



## Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2008

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## Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2008

**Date introduced:** 25 September 2008

**House:** House of Representatives

**Portfolio:** Treasury

**Commencement:** Sections 1–3 commence on the day on which this Act receives the Royal Assent. Schedule 1 commences on a day fixed by proclamation, or 6 months after Royal Assent, whichever occurs first.

**Links:** The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

### Purpose

To make a number of consequential and transitional amendments to legislation, to complement the recently introduced Temporary Residents' Superannuation Legislation Amendment Bill 2008.

### Background

The amendments in this Bill are related to the proposed amendments to the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (the S(UMLM) Act) through the recently introduced Temporary Residents' Superannuation Legislation Amendment Bill 2008 (the Temporary Residents' Bill).

The Bills Digest for the 'Temporary Residents' Bill should be consulted for information about the policy background and the adoption of new measures to comply with the objective set by the government.

### Financial implications

The explanatory memorandum says that this measure, along with other measures contained in the Temporary Residents' Bill, will have a positive revenue impact to the government as follows:<sup>1</sup>

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1 Explanatory Memorandum, Temporary Residents' Superannuation Legislation Amendment Bill 2008, p. 9

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*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

2007-08	2008-09	2009-10	2010-11	2011-12
Nil	\$251m	\$378m	\$299m	\$224m

## Main provisions

Temporary residents are currently able to claim their superannuation after permanently departing Australia by applying for a Departing Australia Superannuation Payment (DASP) from their superannuation fund. The DASP is the value of their superannuation minus tax (which is currently 30 per cent for the taxed element of a benefit and 40 per cent for an untaxed element).

The provisions of this Bill make consequential amendments to *the Superannuation (Departing Australia Superannuation Payments Tax) Act 2007* (the S(DASPT) Act). Section 5 of the S(DASPT) Act sets out the rates of tax on DASPs. Of note are the following amendments:

**Item 1** amends section 3 of the S(DASPT) Act to treat the meaning of *excess untaxed roll-over amount* as the same as in *the Income Tax Assessment Act 1997*.

**Items 4 and 5** amend section 5 of the S(DASPT) Act to increase the tax amounts for DASPs to:

- 35 per cent tax for the element taxed in the fund of the taxable component (currently 30 per cent), and
- 45 per cent tax for the element untaxed in the fund of the taxable component (currently 40 per cent)

According to the Explanatory Memorandum, the rationale for this is to ‘[recover] some of the superannuation tax concessions provided to departed temporary visa residents’.<sup>2</sup>

**Item 6** inserts a **proposed new subsection 5(2)** which sets out the tax for a new kind of payment, to be **contained in proposed section 20(H) the S(UMLM) Act**.<sup>3</sup> The payment, called a ‘roll-over superannuation benefit’, will be taxed at the following rates:

- 45 per cent for the amount of the element that is not an excess untaxed roll-over amount, and
- nil for the amount of the element that is an excess untaxed roll-over amount.

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2. *ibid.*, p.49.

3. By virtue of the Temporary Residents’ Bill.

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## Concluding comments

The amendments in this Bill are essentially minor and technical in nature, and are consequential to the Temporary Residents' Superannuation Amendment Bill 2008. The Bills Digest for that Bill should be consulted for a fuller discussion of the policy issues.

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