

payment while you are still working and will need to take your superannuation benefits as regular payments.

If you become totally and permanently disabled your Member's Benefit will be paid subject to Superannuation law and benefits can also be paid if you become temporarily totally disabled and you are insured under an insurance policy and the proceeds of the policy become available.

### **Nominations - Death Benefits**

On your death your Member's Benefit will become payable to one or more of your dependants and legal personal representatives that you have chosen in a binding nomination or if you do not choose or if your choice is invalid, to one or more of your dependants and legal personal representatives that the Trustees chose. If you nominate your legal personal representative, they will be responsible for distributing your death benefit in accordance with your will once they have received it. If you want to leave money to someone who is not your dependant, for example, your brother or sister, you must nominate your legal personal representative in your binding nomination and your brother or sister in your will.

Your dependant for this purpose is your husband or wife or de facto husband or wife, your child including step child and adult child and any other person (whether related to you or not) with whom you have an interdependency relationship.

Two persons (whether or not related by family) have an "interdependency relationship" if:

- (a) they have a close personal relationship;
- (b) they live together;
- (c) one or each of them provides the other with financial support; and
- (d) one or each of them provides the other with domestic support and personal care.

If two persons (whether or not related) have a close relationship, but do not satisfy these requirements because either or both of them suffer from a physical, intellectual or psychiatric disability, they are considered to have an interdependency relationship.

The following matters are to be taken into account when determining whether two people have an interdependency relationship, or had an interdependency relationship immediately before death:

- (a) all of the circumstances of the relationship between the persons, including (where relevant):
  - (i) the duration of the relationship
  - (ii) whether or not a sexual relationship exists
  - (iii) the ownership, use and acquisition of property
  - (iv) the degree of mutual commitment to a shared life
  - (v) the care and support of children
  - (vi) the reputation and public aspects of the relationship
  - (vii) the degree of emotional support
  - (viii) the extent to which the relationship is one of mere convenience, and

(ix) any evidence suggesting that the parties intend the relationship to be permanent.

(b) the existence of a statutory declaration signed by one of the persons to the effect that the person is, or (in the case of a statutory declaration made after the end of the relationship) was, in an interdependency relationship with the other person.

Each one of the above need not be met and the extent to which any one matter exists or does not exist does not necessarily of itself confirm or exclude an interdependency relationship.

Your legal personal representative is your executor i.e. the person appointed by you in your will or administrator i.e. the person appointed by the Court to administer your estate if you do not have an executor.

If you want the Trustees to pay your benefit on your death to the people you chose you must:

- (a) complete a binding nomination form telling the Trustees who you want them to pay a benefit to and in what proportions; and
- (b) renew your binding nomination every three years.

Your nomination will be invalid if it is not renewed every three years or if any of the people you nominate are not your dependants at the time of your death or your legal personal representative.

If you have a valid binding nomination at the time of your death the Trustees will follow it even if your circumstances have changed, for example you have married.

If you do not make a binding nomination or if your nomination is invalid the Trustees will choose who to pay your benefit to. You can advise the Trustees who you would prefer them to pay the benefit to by sending them a non-binding nomination. The Trustees will take your wishes into account however they will not be bound by them. The Trustees will consider the circumstances of all of your dependants in choosing to whom to pay the benefit and in what proportions.

In some circumstances under Superannuation law if you are in severe financial hardship you may be able to have your Member's Benefit paid to you by the Trustee however there are conditions to be complied with and benefits can only be paid to you so that certain expenses can be met e.g. treatment of life threatening illness, palliative care etc.

When your Member's Benefit becomes payable it will be paid as a lump sum benefit or as a pension. You should discuss these matters with your professional adviser before receiving your benefit.

### **Types of Pensions**

Pensions under the Simplified Superannuation reforms rules apply generally to pensions commencing on or after 1 July 2007. See later.

The Trustees may determine the type of pension to be paid and under Superannuation law there are different types of pensions. (The following is subject to the Simplified Superannuation reforms as to which see infra under Simplified Superannuation reforms rules). These pensions include:

- (a)
  - Allocated pensions;
  - Market linked pensions;
  - Pensions purchased from life insurance companies;
  - "Grandfathered" or "transitional" defined benefit pensions;
  - Non-commutable or "workforce" pensions.

- (b) **Allocated pension:** An allocated pension is a flexible pension where a payment must be made at least annually to the member. These are the most popular form of pension. Regulations set the minimum and maximum range of pension payments for each year. The trust deed allows these pensions if the member has satisfied a condition of release.
- (c) **Market linked pension:** Market linked pensions are a flexible alternative, for example in terms of how you manage your investments. They are treated as complying pensions, measured against the higher pension Reasonable Benefit Limit and are subject to concessional social security treatment for determining eligibility for the Age Pension.
- (d) **Pensions purchased from life insurance companies:** The Trustees can purchase pensions wholly determined by a life insurance policy. This ensures mortality risks of guaranteeing a pension are assumed by a life insurance company.
- (e) **"Grandfathered" or "transitional" defined benefit pensions:**  
Under transitional rules, SMSFs can only pay a defined benefit pension to a person as long as:
- the person was a member of the fund on 11 May 2004
  - before 1 July 2004, the person turns 65 or retires on or after turning 55
  - the person becomes entitled to the pension after 11 May 2004 and before 31 December 2005 and
  - the first pension payment is made within 12 months of the day the person became entitled to the pension.
- (f) **Non-commutable or "workforce" pensions:** Non-commutable pensions can be paid during your transition to retirement but cannot be paid as a lump sum. As you reduce your working hours and income, you can begin to draw some of your superannuation in the form of a pension.

## **Taxation & Superannuation**

### **You Should Seek Taxation Advice From Your Accountant**

See also Contributions under Simplified Superannuation reforms infra.

### **Contributions**

Before discussing whether a fund can accept contributions for a member, there are a number of terms that need to be explained.

### **Mandated Employer Contributions**

These are contributions made by an employer for the benefit of the fund member that are:

- contributions to reduce the employer's potential liability to the Superannuation Guarantee Charge;
- superannuation guarantee shortfall components, that is, Superannuation Guarantee Charge payments sent to a fund from the Australian Taxation Office (ATO) after the Tax Office has obtained payment of the charge from the employer;
- contributions made in order to satisfy an obligation under an industrial award or

agreement; and

- payments to a fund from the Superannuation Holding Accounts Reserve - this relates to small superannuation accounts.

Where members have an effective arrangement in place with the employer to salary sacrifice to superannuation, all superannuation contributions are considered to be made by the employers. However, only those contributions to the superannuation guarantee level (9% from 1 July 2002) or the industrial award or agreement level (if higher than the superannuation guarantee level) will be classed as "mandated employer contributions".

## **Acceptance of Contributions**

### **Mandated Employer Contributions**

The law allows funds to accept mandated employer contributions at any time. This means a trustee may accept mandated employer contributions for a person regardless of the age of the person or the number of hours they work.

### **Other Contributions**

Contributions which are not mandated employer contributions (such as the member's own contributions) can only be accepted in the following circumstances:

#### **For Members under 65 Years of Age**

Since 1 July 2004, the superannuation contribution work test has been abolished for anyone under the age of 65, thereby allowing anyone under the age 65 to make a superannuation contribution. If the member is under the age of 18 at 30 June, they would need to derive eligible employment income or business income in the income year before income tax deductions for superannuation can be claimed.

#### **Members Aged 65 but Less than 75**

Since 1 July 2004, for those aged 65 to 74, the superannuation contribution rules have been changed from a weekly work test (at least 10 hours in each week) to an annual work test. A person in this age group will be able to make personal contributions to their self managed superannuation fund during a financial year provided they can demonstrate that, in that financial year, they have worked at least 40 hours in a period of not more than 30 consecutive days. This amount of paid work only has to be demonstrated once each financial year. For example, a person who has worked 40 hours in a fortnight will be able to make contributions for the rest of the financial year.

**Aged 65 to 69:** The Trustee may only accept contributions other than mandated employer contributions in respect of a member if the member is gainfully employed on at least a parttime basis during the financial year in which the contribution is made.

**Aged 70 to 74:** The Trustee may only accept contributions other than mandated employer contributions if the contributions are personal contributions made by the member and the member is gainfully employed on at least a part-time basis in the financial year in which the contribution is made.

### **Members Aged 75 or over**

The Trustee may only accept mandated employer contributions.

### **Baby Bonus Contributions**

The trustee may accept contributions made in respect of the recipient of the baby bonus in the 12 month period after the person receives notification by the Commissioner of Taxation that the person is entitled to the baby bonus. The amount of contributions able to be made in respect of the recipient of the baby bonus is not limited - it may be more or less than the actual baby bonus the person receives.

### **Eligible Spouse Contributions**

Eligible spouse contributions may be accepted by the fund at any time if the spouse is under the age of 65. If the spouse is aged 65 but under 70, eligible spouse contributions may be only accepted if the spouse is at least gainfully employed on a part-time basis. If the spouse is 70 or over, the fund cannot accept eligible spouse contributions. There are no age limits or employment tests for the person making the contributions.

### **Superannuation Contributions Splitting**

Certain contributions can be split with a spouse. Superannuation contributions that can be split include:

- employer contributions
- personal contributions
- allocated surplus contribution amounts
- amounts transferred from the superannuation holding accounts special account
- superannuation guarantee charge amounts from the Tax Office, and
- super co-contribution amounts.

Members can apply to split an amount of either or both taxed splittable contributions and untaxed splittable contributions. The application must be made either:

- in the following financial year (ie the application must be made between 1 July and 30 June in the financial year following the year in which the contributions were made), or
- during the financial year if the entire benefit is to be rolled over or transferred before the end of that financial year.

The maximum splittable amount for any financial year is 85% of taxed splittable contributions and 100% of untaxed splittable contributions to ensure that members can not split more than the amount remaining in their account which relates to those taxed splittable contributions.

For income tax purposes, amounts split to a spouse's account are treated as a contributions splitting eligible termination payment (ETP) and are taken to have been rolled over to the spouse's account.

If you have an employer, who is an Employer Sponsor or a Participating Employer of the Fund, they may contribute part of your income to the Fund and in this case contributions made personally by you are unlikely to be deductible for taxation purposes although if you are on a smaller wage, you may be entitled to a co-contribution from the Federal Government.

If you are a Member you may make contributions to the Fund yourself. These contributions are deductible for tax purposes; eg the first \$5,000 you contribute is tax deductible and after that, 75% of contributions over \$5,000 or 75% of the Age-Based Limit (whichever is less). In this case you need to notify the Trustee by lodging a section 82AAT Notice with the Trustee. The Age-Based deduction limits for 2005/06 are, under 35, \$14,603; 35-49 \$40,560.00 and 50 and over, \$100,587. These limits will be removed in July 2007 and deductible contributions will be taxed at a concessional rate of 15% up to a limit of \$50,000. Deductible contributions can be made until the age of 75.

If you earn less than \$58,000 a year, make personal super contributions and are otherwise eligible, the Government will make a Super Co-contribution to your fund.

If your total income for tax purposes (assessable income plus reportable fringe benefits) is \$28,000 or less a year, the Government will now put in one dollar and fifty cents for every dollar you put into your super, up to a maximum Super Co-contribution of \$1,500 a year.

The eligibility criteria for the Super Co-contribution have now been widened to include more people.

You will be eligible for the Super Co-contribution in a year of income if:

- you make personal superannuation contributions to a complying superannuation fund or a Retirement Savings Account (RSA);
- your total income (assessable income plus reportable fringe benefits) is less than \$58,000; \* 10% or more of your total income is from eligible employment;
- you do not hold an "eligible temporary resident visa" at any time during the year;
- you lodge an income tax return for the year of income; and
- you are less than 71 years old at the end of the year of income

When your income is more than \$28,000 but less than \$58,000 in a year of income, your Super Co-contribution will be adjusted based on your income and how much you personally contribute.

### **Tax on Payments from a Superannuation Fund**

The following is altered from 1 July 2007 by the Simplified Superannuation reforms. See *infra*.

You may have to pay tax when you draw money from the Fund. The amount paid will depend on your own circumstances, including your age, how long you have been in a superannuation fund, and how your super benefit is paid.

You pay no tax on the part of your super benefit that consists of the contributions you made from your after-tax income after 30 June 1983.

You pay no tax on the first \$129,751 (2005/06) and \$135,590 (2006/07) of all other benefits that relate to employment or fund membership after 30 June 1983, if you withdraw them from super after you reach age 55. (You pay 20% plus Medicare levy before age 55).

You pay 15% tax plus Medicare levy on the remainder of your post June 1983 benefits up to your Reasonable Benefit Limit (RBL). However, reasonable benefit limits will be abolished from 1 July 2007.

If some of your super benefit relates to employment before July 1983, you pay tax on only 5% of that part of your superannuation benefit.

If you use your superannuation benefit to receive a regular income from a super fund, special tax

concessions apply.

If your benefit is paid out to you as a foreign national who is leaving Australia permanently, higher tax rates may apply to your benefit. Contact your accountant or the Australian Tax Office.

### **Tax File Numbers**

It is in your interest to give your fund your tax file number when you join. You do not have to do so, but if you do not provide it you may pay tax at a higher rate.

### **Tax on Contributions**

Concessional deductible contributions up to the limit are taxed at 15%. Personal contributions from a Member after tax income (undeducted contributions) are not so taxed. See also under the heading "Simplified Superannuation reforms".

### **Tax on Money Transferred**

There is no tax if you transfer money from one superannuation fund to another, unless the amount transferred contains an untaxed component.

An untaxed component attracts the 15% tax on contributions and may also be subject to the superannuation tax surcharge.

### **Tax on Investment Earnings of the Fund**

Investment earnings by the Fund are taxed at a maximum rate of 15%, with capital gains taxed normally at 10%, in the accumulation phase and if the asset is held for at least 12 months.

### **General Information About Federal Laws**

#### **Preservation of Benefits**

The Federal Government restricts when you can access most of your superannuation.

Preserved benefits can only be paid:-

at age 65;

when you cease employment on or after age 60;

if you retire on or after your preservation age, as set out below:-

<b>Birth Date</b>	<b>Preservation Age</b>
Born before 01/07/1960	55
Born from 01/07/1960 to 30/06/1961	56
Born from 01/07/1961 to 30/06/1962	57
Born from 01/07/1962 to 30/06/1963	58
Born from 01/07/1963 to 30/06/1964	59
Born on or after 01/07/1964	60

if you become permanently unable to work;

if you die, your superannuation may be paid to your dependants or estate, depending on the rules of the fund; if you suffer severe financial hardship or are eligible on compassionate grounds determined by the law. Even then, only some of your benefits may be withdrawn, subject to the fund rules; if you change jobs and your account balance is \$200 or less (but only if the fund allows it); if you are a foreign national who has permanently left Australia. In this situation higher tax rates may apply.

Benefits can be accessed earlier. For example, if you change jobs you can take out your own posttax contributions and some employer contributions, paid before 1st July 1999.

Some or all of your preserved benefits may be paid as a pre-retirement (non-commutable) pension once you have reached your preservation age regardless of your employment status.

### **Information About Amounts Debited to the Fund and Your Account**

Under the Trust Deed the Trustees may debit your account with expenses to pay taxes, to pay for insurance policies or premiums for third party annuities.

The Trustee can create an equalisation account which is to be used to stabilise the investment earnings of the Fund and to provide for expenses as the Trustees consider appropriate however this is subject to Superannuation law.

### **Investments**

The Trustees must determine an investment strategy that will indicate how the Trustees will invest.

The strategy must reflect the purpose and circumstances of the Fund and have regard to investing in a way to maximise member returns bearing in mind the risks, diversification and the ability of the Fund to pay benefits and other costs of the Fund as they become due.

All investments must be made in accordance with the investment strategy.

A Trustee has a defence to an action for loss or damage suffered as a result of the Trustee making an investment where the Trustee can show that the investment was made in accordance with an investment strategy formulated in accordance with Superannuation law.

Trustees cannot lend money or provide financial assistance to a member or their relative. The Trustees cannot borrow money except in very limited circumstances as provided by Superannuation law.

Assets cannot be acquired from a related party although there are some very limited exceptions.

For example if the asset is a listed security acquired at market value or the asset is business real property. Business real property usually relates to land and buildings used wholly and exclusively in a business that is associated with the members.

### **Information About Risks Associated with the Fund**

The Fund must invest in accordance with its investment strategy determined by the Trustee.

The value of the Fund's assets may be increased or reduced by changes in asset prices. Accordingly the value of your benefit may be reduced. This could affect the Trustees capacity to make benefit payments to you.

In some cases if your benefit is a pension then your benefits and pensions that are calculated by



reference to the value of the assets in the Fund may result in a decrease in benefit or pension amounts payable to you if the value of the assets in the Fund decreases.

In other cases if you receive a complying pension the Trustee may bear the risk of the asset being insufficient to make payments to you.

If a benefit is commuted the Trustee may purchase an annuity from a life assurance company or other provider and you will have a regular income and normally the risk will then be borne by that provider.

Trustees choose the investments in accordance with their investment strategy. If the Trustee offers more than one strategy you may choose the appropriate strategy but you cannot choose investments the Trustee is to make within the strategy.

There are risks in choosing to invest in superannuation - superannuation and taxation laws may change. There are also risks in choosing particular investments as all investments are subject to varying risks and generally all change in value.

The significant risks of investing generally include inflation that may exceed the return on your investment. Individual assets can and do fall in value for many reasons such as changes in the internal operations or management of the fund or company in which the money is invested or in its business environment.

There are market risks, economic, technological, political or legal conditions and market sentiment can and do change and this can mean that changes in the value of investment markets can affect the value of the investments in the Fund.

Interest rate risks can arise where there are changes in interest rates which can have a positive or negative impact directly or indirectly on investment value or returns.

There are currency risks if investments are in other countries and their currencies change in value relatively to the Australian Dollar, the value of the investment can change.

Derivatives can be used to reduce risk, or to gain exposure to other types of investments. Risks associated with these derivatives include the value of the derivative failing to move in line with the underlying asset, potential liquidity of the derivative or the fund may not be able to meet payment obligation as they arise.

Under the trust deed the Trustee is not liable for any loss or detriment to the fund unless it is due to the Trustee's dishonesty or wilful or reckless failure to exercise the degree of care and diligence necessary. The Trustee is to be indemnified by the fund to the maximum extent the law permits.

Changes to Superannuation law may affect your ability to access your benefit. Superannuation benefits may be split by agreement or by Court Order with your spouse if you and your spouse permanently separate.

Changes can occur to the taxation of superannuation which may affect the value of your benefit.

### **Information About Labour Standards, Environmental, Social or Ethical Consideration**

The Trustee will inform you if labour standards or environmental, social or ethical considerations are or will be taken into account when the Trustee selects, retains or realises an investment. Unless you are notified otherwise the Trustee does not take any such considerations into account however the Trustee may incorporate those things into its investment strategy.

## **Additional Information - Contact Details**

If you require further information concerning the Fund or the Trust Deed or your rights as a Member or the Fund's performance you may contact the Trustee whose contact details appear at the beginning of this Product Disclosure Statement.

## **Simplified Superannuation Reforms**

### *What are the main changes to the superannuation system?*

#### **From 1 July 2007:**

- Superannuation benefits paid from a taxed fund either as a lump sum or as an income stream such as a pension will be tax free for people aged 60 and over.
- Reasonable Benefit Limits (RBLs) will be abolished.
- Individuals will have greater flexibility as to how and when to draw down their superannuation in retirement. Superannuation funds are no longer forced to pay benefits.
- The concessional tax treatment of superannuation contributions and earnings will remain. Age-based restrictions limiting tax deductible (concessional) superannuation contributions will be replaced with a streamlined set of rules.
- The self-employed will be able to claim a full deduction for their superannuation contributions as well as being eligible for the Government co-contribution for their after-tax contributions. The tax exemption for invalidity payments will also been extended to the self employed.
- The ability to make deductible superannuation contributions will be extended up to age 75.
- It will be easier for people to find and transfer their superannuation between funds.

To increase further the incentives to save for retirement, from 20 September 2007 the pension assets test taper rate will be halved to \$1.50 per fortnight for every \$1,000 of assets above the assets test free area.

The superannuation preservation age will not change. The preservation age is already legislated to increase from 55 to 60 between the years 2015 and 2025. People will still be able to access superannuation benefits before the age of 60, although they will be taxed on their benefits under new simplified rules.

From the 2007-08 financial year, the supervisory levy will be increased to \$150 with the levy to be reviewed on a regular basis.

## **Payment Rules Simplified**

### *When can benefits be paid?*

You can generally take your benefits once you reach preservation age and have retired. The preservation arrangements have not been changed and the age of preservation is increasing gradually from 55 to 60 between the years 2015 and 2025. In addition, once you are aged 65 or more, you can take your superannuation even if you have not retired.

### ***Is there an age when benefits must be taken?***

Before 10 May 2006 a person who was aged 65 or over and not working or 75 and over was forced to draw down their superannuation. These changes will mean that you will be able to keep your benefits indefinitely, taking as little or as much of your benefits as you choose. If you choose to take your benefits in pension form, then earnings on the assets supporting that pension will continue to be exempt from tax. Earnings on other assets will continue to be subject to tax as assessable income of the fund at 15 per cent.

### ***What will the new pension look like?***

The new minimum standards for pensions require:

- payments of a minimum amount to be made at least annually, allowing pensioners to take out as much as they wish above the minimum (including cashing out the whole amount);
- an amount or percentage of the pension cannot be prescribed as being left-over when the pension ceases; and
- the pension can be transferred only on the death of the pensioner to one of their dependants or cashed as a lump sum to the pensioner's estate.

The payment rules specify minimum limits only. No maximum will apply, with the exception of pensions which are commenced under the transition to retirement condition of release. Transition to retirement pensions will have a maximum annual payment limit of 10 per cent of the account balance at the start of each year.

### ***Will existing pension meet the new rules?***

Pensions that meet existing rules and commenced before 1 July 2007 will meet the new minimum standards.

People who currently have an allocated pension will be allowed to transfer to the new pension from 1 July 2007 without the need to commute their existing pension.

A guaranteed lifetime pension provided on an arm's length basis that meets relevant existing requirements will also meet the new rules.

### ***Can a person still use the Transition to Retirement rules?***

The transition to retirement rules will be amended to include pensions that meet the new minimum standards.

From 1 July 2007, transition to retirement pensions will allow no more than 10 per cent of the account balance (at the start of each year) to be withdrawn in any one year. Pensions that started before 1 July 2007 and complied with rules for the transition to retirement measure will be deemed to satisfy the new requirements. Existing non-commutability rules will continue to apply to transition to retirement pensions.

## **Superannuation pension changes**

### ***Q. How will the rules for superannuation pensions change?***

From 1 July 2007, a pension will be required to meet a new simplified standard. Under the new standard:

- pensions will be required to make a minimum payment at least annually (no maximum payment);
- an amount or percentage of the pension cannot be prescribed as being left over when the pension ceases; and
- a pension could be transferred only on death of the pensioner to one of their dependants or cashed as lump sum to the pensioner's estate.

### ***Q. What are the benefits of the new, more flexible pension?***

The pension rules will be made simpler and provide more flexibility to retirees. For example, pensioners will be able to take out as much as they wish above the minimum (including cashing out the whole amount).

### ***Q. My income stream commenced before 1 July 2007. Does it meet the simplified minimum standards?***

Pensions that meet existing rules and commenced before 1 July 2007 will be deemed to meet the new minimum standards.

### ***Q. Can I move my current income stream to the new pension products?***

This will depend on the type of income stream you currently have.

If you currently have an allocated pension, you will be able to move it to the new, more flexible pension rules without having to commute and start a new pension from 1 July 2007.

If your income stream is a 'complying' income stream, you will not be able to commute and transfer to the new pension.

### ***Q. How will pensions that meet the simplified minimum standards be taxed?***

All pensions that meet the simplified minimum standards will be taxed the same on payment.

Pensions paid from a taxed source to a person aged 60 or above will be tax free from 1 July 2007. This includes current pensions and the new more flexible pensions.

Pension payments for individuals aged under 60 will be taxed but will be eligible for a 15 per cent offset with any exempt component being tax free. Once the pension recipient turns age 60, their pension will be tax free.

From 1 July 2007, a person receiving an income stream from an untaxed source will become eligible for a 10 per cent tax offset after the age of 60.

***Q. Will investment earnings on the assets supporting income streams remain tax exempt?***

Yes. The current tax free treatment of earnings on assets supporting pensions that meet the simplified minimum standards will not change.

**Cashing rules**

***Q. What is the 'compulsory cashing rule'?***

Previously the Trustees were required to pay benefits to members who were:

- over age 65 and did not meet the work test; or
- 75 years of age (regardless of their work status).

***Q. Is the compulsory cashing rule still in place?***

No. The compulsory cashing rule was abolished with effect from 10 May 2006.

This means that there will be no forced payment of benefits out of superannuation funds after age 65.

People will be allowed to take their benefit as a lump sum or regular income stream or keep their benefits in their superannuation fund indefinitely, taking out as little or as much of their benefits as they choose.

**Self-employed**

***Q. I am self employed, how will the proposed changes impact on me?***

- From 1 July 2007, you will be able to claim a full deduction for your superannuation contributions up to age 75.
- From 1 July 2007, you may be eligible for the Government co-contribution.

***Q. How can I claim my superannuation deduction?***

If you wish to claim a deduction for a superannuation contribution, you will have to notify your fund. You can notify your fund either at the time you lodge your income tax return, or at the end of the following financial year after the contribution was made, whichever is earlier. You will not be able to vary the notice after this time.

***Q. How much can I contribute as deductible contributions?***

You will be able to contribute up to \$50,000 of concessional contributions each year. These contributions will be taxed at 15 per cent. Contributions above this limit will be taxed at the top marginal rate plus Medicare levy.

***Q. Am I eligible for the Government co-contribution?***

From 1 July 2007, the Government co-contributions scheme will be extended to the self-employed. You will be eligible for the Government co-contribution if:

- you earn 10 per cent or more of your income from carrying on a business, eligible

employment or combination of both;

- your total income is under the Government co-contributions upper threshold; and
- you are less than 71 years of age at the end of that income year and are not a temporary resident at any time during the income year.

***Q. How does the Government co-contribution system work?***

If your total income is less than the lower threshold of \$28,000, your superannuation contributions will be matched at \$1.50 for every dollar you contribute, subject to a maximum co-contribution of \$1,500.

The maximum co-contribution is reduced at a rate of 5 cents for every dollar of total income over the lower threshold, and will phase out when your income reaches the upper threshold of \$58,000.

**Contribution Rules - Concessional Contributions**

*Summary points*

- Concessional contributions to superannuation will be limited to \$50,000 per person per annum. These contributions will be taxed at 15 per cent.
  - A transitional period will apply for people who are aged 50 and above to allow those planning their retirement to make larger contributions.
- Employers will be able to claim a full deduction for all contributions to superannuation on behalf of individuals under the age of 75. The Superannuation Guarantee will continue to apply only until age 70.
- The personal deduction eligibility rule will be simplified by making it consistent with the rule that currently applies for the Government co-contribution.
- A person can make non-concessional (post-tax) contributions in addition to concessional contributions.

***How do the contributions limits change?***

The age-based limits on concessional contributions will be abolished. A limit on concessional contributions of \$50,000 per person per annum will apply from 1 July 2007. These contributions will be taxed at 15 per cent. The \$50,000 limit will be indexed to Average Weekly Ordinary Time Earnings but will only increase in \$5,000 increments.

***How does the transitional period work?***

During the transitional period, the cap on concessional contributions will be \$100,000 if you are 50 years of age and over. The transitional period is from 2007-08 to 2011-12. If you turn 50 during that period you will be able to use the transitional arrangements. For example, if you turn 50 on 1 January 2011 you will be able to make \$100,000 of contributions in the 2010-2011 and 2011-12 financial years. The \$100,000 limit will not be indexed.

From the 2012-13 financial year, the maximum amount of concessional contributions per annum will return to the indexed \$50,000 amount.

***What can employers claim?***

Employers will be able to claim a full deduction for all contributions to superannuation funds made on behalf of their employees under age 75.

***What about deductions for personal contributions?***

If you wish to claim a tax deduction for a contribution you will need to notify the Trustees before you lodge your income tax return, or before the end of the following financial year after the contribution was made, whichever is the earlier. This notification cannot be varied after this time.

***What is included in the concessional contributions cap?***

The cap applies to all concessional contributions (including salary sacrificed contributions) made on behalf of an individual.

Contributions above the concessional cap count towards the non-concessional contributions cap.

Contributions above the age-based limits will count towards the transitional \$1 million cap on non-concessional contributions with effect from 10 May 2006.

**Contribution Rules - Non-concessional (post-tax) Contributions**

From 1 July 2007, a cap of \$150,000 per year on the amount of non-concessional superannuation contributions a person can accrue will apply. The non-concessional contributions cap will remain at three times the level of the concessional contributions cap and will increase as the concessional cap moves with indexation).

To accommodate larger contributions, if you are under age 65 you will be allowed to bring forward two years of contributions. For example, if you are under age 65 you will be able to make up to \$450,000 of contributions in the 2007-08 financial year but will then be unable to make further non-concessional contributions until the 2010-11 financial year.

Once you turn age 65 you will be able to make \$150,000 of non-concessional contributions each financial year, provided you satisfy the work test. If you are aged 63 and 64 and contribute \$450,000 you will not be required to meet the existing work test in the two years after you make the contribution. The rules prohibiting contributions by people aged 75 and over will remain.

Contributions in excess of the cap will be taxed at the top marginal tax rate (plus Medicare levy). The tax liability will be levied on the individual who will nominate a superannuation fund to release monies to pay the liability. The balance of the excess contribution will be able to remain in the fund.

The Trustee cannot accept contributions in excess of the maximum allowable non-concessional contributions in a year.

Members who have made contributions in excess of the transitional limits outlined below before 7 December 2006 will be able to apply to withdraw these amounts without penalty prior to 30 June 2007. Contributions in excess of the transitional limits made on or after 7 December 2006 will be subject to the tax on the excess unless it is a genuine inadvertent breach.

### ***Are there any exemptions from the cap?***

There are two ongoing exemptions to the non-concessional cap.

The proceeds from the disposal of eligible small business assets are exempt up to a lifetime limit of \$1 million (indexed). The \$1 million exemption may include up to \$500,000 of capital gains that are disregarded under the capital gains tax (CGT) retirement exemption and proceeds from the disposal of assets that qualify for the CGT 15-year exemption. The latter includes pre-CGT assets, assets on which there is no capital gain or loss, and assets disposed of after the permanent disablement of the owner.

The proceeds from a settlement for an injury resulting in permanent disablement are also exempt.

### ***What transitional arrangements are there?***

There is a transitional non-concessional cap of \$1 million for non-concessional contributions made between 10 May 2006 and 30 June 2007. This is available to all individuals eligible to contribute in the relevant year and will include any contributions already made during that period.

In addition, if you were aged 64 at any time between 10 May and 5 September 2006 you will be able to make superannuation contributions up to 30 June 2007 without having to satisfy the work test. If you are aged 74 at any time between those dates will be able to make superannuation contributions if you had satisfied the work test for the relevant financial year.

### ***What is included in the cap?***

The cap will apply to all non-concessional contributions made on behalf of an individual. For example, contributions made by one spouse for the benefit of the other spouse will be counted against the receiving spouse's cap.

The Government co-contribution will not be included in the cap.

Contributions above the concessional cap will also count towards the non-concessional contributions cap.

Contributions above the age-based limits will count towards the transitional \$1 million cap on non-concessional contributions with effect from 10 May 2006.

### ***Can I still split contributions with my spouse?***

Non-concessional contributions will not be able to be split with a spouse.

## **Work Test**

### ***Q. What is the work test?***

In order to make non-concessional contributions to superannuation, people aged 65 to 74 must meet the work test in each year a contribution is made. This means that an individual must work for 40 hours during a consecutive 30 day period each financial year. People under 65 are not subject to a work test.



***Q. I am 63 years old, can I bring forward two years of entitlements to make non-concessional contributions to my superannuation fund?***

From 1 July 2007, people who are 63 and 64 years of age will be able to bring forward contributions up to \$450,000 and will not be required to meet the work test in the following two years.

***Q. I am aged over 65, do I have to meet the work test requirements to make non-concessional contributions? How much can I make?***

From 1 July 2007, a person aged 65 to 74 will be able to make up to \$150,000 of non-concessional contributions each financial year provided they satisfy the work test. This will ensure inadvertent breaches of the non-concessional cap do not occur. The current rules prohibiting contributions by people aged 75 and over will remain.

## **Employment Termination Payments**

***Q. What is an Employment Termination Payment?***

An Employment Termination Payment is a lump sum payment made to a person in consequence of their termination of employment and can include amounts in respect of:

- unused rostered days off;
- amounts in lieu of notice;
- a gratuity or 'golden handshake';
- an employee's invalidity (permanent disability, other than compensation for personal injury); and
- certain payments after the death of an employee.

A payment in respect of unused annual leave or unused long service leave is not an Employment Termination Payment.

***Q. Can I contribute my Employment Termination Payment to superannuation?***

No, unless you are eligible for the transitional arrangements.

***Q. To whom do the transitional arrangements apply?***

The transitional arrangements apply to you if:

- a payment on termination is specified in an existing employment contract as at 9 May 2006; and
- the payment is made prior to 1 July 2012.

***Q. How will the payment be taxed?***

The taxable component of your Employment Termination Payment will be taxed as follows:

<b>Taxpayer's age</b>	<b>Transitional arrangements (for contracts in place as at 9 May 06)</b>	<b>Simplified Superannuation</b>
Under preservation age (currently 55)	• 30 per cent up to a maximum of \$1 million;	• 30 per cent up to a maximum of \$140,000;

	and <ul style="list-style-type: none"> <li>the top marginal tax rate plus Medicare levy for any additional amounts.</li> </ul>	and <ul style="list-style-type: none"> <li>top marginal tax rate and the Medicare levy for any additional amounts.</li> </ul>
Over preservation age (currently 55)	<ul style="list-style-type: none"> <li>15 per cent up to a maximum of \$140,000;</li> <li>30 per cent up to \$1 million; and</li> <li>the top marginal tax rate plus Medicare levy for any additional amounts.</li> </ul>	<ul style="list-style-type: none"> <li>15 per cent up to a maximum of \$140,000; and</li> <li>the top marginal tax rate plus Medicare levy for any additional amounts.</li> </ul>

***Q. If I contribute my Transitional Termination Payment to my superannuation fund under the transitional arrangements, how will it be taxed?***

Transitional Termination Payments may be contributed to superannuation until 1 July 2012 (and will be taxed at 15 per cent). However, any amounts above \$1 million (as calculated by considering all Transitional Termination Payments contributed or received) that are contributed will be subject to the contributions caps and excess contributions taxes.

**Age Pension Arrangements**

*Main Points:*

- The pension assets test taper rate will be halved from 20 September 2007 so that pension recipients only lose \$1.50 per fortnight (rather than \$3) for every \$1,000 of assets above the relevant threshold.
- The assets test exemption for purchased 'complying' income streams will be removed for income streams purchased on or after 20 September 2007.
- The income test will not change.

***How does the assets test change?***

The pension assets test taper rate will be halved from 20 September 2007 so that recipients only lose \$1.50 of pension per fortnight (rather than \$3) for every \$1,000 of assets above the relevant threshold.

This will apply to the following payments:

- age and service pension;
- disability support pension;
- carer payment;
- wife pension;
- widow B pension; and
- bereavement allowance.

***How does the assets test change for people with complying income streams?***

The current 50 per cent assets test exemption for purchased 'complying' income streams will be removed from 20 September 2007. This change will apply only to income streams purchased on or after 20 September 2007. It will not affect 'complying' income streams purchased before this date.

### ***How does the income test change?***

The current income test treatment of superannuation pensions will not change. Income streams with a term of greater than five years are assessed under the income test on the basis of the gross annual income from the product reduced by an annual allowance for return of capital. Income streams with a term of less than five years are assessed under the social security deeming rules.

### **Pension asset test**

#### ***Q. What will be the impact of the superannuation reforms on pensioners, including age pensioners?***

The pension asset test taper rate will be halved from 20 September 2007, so that recipients will only lose \$1.50 per fortnight (rather than \$3) for every \$1,000 of assets above the relevant threshold.

#### ***Q. To which payments will the new taper rate apply?***

The new pension asset test taper rate will apply to the following payments:

- age and service pension;
- disability support pension;
- carer payment;
- wife pension;
- widow B pension; and
- bereavement allowance.

#### ***Q. Will I still be entitled to a 50 per cent assets test exemption?***

The current 50 per cent assets test exemption for purchased 'complying' income streams will be removed from 20 September 2007. This change will only apply to income stream products purchased on or after 20 September 2007 and will not affect the assets test treatment of income streams purchased before this date.

#### ***Q. Will the income test change?***

No. The current income test treatment of superannuation pensions for social security purposes will not change.

### **Death Benefits**

#### ***Q. What will be the taxation treatment of death benefits paid to a dependant?***

If death benefits are paid as a lump sum to a dependant they will be tax free.

If a dependant chooses to take a death benefit as a pension stream, the taxation treatment will depend on the age of the primary beneficiary and dependant.

- If the primary beneficiary was age 60 or over at the time of death, the pension payments to the dependant will be tax free.
- If the primary beneficiary was under age 60 at the time of death, the pension will continue to be taxed at the dependant beneficiary's marginal rate (less any deductible

amount and pension rebate). If (or when) the dependant is aged 60 and over, the pension payment will be tax free.

***Q. What will be the taxation treatment of benefits paid to a non-dependant?***

The taxable component of a lump sum paid to a non-dependant will be taxed concessionally at 15 per cent.

A pension will not be able to revert or be paid to a non-dependant; rather, it will have to be made as a lump sum.

***Q. Can a dependant child receive superannuation death benefits as a pension?***

Yes. Death benefits will be able to be paid as a pension to a dependant child. However, when the child turns 25, the balance in the fund will have to be paid as a lump sum (tax free), unless the child is permanently disabled.

### **Tax File Numbers**

***Q. Do I have to provide my Tax File Number (TFN) to my superannuation fund?***

No. However, if you do not quote your TFN, your concessional contributions will be taxed at the top marginal rate plus Medicare levy.

For accounts opened before 1 July 2007, where contributions exceed \$1,000 in a year, the superannuation fund will withhold tax at the top marginal rate plus Medicare levy if a TFN is not provided.

The \$1,000 threshold will not apply for accounts opened on or after 1 July 2007. Thus if you open your account after 1 July 2007 and you do not quote your TFN, contributions to that account will be taxed at the top marginal rate plus Medicare levy.

***Q. Will I be able to make non-concessional contributions if I do not quote my TFN?***

No. Superannuation funds will not be allowed to accept your non-concessional contributions if you do not provide your TFN.

***Q. When will a fund apply the withholding tax for non-quotation of TFN?***

Funds will be required to withhold the higher tax if the TFN has not been quoted by 30 June each year.

This will give people until 30 June 2008 to quote their TFN if they have not already done so before the higher withholding rate need apply.

***Q. What happens if I subsequently quote my TFN?***

The additional tax will be refunded where a valid TFN is provided to the fund within a four year period. Interest on the additional tax may also be payable by ATO in some circumstances.

## Taxation of Benefits

### *How will superannuation payments to a person aged 60 or more be taxed from 1 July 2007?*

- All lump sum benefits paid from a taxed source to a person aged 60 or over will be tax free.
- All pensions paid from a taxed source to a person aged 60 or over will be tax free. The tax free status also applies to pension benefits that are already being paid.
- RBLs will no longer apply.
- People who receive a lump sum superannuation payment or a pension payment from a taxed source will not need to include it in their tax return.

### *What if a person takes their super benefits before they are 60?*

- Lump sums will comprise two components — an exempt component and a taxable component.
  - The exempt component will be tax free and comprise: the pre-July 83 component; the CGT exempt component; the post-June 1994 invalidity component; the concessional component and the non-concessional (post-tax) contributions;
  - The taxable component includes: the current post-July 1983 component and the non qualifying component. It will be paid tax free up to the low-rate threshold (\$140,000 in 2006/07) and amounts above the threshold will be taxed at 15 per cent. The tax rate will be 20 per cent for individuals aged under 55 years.
- Pension payments for people under age 60 will be taxed under the current arrangements, although tax will be lower in some cases.
- The full superannuation pension rebate of 15 per cent will apply to all pensions paid from a taxed source to a person who is aged 55 to 59 years.
- Once the pension recipient turns 60, their pension will be tax free.
- From 1 July 2007, when any part payment of a superannuation benefit is made, the benefit will generally be considered to include both exempt and taxable components with the relevant proportions of each reflecting the proportions such components make up in the total benefit. This will apply to both lump sums and pensions. Existing pensioners will retain the current 'deductible amount' on their pension until they reach age 60 when the benefits become tax free.

## Death Benefits

### *How will lump sum death benefits from a taxed source be taxed?*

A lump sum death benefit payment will be tax free if paid to a person who is a dependant. A dependant for these purposes is a spouse or former spouse, a child less than 18, a person with whom the deceased had an interdependency relationship just before he or she died, or any other person who was dependant on the deceased just before he or she died. If the lump sum death benefit is paid to a non-dependant, the taxable component will be taxed at 15 per cent.

### *How will death benefit pensions be taxed?*

The taxation of a death benefit paid as a reversionary pension will depend on the age of the primary and reversionary beneficiary. If the primary beneficiary was aged 60 or over at the time of death, then payments to the reversionary beneficiary will be tax exempt. If the primary beneficiary was under age 60 at the time of death, the pension will be taxed at the reversionary beneficiary's

marginal rate (less any deductible amount and pension rebate) unless, or until, the reversionary beneficiary is aged 60 or over, in which case the pension becomes tax exempt.

Death benefits will be able to be paid as a pension to a dependant if the member dies before commencing a pension. These pensions will be taxed in the same way as a reversionary pension.

Death benefits will be able to be paid as a pension to a dependant child, although when the child turns 25, the balance in the fund will have to be paid as a lump sum (tax free) unless the child was permanently disabled.

A pension will not be able to revert or be paid to a non-dependant upon the death of a person. These pensions will be paid out to the non-dependant as a lump sum.