶

Proposed change

These above payout requirements would be repealed. A person would be able to leave their benefits in their superannuation fund indefinitely; withdrawing as much, or as little, as they chose at any time after their preservation age.³⁷

A person's preservation age is that which superannuation fund members can generally withdraw their superannuation benefits, providing that all other 'conditions of release' for superannuation have also been satisfied. For those born before 1 January 1960, their preservation age is 55. For those born on or after 1 January 1960, their preservation age is between 56 and 60, depending on the year of birth. The maximum preservation age is 60 and applies to those born on or after 30 June 1964.³⁸

The ability to leave superannuation benefits in a fund indefinitely has a retrospective commencement date of 10 May 2006.³⁹

Social security treatment of superannuation

If a person is eligible to receive a social security pension or benefit, the amount they are paid is determined by the application of the income test and assets tests; the test that produces the lower rate is then applied to determine the rate at which that person is paid.

Assets test

If a person is applying for a benefit or pension, such as Unemployment Benefit or Sole Parent Pension, and they are under Age Pension age (65 years male, 60–65 years for a female depending on date of birth), superannuation in the accumulation stage is exempt

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from the assets test. Once a claimant reaches Age Pension age, superannuation is included in a person's asset test assessment.

If the superannuation benefits are taken as an income stream, the particular income stream product purchased with those benefits may be subject to the assets test, depending on the type of product and the date on which it was purchased. The following table gives a summary of the asset test treatment of various income stream products, either purchased with superannuation benefits, or arising from superannuation entitlements in public sector superannuation schemes.

Table 7: Current social security assets test treatment of income streams

Type of Superannuation Income Stream	Social Security Assets Test Treatment
Public Sector Defined Benefit Pension	100% of Purchase Price Asset Test Exempt
Complying Pension/Annuity purchased before 20 September 2004, meeting all requirements in sections 9A or 9B <i>Social Security Act 1991</i>	100% of Purchase Price Asset Test Exempt
Complying Pension/Annuity purchased after 20 September 2004, with proceeds of a commuted pre 20 September 2004 asset test exempt pension or annuity, meeting all requirements in sections 9A or 9B <i>Social Security Act 1991</i>	100% of Purchase Price Asset Test Exempt in limited circumstances
Complying Pension/Annuity purchased on or after 20 September 2004 meeting all requirements in sections 9A or 9B <i>Social Security Act 1991</i>	50% of Purchase Price Asset Test Exempt (remaining purchase price is depleted for asset test purposes over time)
Complying Market Linked or Term Allocated Pension meeting the requirements of s.9BA <i>Social Security Act 1991</i>	50% of Account Balance Asset Test Exempt
Allocated Pension or Annuity (no matter when purchased)	Account Balance Fully Asset Tested
Complying Pension/Annuity that does not meet requirements for Asset Test Exemption in <i>Social Security Act 1991</i>	Purchase Price Fully Asset Tested (amount depleted over time subject to asset test provisions.)

Source: Department of Family and Community Services and Indigenous Affairs – Guide to Social Security Law⁴⁰

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Proposed changes – Social Security assets test

There are a number of proposed changes to the social security assets test, including:

- the rate at which a person's age pension entitlements are reduced under the assets test is to be lowered, from \$3 per fortnight for every \$1000 of assets above the lower pension assets test threshold (currently, \$161 500 single, \$229 000 couple) to \$1.50 for every \$1000 in assets above these thresholds⁴¹
- every 'complying' income stream product bought on or after the implementation date (20 September 2007 for this proposal) would be fully asset tested. Currently, if an income stream product meets certain requirements, it was either 50 or 100 per cent exempt from the assets test, depending on the date it was bought,⁴² and
- from January 2007, people of Age Pension age living on rural property, who have at least a 20 year attachment to the land, may have all land used for domestic purposes on the same title as the family home excluded from the Pension and Carers payments assets test.⁴³ Currently, only 5 hectares, on which the main residence stands, is exempt from the assets test.

Proposed changes – pensions

The large number of pension types has been a confusing aspect of retirement income planning. For example, a retiree has the choice of the following types of product, which may have both different social security and tax treatment, and have different rules concerning payments and withdrawal of capital:

- allocated pension
- term allocated pension
- superannuation pension from a defined benefit fund
- an immediate annuity
- a term immediate annuity, or
- a life expectancy pension.

As noted above, the proposed changes to the superannuation system include replacing these different rules with one set of simplified rules.⁴⁴

Tax file numbers

Currently, a superannuation fund member may quote their tax file number (TFN) to their superannuation fund(s), but it is not a requirement to do so.

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Proposed change

The proposed changes require [item 32, schedule 1] an employer to pass an employee's TFN to a superannuation fund trustee, for use by that trustee in relation to the member's superannuation benefits. If a tax file number is not supplied to the fund, the tax deductible contributions, and the investment earnings, will be taxed at the top marginal tax rate plus Medicare Levy (46.5%). When a TFN is quoted within a three year period from the financial year in which the no-TFN contribution was first made, the additional tax collected under these proposed provisions is refunded to the superannuation fund.

Lost superannuation

Lost superannuation amounts have two separate sources. The majority of lost superannuation amounts are held by superannuation funds, in respect of members who they cannot contact, and whose accounts have not received a payment in the preceding two years. The second source is the amounts still left in the now closed 'Superannuation Holding Accounts Special Account' (SHA), originally set up to accept amounts of employer superannuation guarantee contributions that could not be made to a regular account. SHA is now closed to new contributions and is administered by the Australian Taxation Office (ATO).

Currently, either the superannuation fund or SHA holds these funds until the lost member would have reached age 65. These amounts are then passed to State authorities, or the ATO (or both) to await claim. The lost member would have to deal with both the ATO and the relevant State authority. Currently, there is about \$10bn in lost superannuation amounts.⁴⁵

Proposed change

The proposed changes allow the ATO to implement an enhanced procedure to both contact lost members and to enable those having lost superannuation accounts to request the ATO to automatically consolidate all of their superannuation benefits into one account.

Most of the above proposed changes are contained in this Bill. However, some of these changes are contained in five additional short bills introduced at the same time as this Bill. These other bills either introduce a new tax, or alter an existing levy. For constitutional reasons, such matters must be covered by a separate piece of legislation.⁴⁶ The details of the changes in these five other bills will be covered in a separate Bills Digest entitled 'Five related superannuation bills'.

Basis of policy commitment

These changes were first announced in the Budget speech for the 2006–07 budget.⁴⁷ Since then the government has made significant changes to the first announced proposals in

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response to consultation with both industry and the wider public.⁴⁸ This Bill is the outcome of these consultations.

Position of significant interest groups/press commentary

Both the Association of Superannuation Funds of Australia (ASFA) and the Investment and Financial Services Association (ISFA) have expressed their strong support for the proposed changes.⁴⁹ The Australian Chamber of Commerce and Industry (ACCI) also supported the introduction of this Bill.⁵⁰ The Institute of Actuaries welcomed the simplification of the system.⁵¹

Despite the widespread support for the proposed changes some questions have been raised about their effects, including:

- while the changes to the end benefit tax arrangements will not involve excessive short term cost to revenue, the long term impact on tax collections could be excessive (see following section on financial implications)⁵²
- the proposed changes are biased in favour of high income earners and are thus inequitable⁵³
- the removal of tax on funded lump sums paid to those over age 60, and changes to the treatment of income streams for social security purposes reduces the built-in bias in the current system for a retiree to receive the benefits as an income stream. This would lead to an increase in the number of benefits taken as a lump sum and an increased risk that retirees would waste the lump sum amount⁵⁴
- the proposed changes do nothing for those who are outside the superannuation system, such as the already retired who were unable to accumulate either any, or sufficient, superannuation benefits⁵⁵
- the proposed changes to the required annual minimum drawdown rates for private superannuation pensions will lead to the capital backing such pensions being depleted at a faster rate than would be the case under current arrangements. This may lead to retiree's private superannuation pensions ceasing to be paid before the person dies⁵⁶
- the proposed changes to the taxation of superannuation benefits means that investing via a superannuation fund is now by far the most profitable investment strategy for high income earners. This appears to be true to the extent that investment via a superannuation fund will be more profitable than investing using negative gearing⁵⁷
 - while the above point is not a problem in itself, concerns have been raised that this situation may mean a decline in negatively geared rental property. If this outcome occurs the already inadequate supply of rental property may contract further, and⁵⁸
- as noted above, under the new provisions it is a very good idea for a member, or an employer, to quote the member's TFN to their superannuation fund(s). Those that do

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not do so will have their contributions, and investment earnings, taxed at the highest personal marginal tax rate (i.e. 46.5% including Medicare Levy), or higher.⁵⁹

Pros and cons

There are many points in favour of the proposed changes, including:

- the elimination of the tax on funded end benefits for those over 60 will increase the adequacy of the retirement income system
- while the changes to the taxation of superannuation end benefits may not have a large immediate impact, it will be of great benefit to an increasing number of retirees as time goes on. Subsequent generations of retirees will have larger retirement benefits than the current generation. Thus, the elimination of the end benefits tax will be of progressively greater benefit to subsequent generations of retirees⁶⁰
- by eliminating the pre-1983 and excessive components of an ETP, the tax on superannuation end benefits received by retirees below age 60 is reduced slightly
- the changes will greatly simplify the current superannuation provisions, particularly in the elimination of several categories of ETP (i.e. the division of an ETP into just three components, 'exempt, taxed or untaxed'). These changes will simplify the decision making associated with withdrawing the benefits upon retirement
- the changes will dramatically decrease the administrative task that a superannuation fund faces, thereby theoretically lowering the administrative fees charged by the industry. Further, the ATO and employers will face far less complex administrative tasks once these changes have been implemented
- the changes will make investments in superannuation a far more attractive proposition. All other things being equal, this will increase the overall long term savings rate by increasing overall superannuation contributions
- the changes will encourage most people to retire at age 60, rather than at the current minimum preservation age of 55. In view of the ageing of the work force, this is a very desirable development
- the limits on contributions will, after the transitional period ends, limit the apparent inequity of the proposed changes
- the changes to the arrangements for handling lost superannuation amounts will, in combination with the requirements for an employer to provide the member's superannuation fund with their tax file number, make it far easier to re-unite members with their lost superannuation benefits and to consolidate a member's benefits into one superannuation account, with the consequent savings in fees and administrative expenses
- the changes to the preservation rules (i.e. ability to leave money in superannuation accounts indefinitely) greatly increases the flexibility of current superannuation

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arrangements. For example, after 1 July 2007 a retiree may simply withdraw as much as they need a year from their account and not bother with receiving all the benefits at once and reinvesting those benefits after retirement (see further comments in the following discussion section for more on this point)

- the changes to the pension and income stream rules, the elimination of the reasonable benefit limits and elimination of tax on funded superannuation benefits received after age 60 will greatly decrease the complexity of post retirement decision making in relation to these products (if a decision is made to invest in these products), and⁶¹
- the changes to the social security assets test will prevent investment decisions being made solely on the basis of potential access to social security benefits. Further, these changes will enable a larger number of asset rich, but income poor, retirees (such as farmers and other landholders) to access the age pension, without necessarily selling their current assets and reinvesting the proceeds.

The case against these proposed changes appears to rest on the following points:

- the changes do not address the retirement needs of those pre retirees who were not, and never could be, in a position to accumulate a sufficient amount of superannuation benefits to fund an adequate retirement income. Generally, these retirees are the lowly paid and those who, for various reasons, were not involved in the superannuation system for a sufficient length of time to accumulate such benefits, but who are still potentially in the work force. Women are over represented in this latter category.⁶² Against this background, there are potentially better uses for the forgone revenue to boost the retirement income of this group
- the changes improve the adequacy of superannuation savings for a group that has no need of such assistance (i.e. higher income earners and those able to make large, one off contributions to superannuation within the limits of the transitional periods outlined above)
- in the longer term, the changes will narrow the tax base and lower government revenue from what it otherwise might have been. This potential effect may occur when the demand on government revenue arising from the ageing of the population etc is at its highest, and
- the changes to the social security assets test will potentially allow individuals with sufficient resources to fully support themselves in retirement to claim the age pension.

Discussion

Not all of the above points should be accepted uncritically. The following seeks to present additional consideration relevant to assessing the points for and against the proposed changes:

- while it is true that those with smaller superannuation balances do not gain much, if anything, from the proposed changes, neither are they subject to a great deal of tax

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when they take these benefits. It is very hard for a government to benefit individuals through the tax system where they are not subject to taxation

- the elimination of the pre—1983 and excessive components of an ETP is potentially of great benefit to the current generation of retirees, who were accumulating superannuation benefits before 1 July 1983, or whose superannuation benefits would have been above their RBL. However, comparatively few superannuation fund members now working accumulated superannuation benefits before 1 July 1983 and the operation of the current tax system meant that the proportion of their benefits that were subject to the tax on the pre—July 1983 component progressively diminishes. Further, the proportion of those currently having an ‘excessive’ ETP component is very small, and would have remained so due to the RBLs being indexed in line with the increased in Average Weekly Ordinary Time Earnings (AWOTE)
- as noted above, women in particular have accumulated a far lower level of superannuation benefits than the general male population. This is being partly addressed by the government superannuation co-contribution scheme, where a significant proportion of those on whose behalf the co-contribution payments are made are low income women⁶³
- while the proposed changes will have the effect of encouraging later retirement for many individuals, this outcome simply reinforces an emerging trend for older workers to maintain an attachment to the workforce. The following table shows the changes in the workforce participation rate for older males since 2002:

Table 8: Male Workforce Participation Rates August 2002 – October 2006 –Percent of Workforce

Age Group	August 02	August 03	August 04	August 05	August 06
55–59	72.1	73.3	74.6	75.8	77.4
60–64	46.7	50.1	50.9	54.7	56.5
65+	9.3	9.6	9.9	11.4*	12.2

Sources: For 2002: ABS Cat. 6203.0, Labour Force, August 2002, Table 10. For later years: ABS Cat 6105.0, Australian Labour Market Statistics, Table 1.2, August 2003, 2004 and 2005. *There was a break in the ABS series from the 2005/06 year.

- while changes in the social security assets test potentially allow more persons to claim the age pension, it should not be forgotten that access to age pension benefits is determined on the basis of both the income and the assets test. The rate of payment, for those who otherwise qualify, is determined by which of those tests produces the lowest rate of payment. In 2004 about 92.5 per cent of age pensioners had their payments determined under the income test.⁶⁴ While more retirees may qualify to receive the

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Age Pension under the assets test as a result of the proposed changes, it does not necessarily follow that they will be eligible for payment under the income test

- it has been claimed that the proposed changes do nothing for current retirees (see below). This is not entirely correct. Those age pensioners, whose payment is determined by the assets test, will receive an automatic increase in payment once the proposed changes to the social security asset test take effect on 20 September 2007
- the proposals to enable the ATO to consolidate a person's superannuation accounts into one account has the potential to generate significant savings for many super fund members,⁶⁵
- fears that retirees given greater access to lump sum superannuation will simply waste the funds do not appear to be justified. To date, there is no evidence that this occurs. Rather it appears to be the case that social security pensioners are slowly drawing down on their assets; but at a rate that is consistent with their expectations of a long life, and⁶⁶
- while the proposed changes in the rate at which private pensions are paid may draw down a retiree's capital at a faster rate than the current rules, it is of far less importance. Under the proposed arrangements, if a retiree is concerned that the capital backing their pension is being drawn down too quickly they may simply commute (that is cash out) this product and leave the capital in another superannuation fund. They may then withdraw as little or as much as they require from that point on.

ALP/Australian Democrat/Greens/Family First policy position/commitments

ALP

The Australian Labor Party has supported the package, but is concerned about:

- the lack of long term costing of the package
- the imposition of a 46.5 per cent tax on contributions where the employer fails to provide a TFN in respect of an employee, and
- supports the automatic consolidation of a person's superannuation accounts into one account. The proposed changes simply enable the ATO to do this upon request.⁶⁷

Democrats

While the Democrats support simplification of the current superannuation system they have some reservations about its fairness.⁶⁸

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Greens

The Greens are concerned that the proposed changes favour the baby boomer generation over the current generation of age pensioners. Further, they consider that an adequate age pension is cheaper than the current retirement income system of the age pension in combination with compulsory, and voluntary, superannuation savings.⁶⁹ On the basis of these concerns it may be the case that the Greens will oppose the above changes to the superannuation system.

Financial implications

The Explanatory Memorandum to the Bill outlines the financial implication in the following table:⁷⁰

Table 9: Impact on the Fiscal Balance (in billions)

2006-07	2007-08	2008-09	2009-10
-0.1	-2.2	-2.3	-2.6

Source: Explanatory Memorandum, p. 6.

The total impact on revenue is forecast to be \$7.2bn over this forecast period. Given that the cumulative cash surplus over the same period is forecast to be about \$44.6bn this impact can be easily accommodated within the current budget settings.⁷¹

According to the Canberra based economics consultancy, Access Economics, the majority of these costs appear to come from changes to the social security assets test and the social security treatment of income streams.⁷²

As noted above, the major issue is the long term impact on revenue of these changes. The Institute of Actuaries has estimated that the long term impact of the removal of the tax on end benefits for those over 60 will be small due to:

- the amount of revenue raised from these taxes is currently small (forecast to be 0.05 per cent of GDP in 2007)
- the amount of tax raised from these imposts would have grown very slowly in the future, rising to 0.19 per cent of GDP in 2025 and to 0.33 percent of GDP in 2040, and
- while these are not insignificant amounts, they are far less than the expected revenue from the tax on superannuation fund income, made up of both tax deductible contributions and superannuation fund's investment earnings.⁷³ Thus the government has elected to retain the more lucrative of the current taxes applying to superannuation.

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Main provisions

As the Bill runs to 256 pages the following comments will only address the major operative provisions implementing the major policy commitments. Accordingly, the Bills provisions that rewrite existing legislation will be ignored for the purposes of this Digest.

Schedule 1

Item 1 of this schedule inserts a lengthy new **Part 3-10** into the *Income Tax Assessment Act 1997* (ITAA 97). These changes take effect from 1 July 2007 (see **item 2**).

Employer's tax deductible contributions for employees

New **section 290-80** allows employers a tax deduction for superannuation contributions made on behalf of employees, if that person is under 75 years of age. Currently, employer superannuation contributions are only tax deductible if the person is aged under 70. This provision allows older workers to enter into salary sacrifice arrangements with their employer.

Tax deductible contributions by the self-employed

The new **section 290-150** allows the full amount of a self employed person's contributions to a complying superannuation fund to be tax deductible.

New **section 290-165** extends this right to those who are under 75 years of age (up from under 70 years of age previously).

While new **section 290-160** restates the general definition of a self employed person, i.e. having less than 10 per cent of their assessable income (including reportable fringe benefits) arising from employment, it makes significant changes to the current definition of the term in **section 82AAS(3)** *Income Tax Assessment Act 1936* (ITAA 36). The current definition contains two parts:

- having less than 10 per cent of a persons assessable income from employment, and
- being eligible to receive, or received employer superannuation support.

The proposed definition does away with the latter part and is consistent with the definition of an employed person for superannuation co-contributions purposes in **subsection 6(1)(b)** of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* (see **Schedule 6, Item 1** for corresponding changes to this Act).

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Tax on excess contributions

New **sections 292-15** and **292-20** refers to an additional tax on excess ‘concessional’ contributions and limit those contributions to \$50 000 per annum per member. A concessional contribution is one in respect of which a tax deduction has been, or will be, claimed and is otherwise known as a tax deductible contribution. A tax of 15 per cent is levied on concessional contributions once they enter a superannuation fund.

Transitional provisions for concessional contributions are in **Part 3** of **Schedule 1** (see below).

New **section 292-25** defined a ‘concessional’ contribution to be an amount contributed that is part of the assessable income of a superannuation fund plus an amount specified in regulations in certain limited circumstances.

For concessional contributions to be part of the income of a superannuation fund they generally have to be contributions in respect of which a tax deduction has been claimed.

New **sections 292-80 and 292-85** impose a tax on excess ‘non-concessional’ contributions and limit the tax free ‘non-concessional’ contributions to 3 times the concessional contributions per person per annum (i.e. \$150 000 in the 2007–08 tax year). A non-concessional contribution is one that is made from after-tax money and is otherwise known as an ‘undeducted’ (or post-tax, or after-tax) contribution.

Transitional provisions – non-concessional contributions

New **subsections 292-85(3) and 292-85(4)** implement some transitional provisions. If a person is under age 65 for the first year (i.e. 2007–08) they may make up to \$450 000 in non-concessional superannuation contributions. But if a person makes only \$50 000 non-concessional contributions in the first year they can only contribute up to \$400 000 in the next two years (i.e. up to the close of 2009–10). At the close of year 3 (i.e. 2009–10) this transitional provision ends and a person may only contribute up to three times the concessional cap (which is indexed) in any one year. If a person’s non-concessional contributions exceed \$450 000 during this three year period the superannuation fund will pay an excess contributions tax on this amount.

Under new **section 292-90** a non-concessional contribution does not include:

- a government superannuation co-contribution amount
- a payment relate to a structured compensation settlement or court orders for personal injury
- amounts arising from a Capital Gains Tax free contribution (arising from the sale of a small business etc) (see next section)
- a contribution made to a ‘constitutionally protected fund (usually made by governments in respect of judges and other judicial offices), or
- an amount transferred from another superannuation fund.

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Capital gains tax exempt contributions

The annual limit on capital contributions, under new **section 292-105** has been set at \$1m. These contributions can be made up of:

- up to \$500 000 of capital gains that are disregarded under the CGT exemption in **Subdivision 152-D ITAA 97**. These amounts are exempted from the CGT provisions if they arise from the sale of a small business and are placed in a complying superannuation immediately after they are received
- capital proceeds from the disposal of assets that qualify for the CGT exemption in **Subdivision 152-B ITAA 97**. These are capital gains on assets that the tax payer has held for at least 15 years
- capital amounts arising from the sale of assets on which no capital gain had been made
- capital gains that arose from the sale of assets, due to the permanent incapacity of the person, in circumstances where the asset had not been held for the required 15 year period under Subdivision 152-B, and
- amounts arising from the sale of pre CGT assets, that is, asset owned before the introduction of the CGT on 20 September 1985.

Comment

These provisions should not be read as increasing the amount of capital profits that are exempt from tax. Rather, these provisions allow a superannuation fund to receive up to \$1m per annum of amounts arising from certain capital transactions. The lifetime limit of \$500 000 in CGT exempt amounts that can be contributed to a superannuation fund following the sale of a small business asset remains in force.

Payment of excess contributions tax

If a person is assessed as making excessive contributions, new **sections 292-405, 292-410 and 292-415** allow this tax to be recovered from the person's superannuation fund. If the person has more than one fund the tax can be recovered from the fund of the person's choice.

The Commissioner for Taxation will give the person an assessment of excess contributions tax and a release authority to authorise the person's superannuation fund to pay this tax. The person then **may** give the release authority to their superannuation fund within 90 days of the date on the release authority. However, if that person fails to give the release authority to the superannuation provider they are subject to penalties (**Schedule 1, item 23** – new **section 288-90 Income Tax Rates Act 1986**)

On receipt of the authority the Fund must pay the required tax within either 30 or 21 days depending on whether it is excess concessional or non-concessional tax to be paid.

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If the amount to be paid is for excess non-concessional tax, and:

- the person does not give the release authority to the appropriate superannuation fund within the 90 day period, or
- the person has made one or more requests within the 90 days to the superannuation fund(s) for payment and the amounts paid fall short of the required total, or
- the total values of every superannuation interest (other than a defined benefit interest) held by a particular superannuation fund is less than the tax required to be paid, then

the Commissioner for Taxation may directly give the release authority to one or more superannuation providers that hold benefits on behalf of the person.

Comment

These provisions allow the person to choose how to pay the excess concessional contributions tax, either from their non superannuation funds, or from the monies held by their superannuation funds. However, the person must pay any non-concessional excess contributions tax from amounts held by their superannuation fund(s).

The Commissioner is able to assess how much is held in respect of a particular individual via the Member Contribution Statements (MCS) that each superannuation provider must give to the ATO, each year, in respect of each fund member.

New **sections 295-1 to 295-555** largely restate existing provision in the ITAA 36 relating to the taxation of superannuation funds.

No-tax file number (TFN) contributions

Under the provisions of new **section 295-605** a superannuation provider is liable to pay the tax on a 'no-TFN contribution'. A no-TFN contribution, according to new **section 295-610**, is one where a contribution has been made on or after 1 July 2007, in respect of a person, where the person's TFN has not been quoted to the superannuation provider.

An exception is made where the no-TFN contribution does not exceed \$1000 for the year and the superannuation, or retirement savings, account existed prior to 1 July 2007. Such contributions are not subject to the higher rate of tax.

The superannuation provider may claim a tax offset in respect of the no-TFN contribution tax paid over the preceding 3 years, according to new **section 295-675**, if the relevant fund member quotes their TFN to the provider for the first time in the fourth or earlier income year.

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Comment

The legislation is silent on the action the provider may, or may not, take in respect of the particular member's account balance, as a result of paying the no-TFN contributions tax and later receiving a refund of the tax paid if the person's TFN is quoted within the relevant time period.

Tax on member's benefits

New **Division 301** contains the provisions for the proposed tax arrangements on member's benefits once they are paid after retirement. The following only comments on the major changes to the current tax arrangements noted in the background section above.

Tax free status if benefits paid to those over 60 years of age

Superannuation benefits are tax free, under new **section 301-10**, if the recipient is 60 years of age or older. This general rule applies to both lump sum and income stream benefits. But this section should be read in conjunction with new **subdivision 301-C** that retains a tax liability on superannuation benefits paid from an 'untaxed' (or unfunded) source.

Tax offset for income streams paid from an un-taxed source

Where the recipient is over 60 years of age, new **section 301-100** allows a 10 per cent offset to apply to any income stream paid from an un-taxed source. The following example illustrates how this tax rebate works.

A person over 60 years of age receives an income stream from an un-taxed source (such as the Commonwealth Superannuation Scheme) of \$20 000 per year. At current income tax rates, the person would be liable to pay an annual tax of \$2 100. The tax offset available to them is equal to 10 per cent of the gross value of the pension, in this case \$2000 p.a. This offset is in addition to the low income rebate and any other tax offset to which they may be entitled and only reduces the tax payable on the pension itself. In this particular case, the person is also qualifies for the low income tax rebate of \$600 p.a. and their actual tax liability is \$0.

Comment

This offset mainly applies to those receiving government superannuation pensions. Many government schemes allow former government employees to receive these pensions from age 55. This particular tax offset does not apply to anyone receiving an income stream from an un-taxed source before age 60. However, once the recipient turns 60 years of age they will qualify to receive the benefits of the offset.

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Death benefits

Under new **section 302-60**, all the lump sum superannuation death benefits paid to deceased dependent(s) are tax free. There are no limits on the size of the benefits paid.

A superannuation income stream received as a result of the death of a person who was over 60 when they died is also tax free, even if the recipient is under 60 years of age, irrespective of whether it is paid from a taxed or untaxed source, under new **section 302-65**. These income streams are also tax free if the recipient is over 60 years of age.

Comment

The provision potentially gives the dependents receiving such income streams a significant advantage. Generally, the income streams paid to dependents of the deceased would be subject to income tax. However, the death of the primary beneficiary automatically takes the income stream paid to the survivor out of the income tax system altogether. Otherwise, death benefit superannuation income streams paid to dependents are taxed in the same way as non-death benefit income streams.

Untaxed rollover amount

New **section 306-15** stipulates that a tax on excess rolled over amounts from an untaxed source is payable. Such rollover amounts can arise, for example, where a government employee has a defined superannuation benefit in a government scheme, that has not been funded (the government has not set aside assets to meet this superannuation liability in a superannuation fund), and transfers this benefit into another scheme.

This section does not impose a tax on excess amounts of such rollovers. For constitutional reasons, this tax is imposed by the provisions of a separate bill. An excess untaxed rollover amount is the value of the untaxed amount rollover above \$1m in the 2007–2008 year (see below).

Proportioning rule

New **section 307-125** contains a change that could have significant implication for retirees receiving an income stream.

Currently, the tax free portion of an income stream (i.e. an allocated pension or immediate annuity) is based on the amount of after-tax contributions contained in the money used to purchase that product. For example, say a person retires and purchases an allocated pension with \$100 000, of which \$10 000 is made up of after-tax contributions (therefore a tax free amount). The tax free amount of the income stream paid is calculated by \$10 000 divided by that person's average life expectancy. If that person's life expectancy is 17

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years, the tax free amount of \$588 per year. This tax free amount stays the same over the entire life of the pension. Thus, the pension is increasingly subject to tax as time goes on.

Under the proposed provision the tax free amount of the pension paid is calculated on the basis of the proportion of the tax free component of the amount used to purchase the income stream. In this example 10 per cent of the purchase price is a tax free amount. Thus 10 per cent of the pension paid will be tax free between the ages of 55 and 60. As noted above, income streams paid from taxed sources are tax free if the recipient is over 60 under the proposed arrangements. Thus, the tax effectiveness of the income stream is maintained between the ages of 55 and 60.

Comment

This provision is of no benefit to those who receive a superannuation based income stream from a taxed source after 60 years of age, as all such income is tax free under provisions already discussed. Neither is it of great benefit to those who receive modest income streams between the ages of 55 and 60 as the combination of the low income rebate, the Senior Australian's Tax Offset and the continuing superannuation pension rebate usually reduces the tax on such income streams to very low levels, if not completely eliminates it. Rather, the particular provision appears to be of great benefit only to those who receive large superannuation based income streams from a taxed source between the ages of 55 and 60.

The tax free and taxed amounts

New **sections 307-210** to **307-225** define what a taxed and a tax free element of a superannuation benefit are.

Under **section 307-210** a tax free component of a benefit is made up of both a 'contributions segment' and a 'crystallised' segment.

According to **section 307-220**, a contributions segment is made up of:

- contributions that are made after 30 June 2007, and
- contributions that are not, and will not be, included in the assessable income of a superannuation fund.

Effectively this means the after-tax contributions put in to the fund by the person themselves, or on their behalf. As noted above the annual limit on these contributions is \$150 000 (subject to the various transitional provisions).

Further, a crystallised segment, under new **section 307-225**, is one made up of the value of:

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- the concessional component, and
- the post-June 1994 invalidity component, and
- the undeducted contribution, and
- the CGT exempt component, and
- the pre-July 1983 component

as at 30 June 2007.

The total of the above amounts is then set and does not alter as time goes on. Under current arrangements, the value of the pre-July 1983 component would have reduced as time went on, potentially leading to an increased amount of tax on the end benefit otherwise paid (if the post-June 1983 amount was large enough).

Comment

Under current arrangements, these components are either tax free, or only 5 per cent of the amount is added to a person's overall tax assessable income in the year in which they are received. Thus, 5 per cent of these amounts are currently subject to a person's marginal tax rate. Whichever treatment applied, very little (if any) tax was paid on benefits made up of these components. Their inclusion in the tax free amount removes this tax altogether.

The Explanatory Memorandum notes that superannuation providers will have until 30 June 2008 to calculate what the pre-June 1983 component of a crystallised segment is for each fund member.⁷⁴ While these are complex calculations, they are also routine calculations that would have to be undertaken for each fund member with pre-1983 superannuation benefits in any event.

The payment of tax on superannuation lump sum benefits on five per cent the pre-June 1983 component at the person's marginal rate led to many retirees taking their benefits on the first few days of a new financial year after retirement. This was due to a lower marginal tax rate applying in the first tax year following formal retirement. In some cases this was very difficult for the individual concerned if their birthday was just after 1 July in any one year. The proposed changes to the definition of the tax free amount remove these difficulties.

Under new **section 307-215** the taxed component of a superannuation benefit is what is left after the tax free component has been calculated.

Comment

These provisions represent a major simplification of the tax arrangements on end benefit superannuation.

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Low rate cap amount

New **section 307-345** specifies that for the 2007–08 year, the low tax rate cap for taxed superannuation benefits received between the ages of 55 and 60 is \$140 000. A zero rate of tax applies to taxed benefits received up to this amount. A 15 per cent tax applies to amounts received above this threshold.

This threshold is to be indexed annually in \$5 000 increments. However, the note to this section warns that annual indexation does not necessarily increase this threshold (see below).

Further, this threshold is a so-called lifetime limit. The amount of benefits having a zero tax rate that a person can receive between the ages of 55 and 60 is reduced by amounts of benefits from a taxed source that has previously been paid. For example, a person retires at age 56 and withdraws \$140 000 in taxed benefits from their superannuation fund. At age 58 the person withdraws a further \$100 000 in taxed superannuation benefits. The majority of this latter withdrawal would be subject to tax at a rate of 15 per cent.

Untaxed plan cap amount

New **section 307-350** limits the amount of benefits that can be received from an untaxed source on a concessionally taxed basis. The concessional nature of the tax rates applied is measured against the personal marginal tax rates.

The limit is \$1m per superannuation plan. That is, the limit applies to each superannuation plan that a person has that pays an untaxed benefit. However, the limit for each plan is reduced by the amount of untaxed benefits that a person has already received from any superannuation fund.

As noted in the outline of the proposed measures above, the tax rates vary with age and amount received. Again, this cap is indexed.

No-TFN contribution tax rate

Item 18 of Schedule 1 amends the *Income Tax Rates Act 1986*. By inserting new **section 29** into this Act the tax rate on No-TFN contributions is set at 31.5 per cent. This tax is payable in addition to the tax that would have otherwise been paid on a concessional contribution (i.e. 15 per cent). Thus the total tax paid on a concessional No-TFN contribution is 46.5 per cent; which is the top marginal tax rate plus the Medicare Levy.

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Schedule 1 – Part 3 - *Income Tax (Transitional Provisions) Act 1997*

Transitional provision – concessional contributions

Item 25 of **Schedule 1** inserts new **section 292-20** into the *Income Tax (Transitional Provisions) Act 1997*. This provision allows a person to make up to \$100 000 in concessional contributions for the financial years beginning or after 1 July 2007 and ending before 1 July 2012 if they are over 50 years of age on the last day of one of the above financial years. For example, a person who turns 50 on 1 January 2010 will be able to make \$100 000 of concessional contributions in each of the 2010-2011 and 2011-12 financial years. The \$100 000 limit is not indexed.⁷⁵

Transitional Provisions – Non-concessional Contributions

New **section 292-80** allows individuals to make non-concessional contributions of up to \$1m before 1 July 2007.

Further, if a person has inadvertently breached the \$1m limit on non-concessional contributions, new **sections 292-80A, B and C** allow the person to request, via a form provided by the ATO, that the superannuation fund return the excess amount. If so requested, the superannuation fund must return this excess contribution.

Schedule 1, Part 4 – TFN consequentials

Schedule 1, item 27 inserts new **section 202DHA** into the ITAA 36. Under this provision a person who has made a TFN declaration to their employer is taken to have authorised the disclosure of that TFN to the trustee of the relevant superannuation entity or scheme.

Comment

Most employees quote their TFN to their employer in order to gain access to the tax free amount of income per year for income tax purposes. Thus it is common practice for employees to quote their TFN to their employer. This section ensures that this information is automatically passed on to the relevant superannuation entity or scheme.

Item 32 of **Schedule 1** repeals paragraph 299C(1)(a) of the *Superannuation Industry (Supervision) Act 1993* and replaces it with a paragraph (in combination with the other provisions of this particular section), requiring that if an employee quotes their TFN to their employer in for the purposes of the operation, or possible future operation of superannuation legislation, then the employer must quote this TFN to the relevant superannuation provider within 14 days of the employee's quote taking place.

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Schedule 2

This Schedule deals with the tax treatment of a new category of payments: ‘Employment Termination Payment’ (EMTP). This category replaces the former ‘Eligible Termination Payments’ (ETP), which will cease to exist as a legal category from 1 July 2007.

Comment

Under current arrangements, superannuation payments are included in the ETP category. Under the proposed arrangements, superannuation payments are not included in the EMPT category. Thus the following deals only with payments made as a consequence on leaving employment, not as a consequences of retirement from the workforce.

Item 1 inserts new **Part 2-40** into the ITAA 97.

New **section 80-5** of the ITAA 97 makes it clear that, for the purposes of this Part, the holding of an office has the same meaning as employment.

New **section 80-15** allows various types of payment to include a transfer of property. These payment types include an EMPT, a genuine redundancy payment, or an early retirement scheme payment.

Comment

This new section appears to allow payments to be made in kind, rather than as cash. Thus an EMPT can be paid in kind, such as equipment, a commodity or in financial instruments such as shares and options (providing the latter can be classed as legal property) as well as cash. This particular section does not specify whether payment in kind can only be at the request, or with the permission, of the departing employee.

It is important to note that an EMPT does not include a superannuation payment. Thus, payments from a superannuation fund or scheme must still be made in cash.

Death benefits

In addition to an EMPT, there are two further payment categories of payment:

- a life benefit termination payment—briefly payments received by a dependent as the result of a person’s termination of employment by their death, and
- a death benefit termination payment—briefly, payments received by another person as a result of the termination of a person’s employment by their death.

Later sections define these terms.

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New **section 82-10** sets out the tax treatment of a life benefit termination payment. These payments are divided into tax free and taxable components.

A tax free component is just that – tax free in the hand of the recipient. New **section 82-140** specifies that this tax free component will usually be made up of the pre-July 1983 component and an invalidity payment.⁷⁶

The taxable component is subject to different tax rates, depending on the age of the recipient:

- if they are below their preservation age on the last day of the income year in which the payment is received – 30 per cent, or
- if they are at, or above, their preservation age on the last day of the income year in which the payment is received – 15 per cent.

These tax rates apply to amount up to the ‘ETP cap amount’, defined in new **section 82-160** of the ITAA 97 as \$140 000 in 2007-08. This amount is indexed annually.

Amounts above the ETP cap amount are assessable income taxed at the top marginal tax rate.⁷⁷

Comment

This section introduces an innovation in the taxation of these payments. Under current law, the tax rates apply on the exact date the recipient reaches their preservation age. That is, a different tax rate may apply depending on whether the individual receiving the payments has reached, or exceeded their individual preservation age. The proposed arrangements are more flexible in that the person has to simply reach their preservation age by the last day of the income year in which the payments are received. So, a person may actually receive a payment before the date on which they reach their preservation age, and be taxed at the lower rate on the first \$140 000, providing they reach their preservation age by the last day in the income year. This latter date is usually 30 June of any year.

New **section 82-65** specifies the tax payable by dependents of a deceased receiving the deceased’s death benefit termination payment.

Payments made to dependents up to the ETP cap amount are tax free under this section. However, payments, exceeding the ETP cap amount are assessable income, taxed at the top marginal tax rate.

New **section 82-70** sets out the taxation of tax payable by those who are not dependents of a deceased and who receive the latter’s death benefit termination payment.

Again, the tax free component of such a payment is not assessable and not exempt income of the recipient. That is, it is tax free in their hands.

However, the taxable component of this payment up to the ETP cap (i.e. first \$140 000 in 2007–08) is taxed at 30 per cent. The remainder is taxed at the top marginal tax rate.

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Key concepts

New **subsection 82-130(1)** specifies that an EMPT is one made as a consequence of the termination of employment, no later than after that termination. The Explanatory Memorandum notes that this rule is necessary to prevent abuse of the concessional tax rates applying to EMPTs.⁷⁸

However, the above subsection does not apply if the Commissioner for Taxation determines that the delay in payment was reasonable given the circumstances. Such circumstances can include a protracted dispute over the EMPT to be made. Further, the 12 month rule does not apply to a genuine redundancy or an early retirement scheme payment.

New **section 82-135** specifies what payments are not EMPTs, including:

- superannuation payments
- pension or annuity payments
- unused leave payments
- advances or loan payments, or
- capital payments for, or in respect of, personal injury or a legally enforceable contract in restraint of trade.

The remaining sections in this schedule largely restate the existing tax treatment of other types of payments, e.g. unused leave and unused long service leave payments and contains transitional provisions to the new arrangements outlined above. The proposed treatment of these payments is either exactly, or largely, the same as the current treatment of these payments.

Schedule 3

Indexation

Item 7 inserts new **section 960-285** into the ITAA 97. This section provides for various caps mentioned above to be indexed by the annual increases in AWOTE.

However **paragraph 960-285(2)(b)** specifies that the result of this calculation is to be rounded down to the nearest multiple of \$5000. Thus even if an initial indexation resulted in the ETP cap nominally increasing from \$140 000 to \$143 000, the rounding down effect would mean there was no change.

Comment

Under current arrangements, the tax free portion of a post-June 1983 amount was indexed by the annual rate of increase in AWOTE. If AWOTE went up, so did the tax free portion

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of this payment. This is not necessarily the case under the proposed arrangements. The proposed method of indexation is a significant departure from current practice.

Schedule 6 – Co-contributions

Items 1, 2, 7 and 8 make significant changes to the current superannuation co-contributions legislation.

Items 1 and 2 increase the range of persons who may be eligible for superannuation co-contribution payments.

Currently, section 6 of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* effectively restricts the operation of the superannuation co-contributions regime to those who are employed for tax and superannuation purposes.

The proposed changes allow a superannuation co-contribution payment to be made to both those who are employed in a wide variety of occupation and those who are operating a business for the purposes of the ITAA 97. The Explanatory Memorandum notes that the definition of those carrying on a business in the ITAA 97 is quite wide, including those who are engaged in any profession, trade, employment, vocation or calling. Thus, even religious practitioners would be capable of receiving a superannuation co-contribution under the proposed changes.⁷⁹ The proposed changes would also bring part time domestic workers with the definition of employee and thus make them eligible for superannuation co-contribution payments.

Item 7 adds a provision to **section 7** of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*, restricting an eligible contribution to a complying superannuation fund for co-contributions purposes to personal (i.e. after-tax or non-concessional) contributions to instances where the Commissioner for Taxation has not allowed a personal income tax deduction in respect of those contributions.

Comment

The overall aim of the co-contribution legislation is to allow those on a low income to receive superannuation top up payments, but only where the person has made a personal contribution to a complying superannuation fund. The self employed can claim a tax deduction in respect of these personal contributions. This change introduced by **item 7** is necessary to ensure that the self employed do not get both a co-contribution payment made on their behalf and a tax deduction in respect of the same personal contribution.

Item 8 ensures that the assessable total income for a self employed person for co-contributions purposes does not include personal contributions for which they have claimed an income tax reduction. Again, this is a necessary change flowing from giving the self employed access to the co-contributions regime.

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Schedule 7 – Unclaimed money

The current criteria for classification of an amount as unclaimed money are:

- the member must have turned 65, and
- 2 years have passed since their last contribution, and
- after making reasonable efforts and after a reasonable period has passed, the superannuation provider cannot contact the member.

The term ‘reasonable period’ is not defined, leaving some uncertainty about satisfaction of the criteria. **Items 4** and **6** address this by replacing the last criteria with:

- after a period of five years since the superannuation provider last had contact with the member, the provider has been unable to contact them again after making reasonable efforts to do so.

The other requirements (that *the member is 65 and 2 years have passed since the last contribution stay the same*)

Schedule 8 – Social Security

When considering the following changes it is important to note that the provisions of **Schedule 8** ensure that the asset test exempt status of an income stream purchased before 20 September 2007 will continue after that date. Further, if it is necessary or desirable for a person to commute an asset test exempt income stream purchased before that date, and reinvest into another income stream product having the same characteristics, **Schedule 8**’s provisions allow for the asset test exempt status of the successor product to be retained.

Item 1 of this Schedule inserts new **paragraph 9A(1)(aa)** into **subsection 9A(1)** of the *Social Security Act 1991*. This insertion has the effect of denying asset test exempt status to income stream products bought on or after 20 September 2007. However, if the product is classified as a ‘defined benefit income streams’, **paragraph 9A(1)(aa) does not apply and** asset test exempt status is retained: **item 2** Generally, only pensions paid to retired government public servants meet the criteria for defined benefit income streams set out in subsection 9(1F) of the *Social Security Act 1991*.’

Comments

For social security purposes, asset test exempt income streams are split into two types – lifetime and life expectancy income streams. As the name suggests, lifetime income streams are just that – they last for the life of the primary beneficiary, and, if required, the secondary beneficiary(s). In contrast, a life expectancy income stream lasts only for the average life expectancy of the primary beneficiary, and if required, the secondary

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beneficiary(s). Life expectancy asset test exempt income streams have been by far the most popular income streams purchased.

As noted previously in Table 7, income stream products meeting the required characteristics are either 100 or 50 percent exempt from the social security (and veterans affairs) assets test, depending on the date on which they are purchased.

Most of the changes in this Bill take effect either on announcement or on 1 July 2007. However, the changes to the social security and veteran's affairs legislation take effect on 20 September 2007. This is due to the normal cycle of changes to the social security system taking effect on either 20 March or 20 September each year, and arises from the way in which the computerised administration systems for these areas are run.

Item 5 repeals the current **subsection 9B(1)** of the *Social Security Act 1991* and replaces it with new text. The effect is to ensure that income streams meeting the criteria of **section 9B**, purchased on or after 20 September 2007 will not be exempt from the assets test.

Item 8 requires that a market linked income stream retains its 50 per cent asset test exempt status only if it is purchased in the period from 20 September 2004 and ending on 19 September 2007. Effectively this denies market linked income streams an exemption from the assets test if they are purchased on or after 20 September 2007.

Comment

A market linked income stream is one whose income is determined by a fixed formula in combination with the changes in the value of the assets from which the income is paid. They only received an exemption from the assets test from 20 September 2004, following a prolonged period of lobbying from industry.

Items 11 to 17 repeal the current formula for determining the assets test taper rate of \$3 per fortnight per \$1000 of assets above the above mentioned asset test thresholds and substitutes a formula that will have the effect of reducing this taper rate to \$1.50 per fortnight.

Schedule 9

Schedule 9 makes similar changes in respect of the *Veterans' Entitlement Act 1986* as **Schedule 8** makes in respect of the *Social Security Act 1991*.

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Attachment 1 – The Work Test

Removing the work test

Prior to 1 July 2004, a superannuation fund could only accept voluntary contributions from a member only if at least one of a number of specific conditions were met. Amongst these conditions was the requirement to be actively engaged in the employed workforce.

On 25 February 2004, the Treasurer released [*A more flexible and adaptable retirement income system*](#)⁸⁰ as part of the ‘Australia’s Demographic Challenges’ announcement.⁸¹ Included in the policy announcement was the proposal to remove these conditions for anyone under the age of 65. The policy announcement also included the introduction of a work test where a person wants to claim a tax deduction for the contributions made on behalf of a person less than 18 years of age.

Amendments made to the Superannuation Industry (Supervision) Regulations 1994, with effect from 1 July 2004, now allow anyone under 65 years of age to make contributions to a superannuation fund without needing to meet any work test requirements.

Between 65 and 75

A superannuation fund may accept contributions from a person in the following age groups:

- age 65 and over but not yet 70, if a person has been gainfully employed on at least a part time basis during the financial year in which the contributions are made (e.g. personal contributions, spouse contributions)
- age 70 and over but not yet 75 – only personal contributions (i.e. no spouse contributions) if the person has been gainfully employed on at least a part time basis during the financial year in which the contributions were made.⁸²

For the purposes of these particular rules, being ‘gainfully employed on a part time basis’ during a financial year requires the person to have worked at least 40 hours in a period of not more than 30 consecutive days in that financial year. For example, a person who works 40 hours in a fortnight can make superannuation contributions, within the above age based limits, for the rest of the financial year.⁸³

If a person aged between 65 and 75 continues to work, but does not meet the ‘gainfully employed on a part time basis test their superannuation fund may still receive mandated employer contributions made on their behalf (i.e. the superannuation guarantee contributions made by an employer). The consequence of not meeting this test within this age range is that the person themselves cannot make their own contributions to a superannuation fund.

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Age 75 and over

If a person is aged 75 or more only mandated employer contributions (e.g. award contributions) can be accepted on behalf of the person by a fund.⁸⁴

Endnotes

1. For example two recent papers from the Association of Superannuation Funds of Australia (ASFA) lobbied for a cut in this tax: - 'The facts on the concessional treatment of superannuation', February 2003 and Ross Clair (Principal Researcher ASFA), 'The benefits, revenue cost, and implications for individuals and the economy of abolishing contributions tax', March 2006. Another example is the Chartered Practising Accountants of Australia, 'Superannuation Tax Cut Makes Sense Says CPA Australia', *Media Release*, 23 January 2006.
2. Australian Government, Report of the Task Force on Reducing Regulatory Burdens on Business, *Rethinking Regulation*, January 2006, p. 128.
3. A complying superannuation fund qualifies for concessional tax rates. It is regulated under the *Superannuation Industry (Supervision) Act 1993*. Retirement savings accounts are simple low-cost, low-risk superannuation products offered by life insurance companies, banks, building societies and credit unions. They are regulated under the *Retirement Savings Account Act 1997* and have the same tax treatment as superannuation.
4. Income for the purpose of determining age-based deduction limits includes reportable fringe benefits. The limits for self-employed persons was increased from \$3 000 to \$5 000 as part of amendments to the *Income Tax Assessment Act 1936* by the *Taxation Laws Amendment (Superannuation) Act (No. 2) 2002*, with effect from 1 July 2002. For self-employed people in the 2006–07 year of income, the contributions required to be able to claim as a deduction the full age-based limit are:
 - age under 35 - \$18 680
 - age 35 to 49 - \$54 846
 - age 50 and over - \$138 484.
5. Paragraph 26–80(2)(b) *Income Tax Assessment Act 1997*
6. The Hon. Peter Costello MP, 'Simplified Superannuation – Final Decisions', *Media Release*, No 93 of 2006, 5 September 2006.
7. Treasury, A Plan to Simplify and Streamline Superannuation - Detailed Outline, 9 May 2006, pp. 29–30.
8. Subdivision 152-D, *Income Tax Assessment Act 1997*.
9. Treasury, A Plan to Simplify and Streamline Superannuation, op. cit., p. 33.
10. *ibid.*, p. 29.

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- 11 The Hon. Peter Costello MP, Simplified Superannuation, op. cit.
- 12 Treasury, A Plan to Simplify and Streamline Superannuation, op. cit., pp. 29–30.
- 13 The Hon. Peter Costello MP, Simplified Superannuation, op. cit.
- 14 The Hon. Peter Costello MP, Treasurer, ‘A Plan To simplify and Streamline Superannuation – Transitional Issues That Apply Immediately’, *Media Release*, No 57 of 2006, 14 June 2006.
- 15 Treasury, A Plan to Simplify and Streamline Superannuation, op. cit., p. 34.
- 16 For more information on the evolution of the taxation of superannuation, refer to Michael Reid, ‘Supercalifragilisticexpianation—A Plain English Guide to Australian Superannuation Arrangements’, Background Paper, no. 23, Department of the Parliamentary Library, Canberra, 1994.
- 17 The low rate eligible termination payment threshold (\$135 590 for the 2006–07 year of income) is a lifetime threshold for determining the maximum rate of tax applicable to the post-June 1983 component (regardless of whether the benefit is derived from a taxed or untaxed source) of all eligible termination payments received by a taxpayer at age 55 years or over.
- 18 Treasury, A Plan to Simplify and Streamline Superannuation, op. cit., pp. 11-16 and 45–47.
- 19 Treasury, A Plan to Simplify and Streamline Superannuation – Outcome of Consultation, 5 September 2006, p. 2.
- 20 Treasury: A Plan to Simplify and Streamline Superannuation – Outcome of Consultation, op. cit., 2006, p. 20.
- 21 Treasury, A Plan to Simplify and Streamline Superannuation, op. cit., p. 3.
- 22 *ibid.*, p. 16.
- 23 *ibid.*, p. 42,
- 24 *ibid.*, p. 42,
- 25 Treasury, A Plan to Simplify and Streamline Superannuation – Outcome of Consultation, op. cit., p.17.
- 26 *ibid.*, p.17.
- 27 Treasury, A Plan to Simplify and Streamline Superannuation, op. cit., p. 20.
- 28 *ibid.*, p. 21.
- 29 Treasury: Explanatory Material – Draft Amendments to Superannuation industry (Supervision) Regulations 1994 – Simplified Superannuation, 21 December 2006, p. 1.
- 30 *Income Tax Assessment Act 1936* sections 159SJ to 159SU.
- 31 Treasury, A Plan to Simplify and Streamline Superannuation, op. cit., p. 15.
- 32 *ibid.*, pp. 11 - 16 and 45–47.
- 33 Superannuation Industry (Supervision) Amendment Regulations 2005 (No. 2) and Retirement Savings Accounts Amendment Regulations 2005 (No. 1). Any type of income stream can be

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taken under these provisions, including allocated pensions or market linked pensions. However, they are non-commutable until the person has reached 65 and retired.

34. Treasury, A Plan to Simplify and Streamline Superannuation, op. cit., p. 23.
35. Reg 6.21(1) Superannuation Industry (Supervision) Regulations 1994.
36. Reg 6.21(6) Superannuation Industry (Supervision) Regulations 1994.
37. Treasury, A Plan to Simplify and Streamline Superannuation, op. cit., p. 20.
38. Superannuation Industry (Supervision) Regulations 6.01(2).
39. The Hon. Peter Costello MP, Treasurer, A Plan To simplify and Streamline Superannuation – Transitional Issues That Apply Immediately, op. cit.
40. Department of Family & Community Services: ‘Guide to Social Security Law, Part 4.9.2’, at <http://www.facs.gov.au/guide/ssguide/492.htm> (accessed 7 February 2005).
41. Centrelink, A Guide to Australian government Payments, 20 September – 31 December 2006, ‘Chart A and B – Assets test for pensioners or allowances and Austudy payments’, p. 20.
42. For social security purposes an income stream is simply a stream of payments. Income stream products can include immediate annuities, allocated pensions, term annuities and term allocated pensions. A complying income stream is one that meets the requirements in the *Income Tax Assessment Act 1936* to be assessed under the higher Reasonable Benefit Limit (currently \$1 356 291)
43. The Hon. Mal Brough MP, Minister for Families, Community Services and Indigenous Affairs, ‘2006–07 Budget - \$173 million pension assets test improvement for pensions on the land’, *Media Release*, 9 May 2006.
44. Treasury, A Plan to Simplify and Streamline Superannuation, op. cit., p. 21.
45. Marc Moncrief, ‘Changes aim to help people find lost \$10bn in unclaimed super’, *The Age*, 8 December 2006.
46. These other bills are: Superannuation (Excess Concessional Contributions Tax) Bill 2006, Superannuation (Excess Non-concessional Contributions Tax) Bill 2006, Superannuation (Excess Untaxed Roll-Over Amounts Tax) Bill 2006, Superannuation (Departing Australia Superannuation Payments Tax) Bill 2006, and the Superannuation (Self-Managed Superannuation Funds) Supervisory Levy Amendment Bill 2006.
47. The Hon. Peter Costello MP, Treasurer, Second Reading Speech, Appropriation Bill No. 1 2006–07, House of Representatives, *Debates*, 9 May 2006, p. 57.
48. See The Hon. Peter Costello MP, Treasurer, A Plan To Simplify and Streamline Superannuation – Transitional Issues That Apply Immediately, Op. cit., Treasury: ‘A Plan to Simplify and Streamline Superannuation – Outcome of Consultation’, op. cit., and The Hon. Peter Costello MP, ‘Simplified Superannuation – Final Decisions, op. cit.
49. Association of Superannuation Funds of Australia, ‘Brave new Super World Will Now Be A Reality’, *Media Release*, 7 December 2006 and Investment and Financial Services Association of Australia, ‘Tax Law Amendment (Simplified Superannuation) Bill – ISFA welcomes introduction’, *Media Release*, 7 December 2006.

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