





# **Tax Laws Amendment (2009 Budget Measures No. 1) Act 2009**

**No. 62, 2009**

**An Act to amend the law relating to taxation and  
superannuation, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# **Tax Laws Amendment (2009 Budget Measures No. 1) Act 2009**

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## **An Act to amend the law relating to taxation and superannuation, and for related purposes**

[Assented to 29 June 2009]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Tax Laws Amendment (2009 Budget Measures No. 1) Act 2009*.

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## **2 Commencement**

This Act commences on the day on which it receives the Royal Assent.

## **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Exemption of income derived from foreign service**

### ***Income Tax Assessment Act 1936***

#### **1 After subsection 23AG(1)**

Insert:

- (1AA) However, those foreign earnings are not exempt from tax under this section unless the continuous period of foreign service is directly attributable to any of the following:
- (a) the delivery of Australian official development assistance by the person's employer;
  - (b) the activities of the person's employer in operating a public fund covered by item 9.1.1 or 9.1.2 of the table in subsection 30-80(1) of the *Income Tax Assessment Act 1997* (international affairs deductible gift recipients);
  - (c) the activities of the person's employer, if the employer is exempt from income tax because of paragraph 50-50(c) or (d) of the *Income Tax Assessment Act 1997* (prescribed institutions located or pursuing objectives outside Australia);
  - (d) the person's deployment outside Australia as a member of a disciplined force by:
    - (i) the Commonwealth, a State or a Territory; or
    - (ii) an authority of the Commonwealth, a State or a Territory;
  - (e) an activity of a kind specified in the regulations.

#### **2 Application**

- (1) The amendment made by this Schedule applies to foreign earnings derived on or after 1 July 2009 from foreign service performed on or after 1 July 2009.
- (2) Subitem (3) applies to:
  - (a) foreign earnings derived before 1 July 2009 from foreign service performed before, on or after 1 July 2009; and

**Schedule 1** Exemption of income derived from foreign service

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- (b) foreign earnings derived on or after 1 July 2009 from foreign service performed before 1 July 2009.
- (3) Disregard the amendment made by this Schedule in determining whether the foreign earnings are exempt from tax under subsection 23AG(1) of the *Income Tax Assessment Act 1936*.

## **Schedule 2—Government Co-contribution for Low Income Earners**

### ***Superannuation (Government Co-contribution for Low Income Earners) Act 2003***

#### **1 Paragraph 9(1)(b)**

Omit “the 2004-05 income year or a later income year”, substitute “the 2004-05 income year, the 2005-06 income year, the 2006-07 income year, the 2007-08 income year or the 2008-09 income year”.

#### **2 Paragraph 9(1)(b)**

Omit “year.”, substitute “year; and”.

#### **3 At the end of subsection 9(1)**

Add:

- (c) for the 2009-10 income year, the 2010-11 income year or the 2011-12 income year—an amount equal to the sum of the eligible personal superannuation contributions the person makes during the income year; and
- (d) for the 2012-13 income year or the 2013-14 income year—an amount equal to 125% of the sum of the eligible personal superannuation contributions the person makes during the income year; and
- (e) for the 2014-15 income year or a later income year—an amount equal to 150% of the sum of the eligible personal superannuation contributions the person makes during the income year.

#### **4 Subsection 10(1A)**

Omit “the 2004-05 income year or a later income year”, substitute “the 2004-05 income year, the 2005-06 income year, the 2006-07 income year, the 2007-08 income year or the 2008-09 income year”.

#### **5 After subsection 10(1A)**

Insert:

**Schedule 2** Government Co-contribution for Low Income Earners

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(1B) The amount of the Government co-contribution in respect of a person for the 2009-10 income year, the 2010-11 income year or the 2011-12 income year must not exceed the maximum amount worked out using the following table:

<b>Maximum Government co-contribution</b>		
<b>Item</b>	<b>Person's total income for the income year</b>	<b>Maximum amount</b>
1	the lower income threshold or less	\$1,000
2	more than the lower income threshold but less than the higher income threshold	\$1,000 reduced by 3.333 cents for each dollar by which the person's total income for the income year exceeds the lower income threshold

(1C) The amount of the Government co-contribution in respect of a person for the 2012-13 income year or the 2013-14 income year must not exceed the maximum amount worked out using the following table:

<b>Maximum Government co-contribution</b>		
<b>Item</b>	<b>Person's total income for the income year</b>	<b>Maximum amount</b>
1	the lower income threshold or less	\$1,250
2	more than the lower income threshold but less than the higher income threshold	\$1,250 reduced by 4.167 cents for each dollar by which the person's total income for the income year exceeds the lower income threshold

(1D) The amount of the Government co-contribution in respect of a person for the 2014-15 income year or a later income year must not exceed the maximum amount worked out using the following table:

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<b>Maximum Government co-contribution</b>		
<b>Item</b>	<b>Person's total income for the income year</b>	<b>Maximum amount</b>
1	the lower income threshold or less	\$1,500
2	more than the lower income threshold but less than the higher income threshold	\$1,500 reduced by 5 cents for each dollar by which the person's total income for the income year exceeds the lower income threshold

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**6 Subsection 10(2)**

Omit “Subsections (1) and (1A) has”, substitute “Subsections (1), (1A), (1B), (1C) and (1D) have”.

**7 Application**

The amendments made by this Schedule apply to the 2009-10 income year and later income years.

## Schedule 3—Excess contributions tax

### *Income Tax Assessment Act 1997*

#### **1 Subsection 292-20(2)**

Repeal the subsection (not including the notes), substitute:

- (2) Your *concessional contributions cap* is:
- (a) for the 2007-2008 \*financial year—\$50,000; or
  - (b) for the 2008-2009 financial year—\$50,000; or
  - (c) for the 2009-2010 financial year—\$25,000; or
  - (d) for the 2010-2011 financial year or a later financial year—the amount worked out by indexing annually the amount mentioned in paragraph (c).

#### **2 Subsection 292-85(2)**

Repeal the subsection, substitute:

- (2) Your *non-concessional contributions cap* is:
- (a) for the 2007-2008 \*financial year—the amount that is 3 times your \*concessional contributions cap for the year; and
  - (b) for the 2008-2009 financial year—the amount that is 3 times your concessional contributions cap for the year; and
  - (c) for the 2009-2010 financial year or a later financial year—the amount that is 6 times your concessional contributions cap for the year.

#### **3 Paragraph 292-170(6)(b)**

Omit “apart from this subsection”, substitute “disregarding this subsection and subsection (8)”.

#### **4 At the end of section 292-170**

Add:

- (8) Despite subsection (1), your *notional taxed contributions* for the \*financial year in respect of the \*defined benefit interest are equal to your \*concessional contributions cap for the financial year if:

- (a) this Subdivision applies in relation to you because you have a defined benefit interest in a financial year; and
  - (b) disregarding this subsection, the notional taxed contributions for the financial year in respect of the defined benefit interest exceed your concessional contributions cap for the financial year; and
  - (c) either:
    - (i) you held the defined benefit interest in a \*superannuation fund on 12 May 2009; or
    - (ii) all the requirements in subsection (9) are satisfied; and
  - (d) the conditions (if any) specified in the regulations are satisfied; and
  - (e) the financial year is the 2009-2010 financial year or a later financial year.
- (9) For the purposes of subparagraph (8)(c)(ii), the requirements are as follows:
- (a) you held a \*defined benefit interest (the **original interest**) in a \*superannuation fund (the **original fund**) on 12 May 2009;
  - (b) the defined benefit interest mentioned in paragraph (8)(a) (the **current interest**) is in a different superannuation fund (the **current fund**);
  - (c) the entire \*value of the original interest:
    - (i) was transferred directly to the current interest after 12 May 2009; or
    - (ii) was transferred to another \*superannuation interest after 12 May 2009, and was later transferred to the current interest (whether directly or through a series of transfers between superannuation interests);
  - (d) your rights to accrue future benefits under the current interest are equivalent to your rights to accrue future benefits under the original interest;
  - (e) either:
    - (i) the notional taxed contributions mentioned in paragraph (8)(b) do not exceed what they would have been if the transfer mentioned in paragraph (c) had not taken place; or
    - (ii) the conditions (if any) specified in the regulations are satisfied;

- (f) the conditions (if any) specified in the regulations are satisfied.

**5 Paragraph 960-285(2)(a)**

Repeal the paragraph, substitute:

(a) firstly:

- (i) if the amount is mentioned in item 9 in section 960-265 (concessional contributions cap)—multiplying the amount for the 2009-2010 financial year by its \*indexation factor mentioned in subsection (3A); or
- (ii) otherwise—multiplying the amount for the 2007-2008 income year or financial year by its indexation factor mentioned in subsection (4); and

**6 Subsection 960-285(3)**

Omit “subsection (4)”, substitute “subsection (3A) or (4)”.

**7 After subsection 960-285(3)**

Insert:

*Indexation factor*

- (3A) For indexation of the amount on an annual basis in accordance with subparagraph (2)(a)(i), the *indexation factor* is:

\*Index number mentioned in subsection (6) for the quarter ending on 31 December just before the start of the relevant income year or financial year

\*Index number mentioned in subsection (6) for the quarter ending on 31 December 2008

**8 Subsection 960-285(4) (heading)**

Repeal the heading.

**9 Subsection 960-285(4)**

After “annual basis”, insert “in accordance with subparagraph (2)(a)(ii)”.

**10 Subsection 960-285(5)**

Omit “subsection (4)”, substitute “subsection (3A) or (4)”.

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***Income Tax (Transitional Provisions) Act 1997***

**11 Subsection 292-20(2)**

Repeal the subsection, substitute:

- (2) Despite section 292-20 of the *Income Tax Assessment Act 1997*, your ***concessional contributions cap*** for that financial year is:
- (a) if the year is the 2007-2008 financial year—\$100,000; or
  - (b) if the year is the 2008-2009 financial year—\$100,000; or
  - (c) if the year is the 2009-2010 financial year—\$50,000; or
  - (d) if the year is the 2010-2011 financial year—\$50,000; or
  - (e) if the year is the 2011-2012 financial year—\$50,000.

Note: This amount is *not* indexed.

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[*Minister's second reading speech made in—  
House of Representatives on 27 May 2009  
Senate on 15 June 2009*]