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Defined benefit regulations

Following the 2009/10 Budget announcement, concessional contributions caps have been reduced as follows:

- ✎ a reduction of the concessional superannuation contributions cap from \$50,000 to \$25,000 (indexed) for the under 50 years old for the 2009-10 financial year.
- ✎ a reduction of the transitional concessional contributions cap from \$100,000 to \$50,000 (not indexed) for those aged 50 years old or older for the 2009-10 to 2011-12 financial years.

As a result of the reduction in the concessional contributions caps, the *Income Tax Assessment Regulations 1997* (the regulations) have been amended to provide transitional arrangements to certain members of defined benefit funds.

[http://fedlaw.gov.au/ComLaw/legislation/legislativeinstrumentcompilation1.nsf/0/D0516AA4A610DA5FCA2575F500827D02/\\$file/IncomeTaxAssessment1997.pdf](http://fedlaw.gov.au/ComLaw/legislation/legislativeinstrumentcompilation1.nsf/0/D0516AA4A610DA5FCA2575F500827D02/$file/IncomeTaxAssessment1997.pdf)

Contributions made into defined benefit funds are not always linked to individual members. The concessional contributions amount for a member of a defined benefit fund is not calculated on the actual contributions made to the fund but on 'notional taxed contributions'. The notional taxed contributions are the contributions that are determined by the trustee to be notional taxed contributions, using the method set out in Schedule 1A of the regulations.

The new regulations provide that notional taxed contributions exceeding the concessional contributions cap will be treated as though they are equal to the cap, provided certain conditions are met (s 292-170.05). This means that a member will not be liable for excess contributions tax on these contributions if the conditions are met.

The transitional arrangements only apply if a member was a member of a defined benefit fund on 5 September 2006 (s 292-170.05).

A condition to the transitional arrangements is that between 5 September 2006 and the time at which the new entrant rate for the defined benefit member is calculated, the rules of the superannuation fund have not changed to improve the member's benefit (s 292-170.05 (2)(a)).

However particular changes to the rules will still allow the transitional arrangements to continue, for example if the change relates to the method of calculating superannuation salary that increases a benefit as a result of a change that is made to satisfy the requirements of the *Superannuation Guarantee (Administration) Act 1992* ((s 292-170.05 (4)(b)).

A member can transfer from a defined benefit fund to another defined benefit fund and still may be entitled to transitional arrangements, only if the member has moved to a new benefit category that does not provide the member with an improved level of benefit (s 292-170.05 (2)(b)(ii)). Provided that this requirement is met, the member may retain the transitional arrangements in the new fund.

Sources

Income Tax Assessment Regulations 1997

The Australian Taxation Office, Defined Benefits Funds.

<http://www.ato.gov.au/superfunds/content.asp?doc=/content/00094535.htm>

APRA releases further draft guidance for superannuation trustees

Australian Prudential Regulation Authority (APRA) released draft guidance on a number of prudent practices for APRA-regulated superannuation trustees: <http://www.apra.gov.au/Policy/Guidance-for-superannuation-licensees.cfm>.

APRA has also released a discussion paper to assist in public consultation on the four new draft practice guides (draft SPGs):

- draft Superannuation Prudential Practice Guide – SPG 110 – Capital;
- draft Superannuation Prudential Practice Guide – SPG 200 - Risk Management;
- draft Superannuation Prudential Practice Guide – SPG 230 - Adequacy of Resources; and
- draft Superannuation Prudential Practice Guide – SPG 530 – Fitness and Propriety.

The release of the discussion paper and draft SPGs follows the release for consultation earlier this year of revised guidance on reserves and conflicts of interest.

APRA is progressively issuing guides to replace Superannuation Guidance Notes and other information previously provided to trustees.

APRA invites interested parties to comment on the draft SPGs by 14 September 2009. Each of the draft guides is available on the APRA website at <http://www.apra.gov.au/Policy/Superannuation-Consultation-Packages.cfm>.

Source

Australian Prudential Regulation Authority releases further draft guidance for superannuation trustees, 14 August 2009.

http://www.apra.gov.au/media-releases/09_24.cfm

AUSTRAC releases its supervision strategy for 2009-10

The Australian Transactions Reports and Analysis Centre (AUSTRAC) has released its supervisory Anti Money Laundering/Counter Terrorism Financing approach for the current financial year

The supervisory approach varies from sector to sector. Relevant to the superannuation industry is AUSTRAC's approach to non-bank financial institutions where the approach will be two tiered:

- For large, sophisticated organisations, AUSTRAC will test the effectiveness of implemented controls to ensure that effective independent reviews are being conducted.
- For the remainder of the sector, AUSTRAC will monitor the compliance of a sample of reporting entities within a cohort, then communicate the findings back to the broader regulated population through industry bodies and direct communication.

Source

Australian Transactions Reports and Analysis Centre, AUSTRAC releases its supervision strategy for 2009-10, <http://www.austrac.gov.au/3aug09.html>



Memorandum of Understanding between Australia and New Zealand

The Association of Superannuation Funds of Australia (ASFA) has indicated that on 16 July the Australian and New Zealand Governments signed a Memorandum of Understanding covering the transfer of superannuation benefits between the two countries.

Significant points to note are:

- Participation in the arrangements by an Australian superannuation fund is optional.
- Should a fund 'opt in', it will be required to maintain a separate record of the total amount of New Zealand-sourced benefits held for a member and track those benefits. (NB: All earnings will accrue to the Australian component of the benefit. The NZ preservation age is 65)
- The onus will be on the member to advise the fund trustee of the benefit components (with the default presumption being that they are a 100% taxed benefit).

The Government has confirmed that SMSFs are not able to offer the service.

The agreed arrangement will commence once the necessary supporting legislative arrangements have been put in place in both countries.

Source

The Association of Superannuation Funds of Australia, ASFA Action 367, 10 August 2009.

Superannuation, Funds Management and Life/Risk Insurance New 'value of the industry' fact pack

The Investment and Financial Services Association (IFSA) has prepared a 'value of the industry' fact pack to coincide with the *Energise 09* Annual Conference. Please refer below for a summary of the fast facts.

Fast Facts:

- A third of monies invested into growth superannuation funds were invested directly in the Australian share market.
- Total superannuation assets are projected to rise from just under \$1,000bn today to \$2,000bn by 2014, \$3,000bn by 2018 and approach \$7,000bn by 2028.
- Low levels of life and risk insurance cover mean that if they need to claim, Australians may find the benefit they receive to be insufficient to their needs. A survey of claims paid in 2008 revealed that the industry paid out over \$2.3 billion in claims on nearly 35,000 policies.
- In total, 13,000 Australian families received an average payout of just \$91,000 on the death of a partner in 2008.
- Eight out of ten respondents to the recent Investment Trends survey of IFSA members said they had Corporate Social Responsibility policies in place, over half for more than five years.
- A poll of 5 of IFSA's largest companies, found that over that last financial year they had donated up to \$35.3 million to charity.

Source

Investment and Financial Services Association, Superannuation, Funds Management and Life/Risk Insurance New 'value of the industry' fact pack.

http://www.ifsa.com.au/2009%20Documents/2009_0806_Superannuation%20Funds%20Management%20and%20Life_Risk%20Insurance%20FINAL.pdf

aonmastertrust.com.au

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