

Budget 2005

Superannuation changes

The changes to superannuation announced in this federal budget have resulted in a structural reform that will encourage more Australians to contribute to saving for their retirement.

The best news is that the surcharge is to be abolished

In this year's budget the Treasurer has announced the abolition of the much hated superannuation surcharge. The surcharge is to be abolished effective from 1 July 2005.

The surcharge rate for 2004/05 applies from \$99,710 on the total of a person's taxable income plus reportable fringe benefits plus employer and/or tax deductible contributions. The maximum rate, which is 12.5%, applies from \$121,075.

Splitting of Superannuation contributions

This is not a new policy. It was originally due to take effect on 1 July 2003 but due to various delays and industry concerns the passing of the bill was delayed by the Senate until the bill lapsed with the proroguing of Parliament before the last federal election.

Together with the abolition of the superannuation surcharge the option to split superannuation contributions with a spouse provides a real incentive for taxpayers to contribute more to their retirement savings, especially given the long term tax and income stream benefits that will flow to retirees.

Splitting contributions (after taxes have been paid by the fund) enables both spouses to have access to their own lump sum and/or pension reasonable benefit limit and to have access to the low tax threshold.

The tax savings on retirement alone should encourage taxpayers at all income levels to split their employer and tax deductible contributions with their spouse.

Relief from late payment of Superannuation Guarantee

Under the existing SGC rules any contribution payment that is made more than 28 days after the end of the relevant quarter is not treated as a

contribution for that quarter. Further, the employer is liable for a non tax deductible SGC. The effect of this rule is that employers are effectively hit with a triple penalty – they have to pay the SGC, they are not entitled to any tax deduction for that charge and they also pay those quarterly contributions to the employee's fund.

Under changes that are to apply from 1 July 2006 employers will be allowed to have late contributions offset against any Superannuation Guarantee charge provided the late payment is made no later than 30 days after the Superannuation Guarantee due date. This means that contributions made up to 58 days after the end of the relevant quarter will be treated as contributions for that quarter.

The employer will still be liable for the balance of any Superannuation Guarantee shortfall and interest which will be applied in compensation to the employee's superannuation account.

Superannuation on back payment of wages

Under the existing rules a superannuation obligation arises only on salary or wages if the recipient was an employee during the relevant quarter. There are instances where payments are made after the employment relationship has ceased (eg. a court award based on an underpayment of salary or wages).

Under the existing rules there is no obligation to make superannuation contributions related to that back payment. The government has announced that it intends to amend the rules to make it compulsory for a superannuation guarantee payment to be made in the quarter when the back payment is made. The change is effective from the date of Royal Assent.

Closure of SHASA

Effective from 1 July 2006 the government has announced that it will close the Superannuation Holding Accounts Special Account to new employer deposits. This means that employers will no longer be able to make deposits to this fund to meet their superannuation guarantee obligations. In the future contributions will have to be made to a complying superannuation fund or a retirement savings account.

Between 1 July 2005 and the closure of the fund employers will be able to use the SHASA to meet their choice of fund obligations for employees who do not exercise choice.

Superannuation annuities on marriage breakdown

Under the existing rules the law does not specify the taxing arrangements that will apply to superannuation annuities split on the breakdown of a marriage.

Effective from the date of Royal Assent of the enabling legislation, superannuation annuities that have been split on a marriage breakdown under family law arrangements will be taxed on the same basis as a superannuation pension split upon marriage breakdown.

Transition period to comply with choice of fund insurance requirement

Under the choice of fund rules that commence from 1 July 2005 most employees will be entitled to choose the complying superannuation fund or retirement saving account into which their employer pays their 9% compulsory superannuation guarantee contributions.

If an employee fails to choose a fund then the employer is required to make those contributions into a complying superannuation fund that meets the minimum insurance requirements.

As a transitional measure up to 30 June 2008 employers will be allowed to continue to contribute to their current superannuation fund even though the fund does not meet the insurance requirements. This measure is designed to give the funds an opportunity to meet the insurance requirements within three years of the start of the choice of fund regime.