In this edition...

- The ATO and APRA remind trustees of their upcoming SuperStream obligations.
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- ASIC updates guidance on the requirements that apply to trustees who offer a choice of investment strategies to members.
- ASIC defers each of the SIS section 29QB standard employer-sponsored sub-plan disclosure, Superannuation Choice Product Dashboard, and Portfolio Holdings Disclosure requirements.
- APRA confirms its view on whether non-written consent is sufficient for rolling over or transferring benefits.
- The SIS Regulations are amended in order to facilitate the giving of security in respect of derivatives and to allow eligible rollover fund trustees to transfer member account balances to active accounts in other superannuation funds without a member’s consent.
- The AAT analyses the interdependency requirements under the Income Tax Assessment Act 1997 (Cth) and Income Tax Assessment Regulations 1997 (Cth).
- Treasury releases a Discussion Paper on the proposed financial institutions supervisory levies that will apply for the 2017 Financial Year.
- The Federal Budget was delivered on Tuesday 3 May.

RECENT LEGISLATIVE AND REGULATORY DEVELOPMENTS IN SUPERANNUATION 18 APRIL 2016 – 13 MAY 2016

1. APRA AND ASIC UPDATES

1.1 Trustee responsibilities arising from SuperStream (18 April 2016)

The ATO and APRA have written to trustees informing them of their obligations with regard to upcoming changes to the Superannuation Data and Payment Standards 2012 (SuperStream Standard) and supporting services.

Updated rollover standards

In late 2016, the SuperStream Standard is scheduled to be updated in order to facilitate ATO transfers and refunds of Unclaimed Monies by aligning ATO and industry rollover processes, removing manual processes, and giving effect to the rolling over unclaimed super monies (USM) to the ATO in 2017.

The ATO and APRA advise that the key implementation dates are as follows:

(a) updates to existing industry rollover interactions will occur by no later than 11 November 2016;
(b) new interactions to support receiving government rollovers (USM) will occur by no later than 16 December 2016; and

(c) new interactions to support receiving section 20C notices under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (Cth), from the ATO and sending government rollovers (USM) to the ATO will occur in November 2017.

**Associated systems changes**

As part of the implementation of the Rollover change, the ATO will require trustees to implement SuperTICK (v3), which provides the opened and closed account functionality, by no later than 31 January 2017.

Trustees will need to ensure their solution that submits information for the Fund Validation Service will also be updated in July 2016 to incorporate new certification values supporting the updates to the SuperStream Standard.

**Getting ready**

The ATO published updated technical documentation (Rollover Implementation Message Guide v2.0) on 18 December 2015. Work has commenced to coordinate testing and production cutover processes.

**Contributions Standard - Minor update (v1.4)**

The ATO released a minor update to the Contributions Standard (v1.4) which came into effect from 18 April 2016. This update incorporates established guidance on a small number of improvements and formalises requirements for supporting the Withholding Payment Number.

**Contributions Standard - Error Messaging**

Trustees must complete their implementation of contributions error messaging by no later than 31 May 2016. It is APRA's expectation that as a material service, trustees will have in place the necessary arrangements and oversight of their gateway provider in accordance with APRA Prudential Standard *SPS 231 Outsourcing*.

**Contributions Standard – Preparation for major upgrade (v2.0)**

The contributions standard is scheduled for a major version upgrade (v2.0) in April 2017 (however we cannot confirm), in order to introduce the payment of ATO-sourced contributions, refunds and amendments, and to incorporate improvements recommended by industry. This upgrade was originally scheduled to align with the introduction of Single Touch Payroll changes foreshadowed by Federal Government.

**Consultation**

The ATO will consult further with industry regarding the timing of changes including the final scope and staging of these changes. The ATO has provided trustees with a URL containing draft technical documentation on the SuperStream contributions upgrade at [http://softwaredevelopers.ato.gov.au/dataandpaymentstandardv2.0](http://softwaredevelopers.ato.gov.au/dataandpaymentstandardv2.0)

### 1.2 ASIC updated regulatory guidance on generic financial calculators (21 April 2016)

ASIC released updated regulatory guidance concerning relief for generic financial calculators. Each of:

(a) Section D of Regulatory Guide *RG 167 Licensing: Discretionary powers* (RG 167); and
provide guidance on the impact of ASIC Corporations (Generic Calculators) Instrument 2016/207 (Instrument). The Instrument replaced ASIC Class Order [CO 05/1122] Relief for providers of generic calculators on 1 April 2016.

Ensuring the calculator does not advertise or promote a specific financial product

ASIC has clarified the Instrument’s requirement that the assumptions used by a calculator may reflect a particular financial product, but should not refer to any particular product. RG 167 provides that:

(a) the calculator may refer to a class of financial product or investment option (i.e. an account-based pension fund), but not a specific financial product or investment option (i.e. XYZ Personal Super Division Account-based Pension);

(b) the calculator should not refer to acquiring or investing an amount in a specific financial product or be directly connected to promotional material for a named financial product (i.e. by providing a link to the PDS for the product or a link to an ‘apply now’ button);

(c) ancillary marketing material that is not specific to the calculator or its results may be included on the same screen or page as the calculator (i.e. the provider’s logo or a link to the provider’s home page) but links to specific financial products should not; and

(d) the calculator may refer to a specific financial product as part of disclosure about why the assumptions utilised are reasonable for working out the estimate, but must not advertise or promote the specific financial product (i.e. the reference to the specific product must not be more prominent than other information about the reasonableness of assumptions, and must be less prominent than the calculator itself).

Assumptions must be clearly and prominently displayed

ASIC has clarified the meaning and scope of the Instrument’s requirement that the assumptions utilised by the calculator must be clearly and prominently displayed. RG 167 provides that:

(a) the calculator must display to the user in the ordinary course of use, or have printed on it, a clear and prominent statement of the assumptions utilised, and a clear and prominent explanation of why the assumptions are reasonable for the purpose of working out the estimate;

(b) the headline assumptions utilised must be clearly and prominently displayed, but the explanation of why the assumptions are reasonable for working out the estimate may be layered (i.e. the disclosure can be accessed on request through a link to the information); and

(c) the calculator is subject to the prohibition against misleading and deceptive conduct in the Corporations Act and the Australian Securities and Investment Commission Act 2001 (Cth) (i.e. past performance or short-term performance should not be used to demonstrate the likely success of a financial product or investment option without reference to their relevance to future circumstances).

Future estimates must be clearly and prominently adjusted for inflation

ASIC has clarified the Instrument’s requirement that where an estimate is of an amount payable or receivable at a future time of two or more years, the results must be adjusted for inflation. RG 167 provides that:
(a) the default inflation rate for discounting the future receipt or payment is 2.5%, based on the midpoint of the RBA’s target range for inflation published on 18 March 2016, but this may be amended by ASIC in the future so as to reflect a change in the RBA’s target range;

(b) the calculator may provide a result in future dollars and current dollars, provided both are clearly labelled so as to avoid consumer confusion;

(c) the calculator should include clear and prominent statements about the limitations and reasonableness of the inflation rate assumption (i.e. that the actual rate of inflation may differ significantly, which could affect the outcome at the end of the selected period);

(d) the calculator may model a range of inflation scenarios and allow users to select their own alternative inflation rate assumption; and

(e) future estimates may also be adjusted for the cost of rising living standards, and where this is not done in the case of an estimate relating to superannuation retirement payments, this must be prominently disclosed and explained.

**Notifying ASIC of breach**

ASIC has clarified the Instrument’s requirement that a person will not be able to rely on the relief if 10 business days have elapsed since the person became aware of a material failure to comply with the Instrument’s requirements and the person failed to provide full particulars of the failure to ASIC. RG 167 provides that:

(a) an immaterial breach is a breach of a technical or trivial kind (i.e. a temporary technical fault that prevents the user from readily printing or storing an electronic estimate for a short period of time);

(b) ongoing technical issues, or repeated immaterial breaches, may amount to material breach;

(c) if it is unclear whether a breach is material, the breach should be reported;

(d) there is no prescribed form for reporting a breach, but *Form FS80 Notification by an AFS licensee of a significant breach of a licensee’s obligations* may be used; and

(e) in determining any regulatory response, ASIC will consider the nature, scope and effect of any breach, including whether the cause of the breach has been identified and addressed so that it is unlikely to recur.

**Disclosure of fees and costs**

ASIC has stated that the assumptions utilised with respect to fees and costs must be reasonable, and the calculator must include clear and prominent explanations of both why the assumptions are reasonable, and the limitations of the assumptions. For example, if the calculator does not take into account the effect of certain fees and costs this must be clearly and prominently explained to the user.

1.3 **Delivery of product disclosure for investment strategies (26 April 2016)**

ASIC has updated *Regulatory Guide 184: Superannuation: Delivery of product disclosure for investment strategies (RG 184)* as a result of the registration of ASIC Corporations (Superannuation: Investment Strategies) Instrument 2016/65 (*Instrument*) which replaced the relief under ASIC Class Order [CO 06/636] Superannuation: Delivery of product disclosure for investment strategies.

RG 184 explains:
Section 1012IA applies to trustees that offer a choice of investment strategies to their members that include accessible financial products, where:

(a) a member instructs the trustee to acquire an accessible financial product; and
(b) the trustee acquires that product on behalf of the member.

Because the Instrument does not materially alter the relief provided under ASIC Class Order [CO 06/636], the updated RG 184 reflects the relief provided under the previous version of RG 184.

1.4 Deferring SIS section 29QB standard employer-sponsored sub-plan disclosure requirements (27 April 2016)

ASIC Superannuation (Amendment) Instrument 2016/345 has been registered. It amends ASIC Class Order [CO 14/509] to delay SIS, section 29QB web-based disclosure (for example, of product disclosure statements, trust deeds and governing rules, actuarial reports of defined benefit funds, annual reports and summaries of significant event notices) in respect of standard employer-sponsored sub-plans until 1 July 2017.

1.5 Deferring the Superannuation Choice Product Dashboard and Portfolio Holdings Disclosure requirements (27 April 2016)

ASIC Corporations (Amendment) Instrument 2016/351 has been registered. It amends ASIC Class Order [CO 14/443] to delay the Superannuation Choice Product Dashboard requirements until 1 July 2017, and delays the Portfolio Holdings Disclosure requirements until mid-to-late December 2017.

1.6 Electronic consent for rollovers (5 May 2016)

On or around 5 May 2016, APRA issued Payment Standards FAQ 5: Is the APRA determination Form of Non Written Consent Sufficient for Rolling Over or Transferring Benefits still valid? If so, does it permit RSE licensees to accept non-written consent from members?

The FAQ confirms that APRA's 31 January 2002 Determination (Form of Non-written consent for rolling over or transferring benefits) still applies to enable trustees to accept non-written consent from members before rolling over or transferring benefits from one fund to another, in compliance with SIS Regulations 6.28 and 6.29.

2. LEGISLATION

2.1 Amendments to SIS derivatives rules (9 May 2016)

The Financial System Legislation Amendment (Resilience and Collateral Protection) Regulation 2016 (Cth) has been registered. The Regulation amends the SIS Regulations’ Operating Standards regarding the charging of assets regarding certain derivatives contracts.

The Regulations amend SIS Regulation 13.15A and Schedule 4 in order to facilitate the giving of security in respect of derivatives (including exchange traded derivatives, cleared OTC derivatives and uncleared OTC derivatives), subject to the following safeguards:

(a) a charge is given in order to comply with a requirement that the performance of obligations in relation to the derivative be secured by either of the following:
(i) rules governing the operation of an approved body (listed in Schedule 4 of the SIS Regulations);

(ii) any domestic of foreign law that applies to dealings in the derivative;

(b) the charge is given in favour of the agent, on behalf of a trustee, and:

(i) the agent is obliged:

(A) under the rules of an approved body, or otherwise by law, to segregate the trustee’s property from the agent’s property; and

(B) or but for a netting-off would be under an obligation, to transfer property to another entity in relation to the derivative; and

(ii) the charge is given over an asset or assets of the fund, to secure the performance of an obligation or obligations in relation to the derivative; and

(c) a charge complies if:

(i) the asset over which the charge is given is financial property (as defined in the Payment Systems and Netting Act 1998 (Cth)); and

(ii) the obligations secured by the financial property are any of the following:

(A) an obligation of the trustee that relates to the derivative;

(B) an obligation of the trustee to pay interest on an obligation that relates to the derivative;

(C) an obligation of the trustee to pay costs and expenses incurred in connection with enforcing a charge given in respect of an obligation that relates to the derivative; and

(iii) the financial property is transferred or otherwise dealt with so as to be in the possession or under the control of:

(A) the secured person; or

(B) another person (who is not the trustee), on behalf of the secured person, under the terms of an arrangement evidenced in writing.

The definition of “derivative” under SIS Regulation 13.15A(2) is amended to provide further clarity and means any of the following:

(a) a derivative, as defined under the Corporations Act;

(b) a foreign exchange contract (within the meaning of Corporations Act, Part 7); or

(c) an arrangement that is a forward, swap or option, or any combination of those things, in relation to one or more commodities.

The SIS Regulation’s Schedule 4 approved body has been amended and now lists 144 approved bodies. Until its recent amendment, the Schedule listed 73 approved bodies.

2.2 Amendments to the SIS Regulations eligible rollover fund transfer rules (9 May 2016)

The Tax and Superannuation Laws Amendment (2016 Measures No. 2) Regulation 2016 has been registered and amends the eligible rollover fund rules in SIS Regulation 6.29, to allow trustees of eligible rollover funds to transfer member account balances to active accounts in other superannuation funds without a member’s consent.
The Regulation also amends item 10.2 of Part 10 of Schedule 10A of the Corporations Regulations in order to exempt this type of transfer from the significant event disclosure requirements.

3. CASES

3.1 TBCL and Commissioner of Taxation (Taxation) [2016] AATA 264 (27 April 2016)

The Administrative Appeals Tribunal (AAT) has remitted a matter to the Commissioner of Taxation (Commissioner) to request the applicants to make another application for a private ruling in respect of a death benefit paid to them as the administrators of their son’s estate.

The Applicants have each made an application to the Administrative Appeals Tribunal to review an objection decision in respect of a private ruling from the Commissioner.

Facts

The applicants have been granted letters of administration of the estate of their son who had lived with them for all of his life except between 2007 and 2009 when he was undertaking studies interstate.

The son died in an accident in June 2013. At the time of his death he was 22 years of age and was employed. In May 2014 the relevant superannuation scheme’s insurer paid a $500,000 lump sum to the applicants in their capacity as administrators of their son’s estate.

In August 2014 the applicants applied for a private ruling that the lump sum was not assessable income by virtue of the operation of section 302-60 of the *Income Tax Assessment Act 1997* (Cth) (ITAA 97) on the basis that they were each a death benefits dependant of the son, by virtue of the applicants and their son having an “interdependency relationship”.

In November 2014 the Commissioner issued a Notice of Private Ruling to each applicant containing a ruling that neither applicant was a death benefits dependant. In January 2015 each applicant lodged an objection to the notice which the Commissioner disallowed. Each applicant subsequently lodged an application to the Administrative Appeals Tribunal for review of the objection decision.

Determination

The AAT considered the meaning and requirements under the definitions of “death benefit dependant” under section 302-195 of the ITAA 97 and “interdependency relationship” under section 302-200 of the ITAA 97, and the matters to be taken into account in determining whether two persons have an interdependency relationship under regulations 302-200.01 and 302-200.02 of the *Income Tax Assessment Regulations 1997* (Cth) (ITAR 97).

The AAT stated that, under section 302-200 of the ITAA 97, it was necessary for each applicant to have had an interdependency relationship immediately before their son died, in order for each applicant to be a “death benefits dependant” under section 302-195(1)(c) of the ITAA 97.

In considering how the facts applied to the ITAR 97 matters, the AAT determined that, whilst the relationship between the applicants and their son satisfied certain matters, no interdependency relationship existed because:

(a) the duration of the relationship did not of itself point to an interdependency relationship (regulation 302-200.001(2)(a)(i));

(b) despite the fact that at the time of the son’s death, the applicants had just begun to convert their garage into a private living space for him, the reference to “use” in regulation 302-200.01(2)(a)(iii) requires consideration of the actual use of property just before the son died. The facts did not refer to any “acquisition” of property, and therefore did not indicate an interdependency relationship;
(c) the facts did not indicate “a mutual commitment to a shared life” between the applicants and their son as is required under regulation 302-200.01(2)(a)(iv); and

(d) the facts did not refer to the reputation and public aspects of the relationship, the extent to which the relationship is one of mere convenience, or the degree of emotional support (regulation 302-200.01(2)(a)).

Further, the AAT noted that one of the matters that must be established by each applicant is a “close personal relationship”, under section 302-200(1)(a) of the ITAA 97. The applicants had failed to assert such a relationship. The reference in the applicants’ facts to “love, care, affection and psychological assistance” did not refer to any facts which provide a basis for any indication that there was such a relationship.

Additionally, the AAT determined that the requirement under section 302-200(1)(d) of the ITAA 97 that there be both “domestic support” as well as “personal care” was not satisfied. The AAT was required to consider whether each applicant was provided personal care by the son or whether the son provided personal care to each applicant. This is because there is an essential requirement that “one or each of them provides the other with domestic support and personal care” for parties to have an interdependency relationship. In this case, the AAT noted the examples that are provided in regulation 302-200.02(2) that refer to “care of a type and quality normally provided in a close personal relationship, rather than by a mere friend or flatmate”.

Given that the applicants had tendered new evidence of their relationship with their son, subsequent to the Commissioner’s Ruling, the AAT determined that the application should be remitted to the Commissioner to request the applicants to make another application for a private ruling in accordance with these reasons.

4. OTHER RECENT DEVELOPMENTS

4.1 Review of retirement income stream regulation (3 May 2016)

The Government has released its Review of retirement income stream regulation, as part of its 2013 election superannuation policy.

The Report reviews both the minimum withdrawal amounts for account based pensions and the regulatory barriers currently restricting the availability of relevant and appropriate income stream products in the Australian market.

Minimum drawdown requirement for account based pensions

The Review recommends that:

(a) the current annual minimum drawdown requirements are consistent with the objective of the superannuation system to provide income in retirement and should be maintained;

(b) the Australian Government Actuary should be asked to undertake a review of the annual minimum drawdown rates every five years and advise the Government to ensure that they remain appropriate in light of any increases in life expectancy; and

(c) any other changes to the minimum drawdown amounts should only be considered in the event of significant economic shocks and based on further advice from the Australian Government Actuary.

Regulatory barriers to retirement income stream products

The Review recommends that:
(a) an additional set of income stream rules should be developed which would allow lifetime products to qualify for the earnings tax exemption provided they meet a declining capital access schedule;

(b) the alternative product rules should be designed to accommodate purchase via multiple premiums but additions to existing income stream products (i.e. for those who undertake further work in retirement) should continue to be prohibited;

(c) SMSFs and small APRA funds should not be eligible to offer products under the new rules; and

(d) a coordinated process should be implemented to streamline administrative dealings with multiple government agencies, in order to help reduce the administrative burden and assist product providers seeking to launch new products.

4.2 Proposed Financial Institutions Supervisory Levies for 2016-17 (6 May 2016)

Treasury has released a Discussion Paper, prepared in conjunction with APRA, and seeks submissions on the proposed financial institutions supervisory levies that will apply for the 2017 Financial Year.

The financial industry levies are set to recover the operational costs of APRA and other specific costs incurred by certain Commonwealth agencies and departments, including ASIC, the ATO, and the Department of Human Services (DHS).

The Discussion Paper summarises the impact on the Superannuation Industry, as follows:

(a) excluding the SuperStream levy, levies funding of $77.6 million consists of $30.5 million for APRA’s supervision of the superannuation industry and $47.1 million for ongoing ASIC, ATO and DHS regulatory costs. This total compares to $62.2 million in the 2016 Financial Year;

(b) this increase is primarily as a result of the Government’s decision to increase funding for the SCT by $5.2 million in the 2017 Financial Year, though also reflects the Government’s decision to provide ASIC with additional funding to improve outcomes in financial services, and to fund APRA to modernise its data capabilities;

(c) in the 2017 Financial Year, APRA’s supervisory activities in the superannuation industry will cover a range of issues, including continued focus on governance and risk management issues, data integrity and the liquidity of superannuation funds. APRA will also devote considerable resources to the bedding down of relevant aspects of the previous Government’s Stronger Super initiatives;

(d) separately, $35.6 million is required to fund the continued implementation of SuperStream, bringing the total levy for the superannuation sector in the 2017 Financial Year to $113.2 million; and

(e) the levy amount for Small APRA Funds is maintained at a flat rate of $590 per fund.

Submissions are due by Friday, 3 June 2016.
1. REVENUE MEASURES – SUPERANNUATION REFORM PACKAGE

1.1 Allowing catch-up concessional superannuation contributions

From 1 July 2017, the Government will allow individuals to make additional concessional contributions where they have not reached their concessional contributions cap in previous years. Access to these unused cap amounts will be limited to those individuals with a superannuation balance less than $500,000. Amounts are carried forward on a rolling basis for a period of five consecutive years, and only unused amounts accrued from 1 July 2017 can be carried forward.

This measure enables people whose work patterns have been disrupted (for example women or carers) to accumulate superannuation balances commensurate with those who do not take breaks from the workforce by enabling them to carry forward their unused concessional caps, in order to ‘catch-up’ if they have the capacity and choose to do so.

The measure will also apply to members of defined benefit schemes and consultation will be undertaken to minimise additional compliance impacts for these schemes.

1.2 Harmonising contribution rules for those aged 65 to 74

From 1 July 2017, the Government will remove the work test that applies to individuals aged 65 to 74 in order for them to be able to receive spouse contributions.

1.3 Improving superannuation balances of low income spouses

From 1 July 2017, the Government will increase access to the low income spouse superannuation tax offset by raising the income threshold for the low income spouse to $37,000 from $10,800. The low income spouse tax offset provides up to $540 per annum for the contributing spouse and builds on the Government’s co-contribution and superannuation splitting policies to boost retirement savings, particularly of women.

1.4 Introducing a $1.6 million superannuation transfer balance cap

From 1 July 2017, the Government will introduce a $1.6 million transfer balance cap on the total amount of accumulated superannuation an individual can transfer into the retirement phase. Subsequent earnings on these balances will not be restricted.

Where an individual accumulates amounts in excess of $1.6 million, they will be able to maintain this excess amount in an accumulation phase account (where earnings will be taxed at the concessional rate of 15 per cent). Members already in the retirement phase with balances above $1.6 million will be required to reduce their retirement balance to $1.6 million by 1 July 2017. Excess balances for these members may be converted to superannuation accumulation phase accounts.

A tax on amounts that are transferred in excess of the $1.6 million cap (including earnings on these excess transferred amounts) will be applied, similar to the tax treatment that applies to excess non-concessional contributions.

Commensurate treatment for members of defined benefit schemes will be achieved through changes to the tax arrangements for pension amounts over $100,000 from 1 July 2017.

Consultation will be undertaken on the implementation of this measure for members of both accumulation and defined benefits schemes.
1.5 **Introducing a lifetime cap for non-concessional superannuation contributions**

The Government will introduce a $500,000 lifetime non-concessional contributions cap, taking into account all non-concessional contributions made on or after 1 July 2007, from which time the ATO has reliable contributions records, and will commence at 7.30 pm (AEST) on 3 May 2016. Contributions made before commencement cannot result in an excess. However, excess contributions made after commencement will need to be removed or subject to penalty tax. The cap will be indexed to average weekly ordinary time earnings.

The lifetime non-concessional cap will replace the existing non-concessional contributions caps. This measure will also provide individuals with flexibility around when they choose to contribute to their superannuation and will be available to all individuals up to age 74.

After-tax contributions made into defined benefit accounts and constitutionally protected funds will be included in an individual’s lifetime non-concessional cap. If a member of a defined benefit fund exceeds their lifetime cap, ongoing contributions to the defined benefit account can continue but the member will be required to remove, on an annual basis, an equivalent amount (including proxy earnings) from any accumulation account they hold. The amount that could be removed from any accumulation accounts will be limited to the amount of non-concessional contributions made into those accounts since 1 July 2007. Contributions made to a defined benefit account will not be required to be removed.

1.6 **Introducing a Low Income Superannuation Tax Offset (LISTO)**

From 1 July 2017, the Government will introduce a Low Income Superannuation Tax Offset (LISTO) to reduce tax on superannuation contributions for low income earners (those with an adjusted taxable income of up to $37,000). The LISTO will provide a non-refundable tax offset to superannuation funds, based on the tax paid on concessional contributions made on behalf of low income earners, up to a cap of $500.

This is intended to ensure that low income earners would not pay more tax on savings placed into superannuation than on income earned outside of superannuation.

1.7 **Reforming the taxation of concessional superannuation contributions**

From 1 July 2017, the Government will:

(a) lower the Division 293 threshold (the point at which high income earners pay 30% contributions tax) from $300,000 to $250,000; and

(b) reduce the annual cap on concessional superannuation contributions to $25,000 (currently $30,000 under age 50 or $35,000 for ages 50 and over).

The lower Division 293 income threshold will also apply to members of defined benefit schemes and constitutionally protected funds currently covered by the tax. Existing exemptions (such as State higher level office holders and Commonwealth judges) for Division 293 tax will be maintained.

From 1 July 2017, the Government will include notional (estimated) and actual employer contributions in the concessional contributions cap for members of unfunded defined benefit schemes and constitutionally protected funds. Members of these funds will have opportunities to salary sacrifice commensurate with members of accumulation funds. For individuals who were members of a funded defined benefit scheme as at 12 May 2009, the existing grandfathering arrangements will continue.

1.8 **Removing the anti-detriment provision in respect of death benefits from superannuation**

From 1 July 2017, the Government will improve the integrity and fairness of the system by removing the anti-detriment provision.
The anti-detriment provision can effectively result in a refund of a member’s lifetime superannuation contributions tax payments into an estate, where the beneficiary is the dependant of the member. Currently, this provision is inconsistently applied by superannuation funds.

Removing the anti-detriment provision will better align the treatment of lump sum death benefits across all superannuation funds and the treatment of bequests outside of superannuation. Lump sum death benefits to dependants remain tax free.

1.9 **Strengthening integrity of income streams**
The Government will remove the tax exemption on earnings of assets supporting Transition to Retirement Income Streams from 1 July 2017 (meaning that these assets will be taxed at 15%, instead of the current 0%).

The Government will also remove the rule that allows individuals to treat certain superannuation income stream payments as lump sums for tax purposes.

1.10 **Tax deductions for personal superannuation contributions**
From 1 July 2017, the Government will allow all individuals up to age 75, and regardless of their employment circumstances, to claim an income tax deduction for personal superannuation contributions. Individuals who are partially self-employed and partially wage and salary earners, and individuals whose employers do not offer salary sacrifice arrangements, will benefit from these changed arrangements.

Individuals that are members of certain prescribed funds would not be entitled to deduct contributions to those schemes. Prescribed funds will include all untaxed funds, all Commonwealth defined benefit schemes, and any State, Territory or corporate defined benefit schemes that choose to be prescribed.

2. **EXPENSE MEASURES**

2.1 **Offering Choice in Public Sector Superannuation Accumulation Plan**
The Government will extend Public Sector Superannuation Accumulation Plan membership eligibility to allow Public Sector Superannuation Accumulation Plan members to choose to remain contributory members when they move to non-Commonwealth employment.

This will align Public Sector Superannuation Accumulation Plan arrangements with superannuation arrangements available in the broader industry and is consistent with the Government’s wider reforms and initiatives to lower administrative costs borne by members.

2.2 **Financial Assistance to the New South Wales (NSW) Government for NSW Police**
The Government will provide $7.6 million from 1 July 2017 (part of $15.2 million over six years from 1 July 2017) under a four year transitional funding agreement with the NSW Government for NSW police. The funding agreement will equally share the costs of reimbursing NSW police officers who incur an additional tax liability from making voluntary superannuation contributions that exceed the concessional contributions cap due to the impact of NSW’s death and disability insurance premiums. The agreement also covers the cost-sharing of any fringe benefits tax that results from reimbursing police officers in these situations.

This will ensure NSW police officers have the same capacity to make voluntary concessional contributions toward their retirement as those individuals who are not subject to compulsory employer insurance premiums that contribute toward the concessional cap.

2.3 **Superannuation Complaints Tribunal — sustaining and modernising functions**
The Government will provide $5.2 million during the 2017 Financial Year (including $2.7 million in capital funding) to the Superannuation Complaints Tribunal (SCT) to improve processes, and to
reduce the backlog of complaints lodged with the SCT.

The cost of this measure will be offset by an increase in the Financial Institutions Supervisory Levies collected by APRA.

3. **FURTHER STATEMENTS**

3.1 *Enhancing choice in retirement income products*

From 1 July 2017, the Government will extend the tax exemption on earnings in the retirement phase to products such as deferred lifetime annuities and group self-annuitisation products.

This will allow providers to offer a wider range of retirement income products which will provide more flexibility and choice for Australian retirees, and help them to better manage consumption and risk in retirement, particularly longevity risk, wherein people outlive their savings.

In addition, the Government will consult on how these new products are treated under the Age Pension means test.