



## TALKING POINT!

### WELCOME

Welcome to our latest edition of Talking Point! In this edition, we are concentrating on the changes to superannuation announced in the recent 2009 Federal Budget. In the Budget, the Treasurer Wayne Swan announced some significant changes to superannuation. At this stage, no legislation has been drafted. Therefore, we advise some caution with the proposals as these initiatives may be subject to significant change through the legislative process.

The main changes include:

- New super rules for temporary residents;
- Changes to Concessional Cap Contribution limits;
- “Temporary” changes to the Co-Contribution scheme;
- Expanded definition of “income” for certain government, taxation and superannuation benefits;
- Award Modernisation; and,
- Broader definition of “salary” for SG purposes **not** implemented.

### NEW SUPER RULES FOR TEMPORARY RESIDENTS – from 1 April 2009

In May 2008 the Government announced its intention to change the superannuation arrangements for temporary residents. These changes are now effective from 1 April 2009.

The Government has changed the conditions of release for a temporary resident to access their superannuation and increased the level of the final withholding tax applying to Departing Australian Superannuation Payments. There are some transitional arrangements in place for certain temporary residents who met one of the conditions of release prior to 1 April 2009.

It is not our intention to provide full details on this change in this newsletter. If you have a “temporary resident” employee, we suggest that they either seek their own advice on the issue or contact NFS for a general overview of the legislation.

### CHANGES TO THE CONCESSIONAL CAP LIMIT – from 1 July 2009

The Government has announced that, effective 1 July 2009, the Concessional Contribution Cap will be reduced from the existing \$50,000 to \$25,000 (indexed) per annum. Concessional contributions include company (including SG), salary sacrifice and any personal deductible contributions.

The Transitional Concessional Cap, which applies to individuals aged 50 and over at any time during the transitional period (i.e. from 1 July 2007 to 30 June 2012), will be halved from \$100,000 to \$50,000 (not indexed) per annum for the 2009/10, 2010/11 and 2011/12 financial years.

The annual cap on Non-Concessional (i.e. after tax) contributions remains at \$150,000 per annum for the 2008/09. It is proposed that from the next financial year the Non-Concessional cap will be calculated as six times the level of the Concessional Cap.



Grandfathering arrangements will apply for defined benefit members as at 12 May 2009. We understand that this means that the relevant members' Notional Taxed Contributions (which is the members' Concessional Contributions in respect of their defined benefits) will be capped at the new limits. A similar arrangement applied when the concessional contribution cap was first introduced.

#### **“TEMPORARY” CHANGES TO THE CO-CONTRIBUTIONS SCHEME – 1 July 2009**

The Government has “temporarily” reduced the rate of the co-contribution from 150% to:

- 100% of the amount contributed by the member for the three years from 1 July 2009 to 30 June 2012. This means that the maximum co-contribution for these years will be \$1,000.
- 125% of the amount contributed by the member for the two years from 1 July 2012 to 30 June 2014. This means the maximum co-contribution for these years will be \$1,250.

From 1 July 2014 the co-contribution will return to its current level.

#### **EXPANDED DEFINITION OF “INCOME” FOR CERTAIN GOVERNMENT AND SUPERANNUATION BENEFITS – from 1 July 2009**

In the May 2008 Federal Budget, the Government indicated that it would widen the definition of “income” used when working out eligibility for various taxation and superannuation concessions and government benefits. Included in these benefits are:

- Super co-contributions;
- Spouse super contributions tax offset;
- Deductions for personal super contributions;
- A range of Centrelink and Child Support benefits;
- Senior Australians tax offset;
- Mature age worker tax offset;
- Medicare levy surcharge threshold calculation and tax offset;
- All dependant tax offsets;
- Pensioner tax offset; and,
- Higher Education Loan Programme (HELP) and Student Financial Supplement Scheme (SFSS) repayments.

The “income” definition to be used for these government concessions and benefits will, from 1 July 2009, generally require the inclusion of:

- Either Reportable or Adjusted fringe benefits total;
- Total net investment loss (i.e. these losses would be added back); and
- Reportable Employer Superannuation Contributions (“RESC”).

In this newsletter we intend to concentrate on the RESC component. The definition of RESC to be included in the income definitions is made up of two components:

- The person's personal contributions (if any) that are tax deductible; plus
- Contributions made for the person by an employer typically referred to as salary sacrifice contributions.

**It is important to note that RESC does not include contributions the employer makes for an employee to meet the employer's Super Guarantee obligations.**

RESC includes only those employer contributions made on behalf of an employee where the employee has some capacity, or might reasonably be expected to have some capacity to influence the size of the contributions or the way the contributions are made.



From 1 July 2009, employers are required to keep records to identify whether or not an employee influenced the super contributions made of their behalf. In addition, RESC must now be included in individual employees payment summaries for the 2009/10 financial year.

#### **AWARD MODERNISATION – from 1 January 2010**

The Australian Industrial Relations Commission (“AIRC”) has been undertaking an “Award Modernisation” process. The goal is to consolidate and replace all existing awards with simpler “modern” awards by the 1 January 2010. Under the proposed “award modernisation”, unions have been pushing for the broader introduction of specific industry funds to be the default superannuation fund for employers.

The AIRC created 17 new awards for so-called "priority" industries and occupations with the decisions it announced on 19 December 2008. In 14 of these new awards it made decisions affecting the default arrangements for employers' compulsory superannuation contributions.

The AIRC has nominated the specific funds that will become the default funds for workers covered by the awards. However, under the proposal, employers would be able to continue to pay contributions into the existing default fund as long as they were paying into this fund as at 12 September 2008. So, from January 2010, when the awards come into effect, there will be an AIRC nominated default fund or funds and some grandfathered funds providing superannuation services to those industries.

Therefore, in the future, there would be little flexibility for an employer to change their existing default fund arrangement to anything other than the industry fund named in the award. Obviously, this only applies to those staff covered under effected awards.

#### **BROADER DEFINITION OF “SALARY” FOR SG PURPOSES NOT IMPLEMENTED**

In our February 2009 edition of Talking Point! we raised the possibility of changes to the definition of “Ordinary Time Earnings” (“OTE”) from 1 July 2009 for Super Guarantee purposes. The ATO was planning to expand the definition of OTE to include the employee's regular hours (even where these are in addition to the employees' award or agreed ordinary hours and are paid as overtime). The effect of this draft ruling would have extended Super Guarantee to “regular, rostered overtime” and payments when made on maternity or paternity leave.

However, the ATO recently announced that it was not going to proceed with this change and the existing definition of OTE will continue to apply.

#### **FOR FURTHER INFORMATION**

If you are interested in finding out more about superannuation, please contact Northbridge Financial Solutions Pty Ltd (“NFS”). Northbridge Financial Solutions (AFS Licence No 283108) is authorised under the licence of ComCorp Financial Advice Pty Ltd (AFS Licence No 331367, ABN 89 133 593 012), is a specialist provider of financial advisory services to corporate superannuation funds and their members.

Contact NFS on (02) 9929 2700, e-mail us at [info@northbridgeadmin.com.au](mailto:info@northbridgeadmin.com.au) or visit our website [www.northbridgeadmin.com.au](http://www.northbridgeadmin.com.au).

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