# Chapter 4

# Schedule 3: reduction in the concessional contributions cap

## Description of the measure

4.1 Schedule 3 amends the *Income Tax Assessment Act 1997* and the *Income Tax (Transitional Provisions ) Act 1997* to reduce the cap on concessional superannuation contributions, from 1 July 2009.

4.2 Concessional and non-concessional superannuation contributions have been subject to annual limits since July 2007. In 2007-08 and 2008-09 the concessional contributions cap was $50,000. As a transitional measure persons aged 50 and over may make concessionally taxed contributions of up to $100,000 per year until 30 June 2012. The non-concessional contributions cap is currently set at three times the concessional contributions cap, thus $150,000. The concessional cap (but not the over-50s transitional provision) and the non-concessional cap are indexed.

4.3 The bill halves the concessional cap to $25,000 and the transitional concessional cap for over-50s to $50,000. The non-concessional cap will be set at six times the concessional cap, thus $150,000 in 2009-10. Current indexing provisions will remain. Existing 'grandfathering' arrangements that apply to certain members of defined benefit schemes will remain.[1]

4.4 The Government argues that '…the reduction in the concessional contributions caps will improve equity in the superannuation system as the current caps benefit those who can afford to make large concessional superannuation contributions who are primarily high income earners… the changes are also consistent with the finding the Australia's Future Tax System report into retirement incomes which found that tax-assisted voluntary superannuation contributions should be more fairly distributed….'[2]

4.5 The Government estimates that around 1.8 per cent of individuals making contributions will be affected.[3]

## Issues raised in submissions

4.6 Submissions from Association of Superannuation Funds of Australia (ASFA), the Financial Planning Association (FPA) and the Investment and Financial Services

1 Treasury, *Submission 21*, p.8.

2 Treasury, *Submission 21*, p.8.

3 Treasury, *Submission 21*, p.9.

Association (IFSA) argued against the change. The chief concern was that there will be an undesirable impact on employees with low superannuation balances trying to make substantial 'catchup' contributions shortly before retirement:

> People making these contributions come from across the income range including many who have experienced broken work patterns, such as women and those experiencing unemployment, who then struggle to make up the shortfalls of their superannuation by sacrificing their personal spending.[4]

4.7 ASFA and the FPA dispute the claim that only a few high income earners will be affected:

> It has been claimed that it is very high income earners with relatively high superannuation account balances who make contributions over the proposed caps. However, the provenance of such estimates is not clear. The only public authoritative data available is not supportive of such an assessment.[5]

4.8 IFSA found that in a sample survey that 'of the over 50 year old age bracket who were contributing more than $50,000 to super, the average account balance was approximately $215,000'. ASFA gave examples arguing that 'the current caps are substantially used by those seeking to catch up in their retirement savings. Proposed reduction in the caps will significantly limit their capacity to do so.'[6]

4.9 Other concerns were:

- the caps will constrain people's ability to take out insurance through superannuation, and this may lead to people becoming under-insured and more likely to rely on government support;[7]
- there may be inequities when people make concessional contributions over the cap because of scheme design or because of general remuneration policies of the employer or an industrial award or agreement;[8]
- the short notice of the change will 'leave financial planners only a few weeks to reshape strategies for a large portion of their client base';[9]
- 'a constant changing of the rules impacts on the integrity of superannuation as a savings vehicle.'[10]

4.10 Suggested alternatives or fall-back positions were:

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4 FPA. submission 15, p.3.

5 ASFA. *Submission 22*, p.2.

6 IFSA, *Submission 14*, p.2.

7 ASFA, *Submission 22*, p.2.

8 ASFA, *Submission 22*, p.4.

9 FPA, *Submission 15*, p.4.

10 Mr M. Dwyer, ASFA, *Proof Committee Hansard* 10 June 2009, p.41.

- there should be a higher cap for people with lower balances;[11]
- the higher cap for over-50s should be made permanent (noting that this would have no cost to revenue until 2012-2013);[12]
- 'Parliament should revisit the appropriateness of a single flat contribution limit';[13]
- people should be able to carry forward unused concessional cap space from the last ten years;[14]
- the Superannuation Guarantee should be excluded from the cap; [15]
- there should be grandfathering provisions to preserve the position of people who make concessional contributions over the new cap because of scheme design or because of general remuneration policies of the employer or an industrial award or agreement. [16]

4.11 Treasury submitted:

- those who can afford to make large concessional contributions are primarily high income earners;
- the changes are consistent with the findings of the Australia's Future Tax System report into retirement incomes, which found that tax-assisted voluntary contributions should be more fairly distributed and questioned whether the current cap is appropriate.[17]

4.12 Treasury further specified:

- it is estimated that 170,000 people will be affected in 2009-10 (1.8 per cent of individuals making concessional contributions), and the average remuneration of those affected would be over $220,000 per year;
- of those affected in 2009-10 about 77,000 are under 50, and 73 per cent of these people have annual remuneration over $100,000;
- of those affected in 2009-10 about 93,000 are 50 or over, and 93 per cent of these people have annual remuneration over $100,000;

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11 ASFA, *Submission 22,* p.3.

12 IFSA, *Submission 14,* p.4. FPA, *Submission 15,* p.5.

13 IFSA, *Submission 14,* p.4.

14 FPA, *Submission 15,* p.3.

15 FPA, *Submission 15,* p.3.

16 ASFA, *Submission 22,* p.4.

17 Treasury, *Submission 21*, p.8-9.

- the average superannuation balance of affected people aged 50 and over is \$870,000.[18]

4.13 The referenced Australia's Future Tax System report into retirement incomes noted that in 2005-06 around 5 per cent of taxpayers had remuneration over \$100,000, and they made around 24 per cent of concessional contributions. Only a quarter of low income earners eligible for the superannuation co-contribution make concessional contributions. The report said that 'there is a case for distributing assistance more equitably between high and low income individuals, including by limiting generous salary sacrifice concessions.'[19]

## Committee comment

4.14 The Committee accepts Treasury's statement that the measure will affect less than 2 per cent of people who make concessional contributions, and these are primarily high income earners. The Committee accepts the argument that the measure reduces disproportionate benefits to high income earners who can afford to make large concessional contributions.

**Recommendation 3**

**4.15 Subject to the points raised in the earlier recommendations, the Committee recommends that the Senate pass the bill.**

**Senator Annette Hurley**

**Chair**

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18 Treasury, additional information 16 June 2009

19 K. Henry & others (Australia's Future Tax System Review Panel), *Australia's Future Tax System: the retirement income system - report on strategic issues*, May 2009, p.20,29-30