



CAVENDISH

TECHNICAL UPDATE

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2011 FEDERAL BUDGET SPECIAL

The 2011/12 Federal Budget was fairly light on new announcements that directly affect SMSFs, which is a welcome relief, however there were some significant issues that will impact a large number of Funds and in some instances all SMSFs.

In this bulletin we have outlined the significant announcements made by the Government and how they will impact SMSFs.

The main announcements can be summarised as follows:

- 25% Reduction to the Minimum Pension requirements for 2011/12
- Excess concessional contributions to be refunded in limited circumstances
- Increasing the concessional contribution cap for members 50+ with balances under \$500,000
- Increase in the SMSF Supervisory Levy from \$150 to \$180 from 2010/11 onwards
- Legislative change to allow a SMSF with a minor member to have a Corporate Trustee with the Guardian/Parent as Director
- Government Co-contribution thresholds to remain frozen

ACCOUNT BASED PENSION RELIEF

An announcement that will be welcomed by the Industry and Funds alike is the

continuation of drawdown relief for account-based pensions for 2011/12.

Unlike the previous three years the relief will only be 25% for 2011/12 before reverting to the pre-GFC requirements for the 2012/13 year.

Account-based pension requirements for 2011/12 will be as follows:

Age	2011/12	2012/13 onwards
0-64	3.00%	4.00%
65-74	3.75%	5.00%
75-79	4.50%	6.00%
80-84	5.25%	7.00%
85-89	6.75%	9.00%
90-94	8.25%	11.00%
95+	10.5%	14.00%

LIFE-TIME & FIXED TERM PENSION RELIEF

Further to the account-based pension drawdown relief, but not as part of the Budget, the Government recently announced permanent relief for SMSFs paying Defined Benefit Pensions established for Asset Test Exemption purposes. Under the Social Security Specification signed on 15 April 2011, a Fund can restructure an existing Life-time or Fixed Term pension to a Market Linked Pension within the SMSF. This restructure will result in the Asset Test exemption being lost but will not result in a debt being raised against the member as was previously possible.

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EXCESS CONCESSIONAL CONTRIBUTIONS

With effect from 1 July 2011 any member who exceeds the concessional contribution cap by up to \$10,000 can request these contributions be refunded and assessed as income, taxed at their personal marginal tax rate.

There are of course limitations attached to this announcement. It only applies to contributions made for the 2011/12 Financial Year onwards and it will only apply in the first year that a member exceeds their cap so any subsequent breach will result in an excessive contribution tax assessment. The \$10,000 is an un-indexed amount.

Pros

This will give some relief to those members who in the future have a minor infringement as they will be able to retain the integrity of the non-concessional caps.

Cons

This brings no satisfaction to members who have exceeded the concessional cap between 2008 & 2011 by less than \$10,000 and have subsequently triggered their bring-forward provision earlier than planned and in some instances triggering an excessive non-concessional contribution tax liability.

This is also deficient for individuals who have multiple employment arrangements that may result in the Superannuation Guarantee (SG) continually exceeding the cap as there is no opt-out ability with SG and it only applies to the first year of excess.

There are many other issues associated with this arbitrary figure however there is no question that it is a small step towards helping many people who should not be subjected to the potential extremities of the excessive tax regime.

INCREASED CONCESSIONAL CAP

The Government recently released a paper dealing with their proposal to retain the \$50,000 concessional cap for members aged 50 or over if their balance was under \$500,000. This proposal was to be effective from 1 July 2012.

The Budget has confirmed that this will proceed and that members aged 50 or over will be entitled to

contribute \$25,000 more than the standard concessional cap.

Example

Member aged 53 with an account balance of \$430,000. When the concessional cap increases to \$30,000 the member can contribute up to \$55,000.

The Government have indicated they will continue to work with Industry regarding the implementation of this Policy. Based on the criticism of the paper previously received there are still a number of unanswered questions relating to this proposal particularly surrounding how the \$500,000 will be calculated and the eligibility of individuals to contribute.

SMSF SUPERVISORY LEVY - \$180

Effective for this Financial Year, the Government will increase the Supervisory Levy from \$150 to \$180. The rationale underlying this increased levy is to help the Government fund the proposals announced in its response to the Cooper Review into the Superannuation Industry.

Most of these proposals are still lacking in detail but are expected to be introduced on 1 July 2012.

LEGISLATIVE CHANGES

There is a little known anomaly in the SIS Legislation that does not allow for a parent or guardian of a "minor" member to be the director of a Corporate Trustee of the fund in place of the member. Currently they can only act as Individual Trustee. While the ATO acknowledges this has not affected many SMSFs a change will be made to the law to allow Funds with "minors" to have a Corporate Trustee.

CO-CONTRIBUTION THRESHOLDS

Whilst it receives little coverage since the Government reduced the contribution matching level as a result of the GFC the co-contribution income thresholds remain frozen reducing the number of members entitled to have their contributions matched by the Government.

SUMMARY

The Budget never promised to deliver any major change so for the majority of SMSF Trustees and members the minimal impact will be appreciated. Unfortunately it leaves more questions unanswered than answered such as, which Fund will a member withdraw the excess concessional contributions from if they have multiple Funds and what happens to the earnings for the number of months between the contribution being made and the ATO determining that the member has exceeded their cap?

There are many more administrative questions that will be raised about this but probably the most relevant will be why not introduce this for the 2010/11 Financial Year.

Likewise the administration of the increased \$25,000 cap for those 50 and over will make the complicated and much derided Superannuation Surcharge look like a walk in the park.

Of course, continuing the relief for pensioners will assist in the preservation of capital for twelve more months which is a welcomed announcement.

We look forward to the next twelve months when undoubtedly SMSFs will remain in the spotlight as more information is released about the Cooper proposals and the Industry steps up the fight against the contribution cap.

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