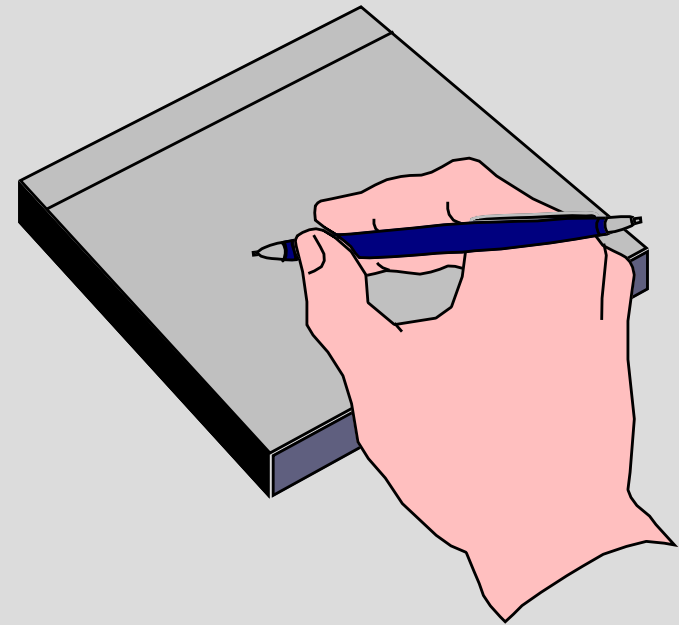


Contribution Caps

The facts, the myths, the future

AGENDA

- ❑ Why have contribution caps?
- ❑ Breaking the caps
- ❑ Can I “fix” it?
- ❑ Budget 2011 relief
- ❑ Future solutions



Why are there caps?

- ❑ Only control on concessions to superannuation capital invested
- ❑ Pre 2007 controls on both capital invested and benefits taken but not linked
- ❑ Pre 1994 linked controls on both capital invested and benefits taken
- ❑ Budget estimates superannuation concession costs will exceed \$30 billion in 2011-12



Contribution caps

- ❑ Concessional contribution cap of \$25,000 pa
- ❑ Transitional limit of \$50,000 for over 50's until 2011/12
- ❑ Proposed extension for over 50's with balances under \$500,000
- ❑ \$150,000 annual limit on non-concessional contributions
- ❑ \$450,000 3 year advance limit option if under age 65



How does it happen?

- ❑ Concessional cap breaches
 - ❑ Late payments by employer
 - ❑ Super guarantee not included in calculations
- ❑ Non concessional cap breaches
 - ❑ Amounts included from concessional cap breaches
 - ❑ Inability to claim personal deductions



Worst outcome

Consider a 48 year old employee

In 2009/10

- Salary sacrifice \$25,000
- Personal contribution of \$150,000

In 2010/11

- Salary sacrifice \$25,000
- Personal contribution of \$450,000

But employer contributed \$26,000 in 2009/10!!



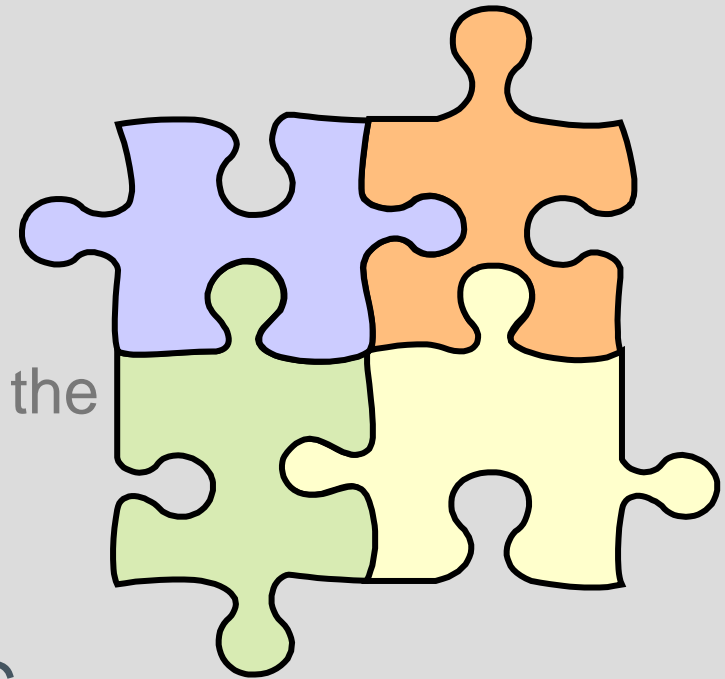
Worst outcome

- ❑ Extra \$1,000 employer contribution triggers excess concessional contributions
 - ❑ 31.5% excess tax applies
 - ❑ Counts towards non concessional cap
- ❑ Extra \$1,000 means non concessional bring forward rule is triggered in 2009/10
 - ❑ Only \$299,000 non-concessional permitted in 2010/11
 - ❑ Extra \$151,000 taxed at 46.5%
- ❑ Extra \$1,000 generates tax bill of \$70,530!!!



How is it addressed now?

- ❑ Refund provisions under SIS Regulations
 - ❑ Only applies to non concessional contributions
 - ❑ Must be in a single transaction
- ❑ Trust deed provisions
 - ❑ Contributions not accepted
 - ❑ Not part of the super fund but where is the money?
 - ❑ Conflict with SIS 52(d)
 - ❑ Time limits (“free look”)
- ❑ New Draft APRA Practice Guide SPG 270



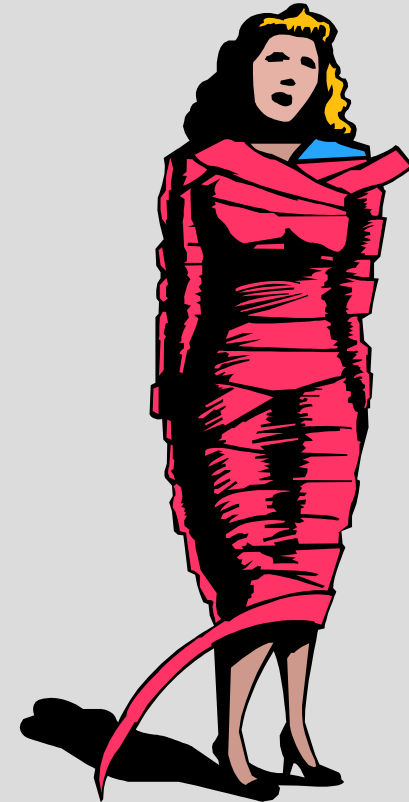
ATO Discretion

- ❑ Only applies in “special circumstances”
- ❑ Refer ATO Practice Statement PS LA 2008/1
 - ❑ Was it reasonably foreseeable it would be excessive?
 - ❑ Who had control over timing of contribution?
 - ❑ does the contribution relate to another year?



Budget 2011 measures

- Only applies to concessional contributions
- One time only “offer”
- Maximum \$10,000 excess
- ATO determines eligibility
- All or nothing rule on excess refund
- 85% of excess to be refunded by fund
- Taxed at MTR less tax offset based on 15% “contributions tax”



Further solutions

- ❑ Remove SG from the cap
 - ❑ Lower concessional cap as trade off?
- ❑ Trustees/administrators to monitor and refund non-concessional contributions
 - ❑ Not based on single contribution
 - ❑ Super fund ability to refund with statutory assessable income to contributor



The information contained within these slides is believed to be current as at 1 September 2011 but no guarantee is provided.

Changes in Government policy and legislation may dramatically alter the topics covered.

The information provided in this document is general information only. The information is not financial advice and it is not intended that this information be used as a substitute for specific technical or financial advice.

Thank you!