

# The Association of Payroll Specialists

Briefing February 2008

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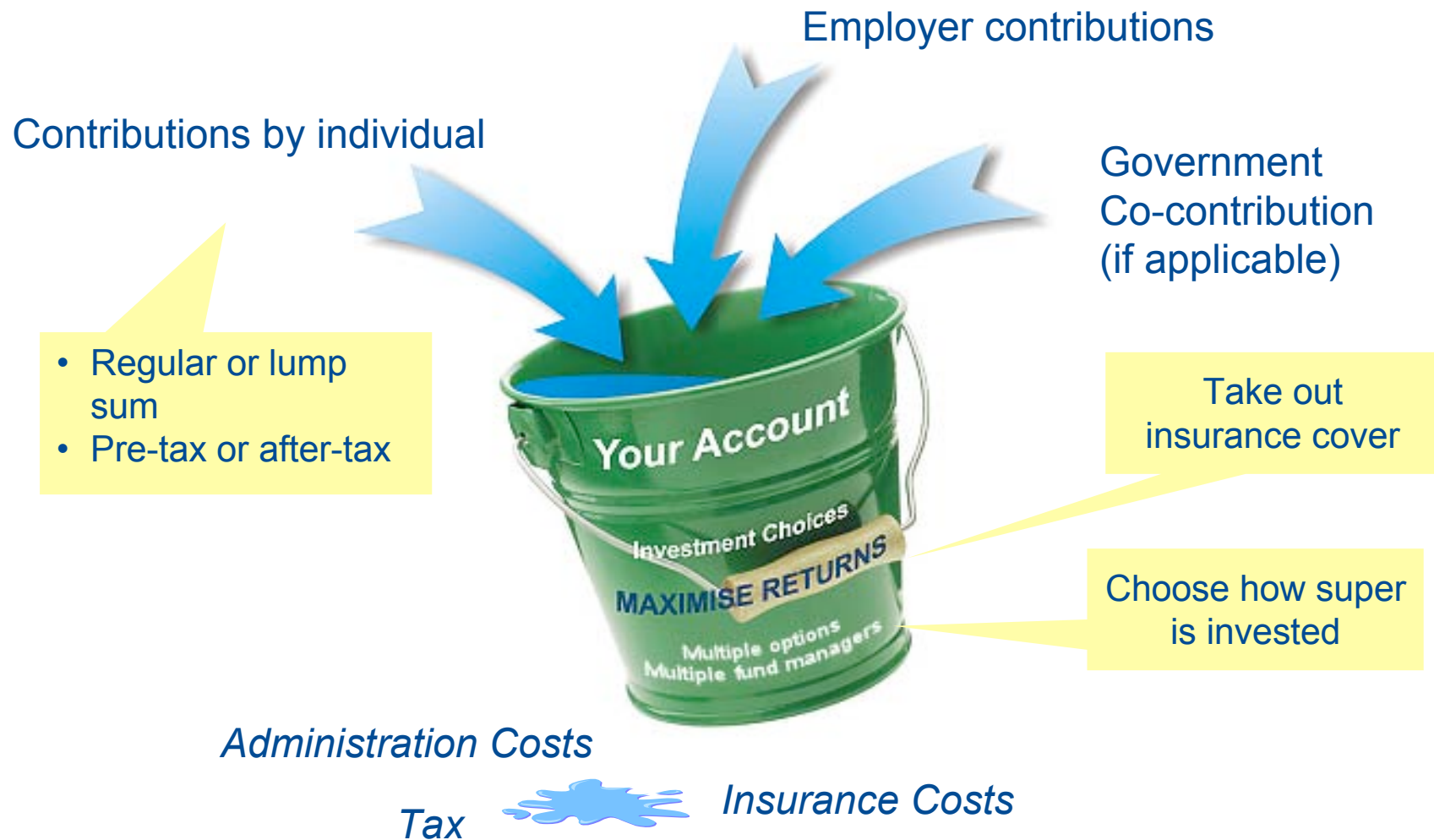
1. Super has seen a lot of change recently

- What does it look like now

2. Other Issues

- Super Guarantee
- Choice of Fund
- Salary sacrifice
- Other

# Super – how does it work?



## Taxation of benefits

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**Age 60+**

**All benefits are tax free without limit**

# Taxation of benefits

- Only 2 components that benefits will be broken into:
  - Tax free (including crystallised pre 83 component)
  - Taxable

Under 60	Lump sum	Pension
Preservation age but under 60	First \$140,000* = Nil Balance = 15%**	Marginal tax rates** and 15% tax offset
Under preservation age	20%**	Marginal tax rates** (no tax offset)^

\*Indexed \*\*Add Medicare levy ^Disability super income stream also receives a 15% offset

# Taxation of Benefits

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- Death benefits
  - Paid to tax dependants – All tax free
  - Paid to non tax dependants
    - Taxable component taxed at 15%\* or 30%\*

\* Plus medicare levy

# Contribution types

## Concessional Contributions

- Generally assessable to the fund and attract contributions tax
- All employer contributions (SG & salary sacrifice)
- Personal deductible contributions
- Defined benefit notional contributions
- Surplus allocations

Note: These lists are not intended to be exhaustive and exceptions apply.

## Non-concessional Contributions

- Generally not assessable to the fund and do not attract contributions tax
- Contributions where a tax deduction is not claimed (UDCs)
- Spouse contributions received
- Non growth component of overseas pension transfers
- Excess concessional contributions

## Eligibility to contribute – From 1 July 2007

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Age	Work Requirements	Contribution acceptance rules
Under age 65	No work test	No change
65 – 74 (inclusive)	40/30 work test still applies	Salary sacrifice and personal deductible can now be accepted
75 and over	Only mandated contributions allowed	No contributions accepted, unless in terms of an Award/Industrial Agreement. (SG contributions only to age 70.)

# Concessional contributions cap

## Old rules (pre 1 July 2007)

Under age 35      \$15,260

Age 35 to 49      \$42,385

Age 50 to 70      \$105,113

Employer monitors  
and  
pays the higher tax

## From 1 July 2007

Standard Limit      \$50,000  
for everyone      per annum

BUT there is a 5 year 50+ transitional rule



Age 50+      \$100,000  
(until 30.06.2012)      per annum

Employee monitors  
and  
pays the higher tax

Employer contributions are  
100% tax deductible

## Example - \$100,000 transitional cap

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Jack turns 50 in April 2009

When is he able to utilize the \$100,000 transitional cap?

Financial Year	(a)
2007/08	\$50,000
2008/09	\$100,000
2009/10	\$100,000
2010/11	\$100,000
2011/12	\$100,000
2012/13	\$50,000 (indexed)

# Exceeding the concessional contribution cap

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- **Breaching the concessional cap**
  - Excess contributions:
    - Taxed at an additional 31.5%
    - Counted towards non-concessional cap
  - ATO will determine any excess contributions and levy the tax liability on the individual
  - Pay personally or direct fund to pay

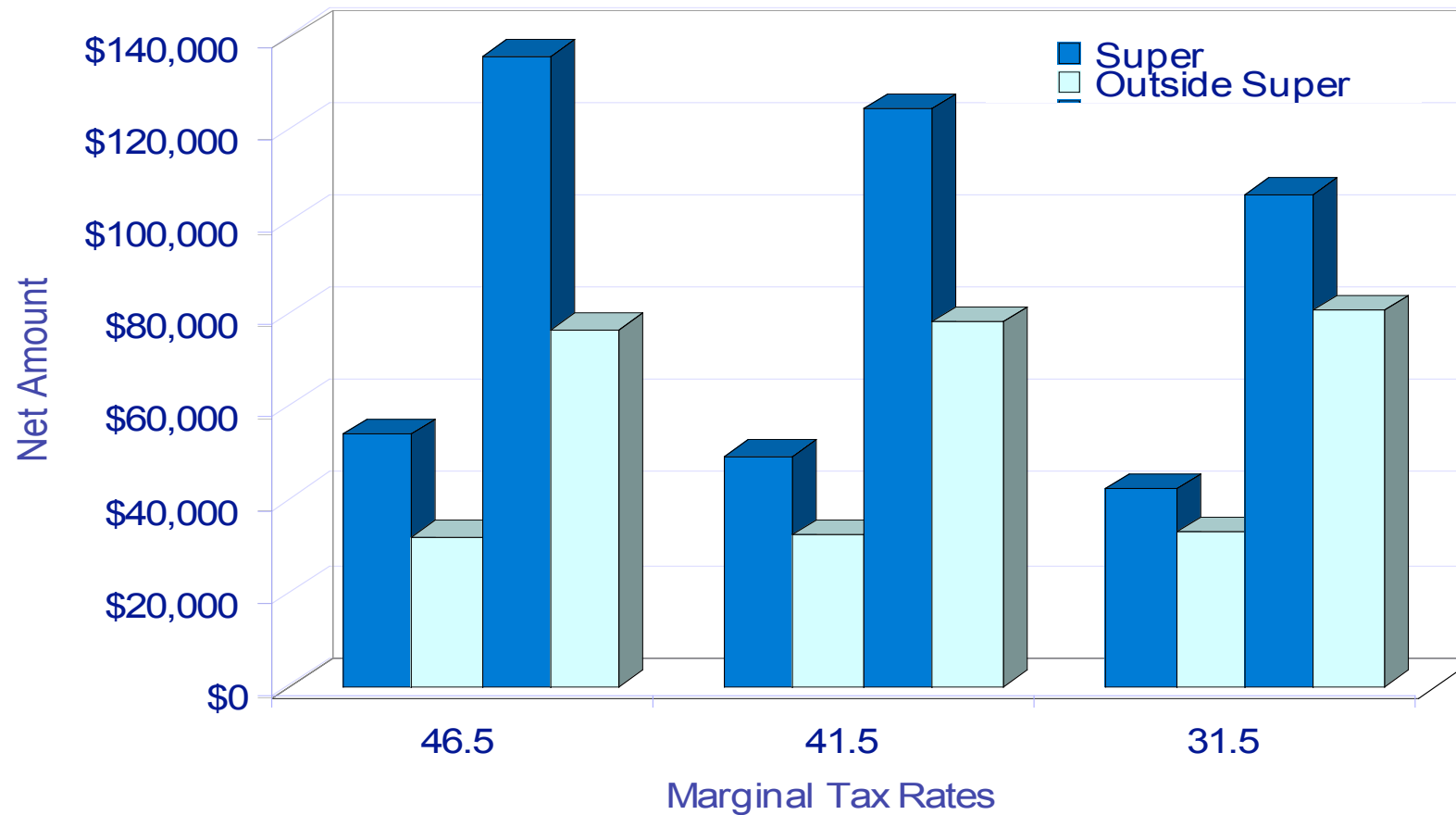
## Salary Sacrifice Example

- \$1,000 of income: How much tax is saved?

<b>Marginal Rate of Income Tax</b>  %	<b>Income after paying income tax</b>  \$	<b>15% Superannuation Contribution*</b>  \$	<b>Additional in Superannuation</b>  \$
46.5	535	850	315 (59%)
41.5	585	850	265 (45%)
31.5	685	850	165 (24%)
16.5	835	850	15 (1.8%)

\* 15% contribution tax is payable

# Net amounts at end of Years 5 & 10



**Assumptions:**

- Share portfolio gross income return 3.0% (70% franked), capital growth of 5.5%
- No fees or charges

## Non-concessional contributions

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- **After-tax contributions**
  - 0% tax if < \$150,000pa
  - 46.5% tax on excess above \$150,000pa
  - \$150,000 can be averaged over 3 years to give a \$450,000 limit
- **Government matching of after-tax contributions**
  - \$1.50 for every \$1.00 after-tax contribution
  - Maximum of \$1,500 if salary < \$28,980
  - Maximum reduces to nil for salaries above \$58,980

# Employer termination payments

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- **No roll over from 1 July 2007**
  - Payments must be cashed and relevant tax paid
  - Tax rate depends on whether recipient has reached preservation age
  - Concessionally taxed up to \$140,000, then top MTR
  
- **Transitional rules apply in certain circumstances to 30 June 2012**
  - Allow roll over to super
  - Less harshly taxed if cashed
  - Concessionally taxed up to \$1 Million, then top MTR

# Transitional rules up to 30 June 2012

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- Entitled to a employer termination payment under
  - Written contract
  - Law of Commonwealth, a State, Territory or another country
  - Instrument under such a law or workplace agreement within the meaning of the Workplace Relations Act 1996
- Entitlement in force just before 10 May 2006
- Specifies amount of payment or a way to work out a specific amount

# Super Guarantee

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- 9% of employee's earning base
- Earnings base
  - Stated in super fund rules, award or employer agreement, otherwise Ordinary Time Earnings (OTE)
    - From 1 July 2008 must be OTE
  - Maximum of \$36,470 (2007/08) per quarter
- Paid within 28 days of end of quarter or penalties may apply

# Super Guarantee Charge

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- Applies when do not pay SG contributions within timeframes
- Made up of
  - SG shortfall amounts
  - Interest on that amount
  - Administration fee
- Not tax deductible to the employer

# Super Guarantee Charge – Relief

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- Late contributions may be used to offset SG Charge
- Need to make an irrevocable election (by 28<sup>th</sup> day of the second month after the end of the quarter)
- Such contributions are not tax deductible to the employer

# SG Salary definition moves to OTE

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- From 1 July 2008 Ordinary Time Earnings becomes the minimum earnings base used by all employers for SG contributions.
- Some employers have been able to use a different earnings base based on the definition in the relevant super fund when SG started.
- Examples of items that previously may not have been included
  - Performance bonuses
  - Commission payments
  - Shift loadings
  - Director fees

# Example

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- Common Trust Deed definition of salary

*“Salary means the ordinary rate of salary of a member excluding overtime, bonuses, commissions, allowances and other similar payments”*

	Amount	SG Pre 7/2008	SG Post 7/2008
Base salary	\$50,000	\$4,500	\$4,500
Overtime	\$7,500	\$0	\$0
Commission	\$6,500	\$0	\$585
Incentive bonus	\$5,000	\$0	\$450
Total	\$69,000	\$4,500	\$5,535

## SG - Other

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- Excluded employees are
  - Paid less than \$450 in a calendar month
  - Aged 70 or older
  - etc

## SG - Other

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- Irrevocable elections
  - Currently, employees with accumulated superannuation in excess of the Pension RBL may elect not to receive Superannuation Guarantee (SG) contributions from their employer.
  - As RBLs are to be abolished from 1 July 2007, these elections can no longer be made from that date. However, as these elections are irrevocable, existing elections will remain in force.

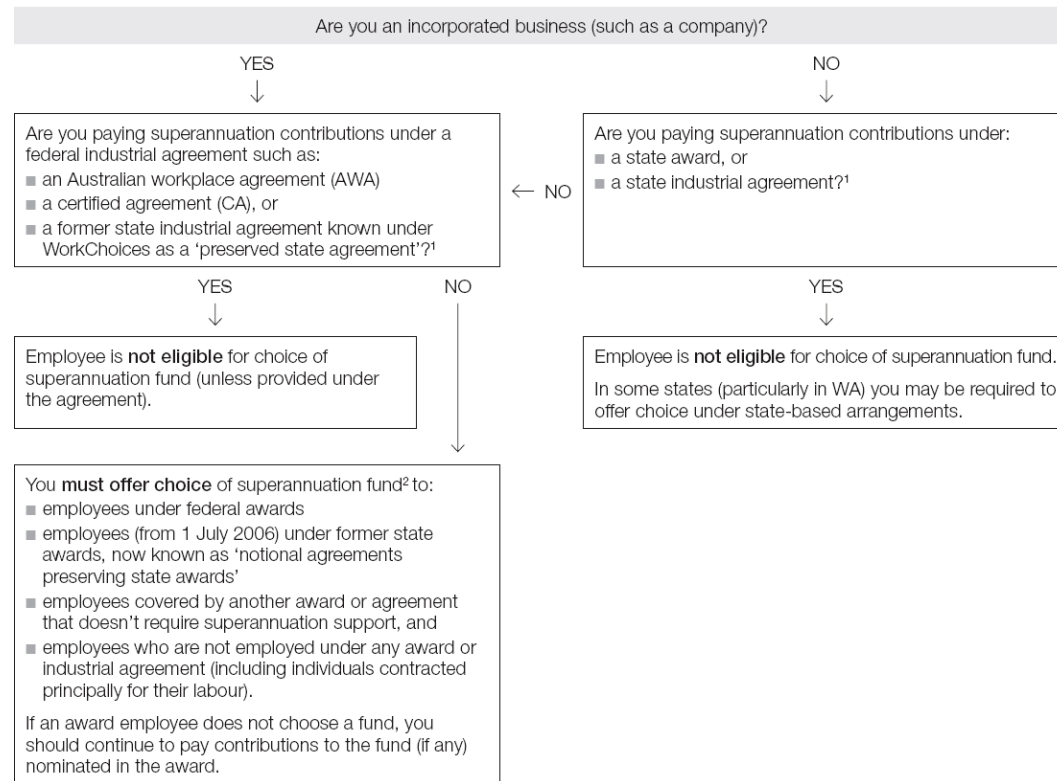
# Choice of Fund

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- Must give choice to
  - New employees
  - On employee request – 12 month rule
  - Changing of default fund
- Employer has 2 months to arrange contribution payments to chosen fund
- Exemptions apply

# How to determine if employees are eligible

**FLOW CHART: How to determine if your employees are eligible for choice of superannuation fund**



<sup>1</sup> Answer 'NO' to these questions if the employee is covered by an award or agreement but it doesn't specifically call for you to pay superannuation contributions.

<sup>2</sup> If you already offer the employee unlimited choice of superannuation fund as part of their employment conditions (and you act on their choice), you do not have to hand out a *Standard choice form* again.

## Choice of Fund - Penalties

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- 25% of any contributions made to a fund other than an employee's chosen fund
- Maximum penalty is \$500 per employee per quarter
- Collected by the ATO
- Paid to the fund of the relevant employee
- Not tax deductible to the employer

# Salary Sacrifice

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- How to set it up - prospective
- Award considerations
- Concessional contributions cap
- Bonus payments
  - Discretionary
  - Performance
- Possible Handout – A to Z of salary sacrifice (TapIn Bulletin No 82 – Sept 2007)

## Other issues

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- Employee records
- Payslip reporting
- Tax File Numbers

# Employee records

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- Since 27 March 2007 employer records must include the following information about super contribution payments:
  - Amount of contribution
  - Period contribution relates to
  - Date contribution payment made
  - Fund to which contributions paid
  - Reason why the employer was liable to make the contribution including details of any elections made by an employee

# Pay slip reporting

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- Employers are also required to include the following super contribution information on an employee's pay slip:
  - After tax super contributions deducted from the employee's pay
  - Employer super contributions made during or relating to the payslip period
  - Fund(s) to which contributions were made



# Employers & Tax file number reporting

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- If a super fund doesn't have a member's TFN
  - Cannot accept non-concessional contributions
  - Will charge top MTR (plus medicare levy) on all concessional contributions
- Where an employee quotes a tax file number (TFN) for employment purposes it is automatically taken to be quoted for super purposes.
- The employer must pass this onto a super fund
  - At the time contributions are next paid for that member, or
  - within 14 days (if later)

## Summary – 5 things to remember

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Employers	Employees