STATE SUPER
SAS Trustee Corporation

SuperViews

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From the office of the
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Corporation Board

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Reasonable Benefit Limits (RBLs)

Introduction

This article provides information about Reasonable Benefit Limits (RBLs) and how they apply generally to members of the Pooled Fund superannuation schemes, including the State Superannuation Scheme (SSS), the State Authorities Superannuation Scheme (SASS) and the Police Superannuation Scheme (PSS).

The information is aimed at members who become eligible for retirement, resignation or retrenchment benefits. Special rules govern how invalidity and death benefits are assessed against the RBLs and are not covered in this article.

What are RBLs?

Superannuation benefit payments — lump sum or pension — are eligible for concessional tax treatment up to the individual's RBL. These limits are specified by the Australian Taxation Office (ATO) and are the maximum amount of superannuation and employment termination benefits that you can receive over your **lifetime** on a concessionally taxed basis. Benefits received in excess of these limits are subject to a higher rate of tax.

How much are the RBLs?

The dollar limits set for **2004–05*** are:

- Lump Sum RBL, **$619,223** *, and
- Pension RBL **$1,238,440***.

The Pension RBL only applies when 50% or more of lifetime benefits have been assessed as being taken as a *complying pension*. In all other cases, the Lump Sum RBL applies.

* These limits are adjusted each year in line with movements in 'average weekly ordinary time earnings'. Personal (after tax) contributions made after 30 June 1983 are not taxed when they are returned to you as part of your benefit and are **not** included in the amount measured against the RBL.

Are pensions paid from the Pooled Fund schemes complying?

- PSS and SASS retirement pensions are complying pensions for RBL purposes and are therefore assessed against the higher Pension RBL.
- SSS retirement pensions are not complying pensions because of the specific lump sum options available to members of this scheme. All SSS benefits paid, whether as lump sums or pensions, are therefore normally assessed against the Lump Sum RBL. However, members may convert their retirement pension into a *complying pension* by waiving certain rights to exchange the pension for a lump sum. Consequently, SSS benefits paid are assessed against the Lump Sum RBL unless members choose to waive some of their commutation (lump sum) rights.*
- Invalidity pensions paid from SSS or PSS are not complying pensions for RBL purposes. Consequently, invalidity pensions are assessed against the Lump Sum RBL.

* Generally this means that lump sum commutation rights are restricted to within 6 months of a member's pension starting. In the case of a spouse pension payable on the death of a retired member, from 20 September 2004, commutation rights are restricted to within the lesser of the member's life expectancy at their pension commencement – as defined by the most recent Australian Life Tables – or 20 years. These restrictions are necessary if a pension is to qualify as a complying pension.

Can I have a higher RBL?

In some circumstances, members may qualify for a higher RBL than those shown above based on the provisions that applied before 1 July 1994. These are called Transitional RBLs. Transitional RBL application forms can be obtained from the ATO.

You may request Customer Service to provide the benefit details required to complete an application, subject to their availability. This information was originally provided to members with their 1996 annual benefit statements and you should check whether you still have that document before requesting the information.

How are benefits assessed for complying purposes?

The ATO maintains a record of benefits paid over your lifetime. When you receive a superannuation benefit, the superannuation fund must report your payment details to the ATO. The ATO then determines whether you have exceeded your RBL, by adding the amount to the benefits you have already received and comparing the total value to the relevant RBL. If the ATO has determined that you have exceeded your RBL, it will notify you of the amount by which your benefit is deemed 'excessive'.

1. Receipt of lump sum benefits
For members who receive all of their benefits in the form of a lump sum benefit, the benefit value (less personal after tax contributions made after 30 June 1983) will be assessed against your Lump Sum RBL applicable at the time you receive the benefit payment.

2. Receipt of pension benefits
If you commence a pension benefit, the ATO determines a lump sum value for the pension. For pensions paid from the Pooled Fund schemes, the ATO uses the factors set out below to calculate the capital — lump sum — value of the pension:

ATO Pension Valuation Factors (PVF) for retirement pensions			
CPI indexed pensions which have 50% - 75% reversionary pension for a spouse			
	Age next birthday on commencement day of pension		
CPI INDEXED 50% - 75% reversion	51 to 55 18 times annual pension	56 to 60 16 times annual pension	61 to 65 14 times annual pension

3. Commutation within 6 months of pension commencement

If you elect to commute (ie exchange) your pension to a lump sum within 6 months of your pension commencing, the lump sum you receive in exchange for your pension will be measured against your RBL. However, if you are a SSS member, and you elect to commute your pension more than 6 months after your pension commenced, then the capital value of your pension — as outlined above — will be measured against your RBL.

Important: You should seek financial advice to assess if you will exceed the RBLs. We cannot tell you if your superannuation benefits will exceed the RBLs as this depends on your personal circumstances.

What are the tax implications if a benefit is in excess of the RBL?

The tax treatment of benefits in excess of the relevant RBL depends on the type of benefit payable:

- If any excess amount arises from the payment of a lump sum, the excess amount will be taxed as follows:
  – the Post-June 83 taxed element of the excess — 38% plus Medicare levy;

  – the remainder of the excess — 47% plus Medicare levy.
- The additional tax is payable on assessment of your income tax return for the year in which the payment is made.
- If any excess amount arises from a pension commencing to be paid, the excess amount will reduce the portion of the pension that qualifies for the 15% superannuation pension tax rebate. In effect, any additional tax payable on the excess is spread across the full period in which pension payments are received.

SPECIAL RULES FOR 'COMBINED' PENSION/LUMP SUM BENEFITS

Why is the order of lump sum/pension payments important?

If you receive both a pension and a lump sum (e.g. full pension plus lump sum Basic Benefit), it is important to consider the tax implications if your benefits may exceed your RBL.

Pensions and lump sums are considered separate benefits by the ATO and are counted towards the RBL independently of each other. The ATO has specific guidelines as to which benefit will be counted first for RBL purposes, based on the **date paid**:

- For a pension, the ATO determines the **date paid** as the first day from which the pension is payable (even though the actual first pension payment may not be for some weeks after that date); and
- For a lump sum, the **date paid** is the actual date that the benefit is paid.

In normal circumstances, when benefits are not paid until some time after you leave service, the ATO guidelines will result in the pension being counted before the lump sum for RBL purposes. Consequently, if the total value of both benefits is in excess of the RBL, as the lump sum is counted last, some or all of it will be deemed "excessive" in terms of the RBL and tax will be payable at the excess lump sum tax rates indicated previously.

Requesting the lump sum to be counted first

If you prefer to have your lump sum counted before the pension for RBL purposes, the lump sum must be reported as being paid to you on the date that the pension is first payable. In this situation, the ATO will determine the **date paid** to be the same for both the lump sum and the pension and will allow you to select which benefit is to be counted first.

For this to occur,

- Your benefit application must be received by Customer Service at least one week prior to the date that the pension is to commence along with instructions that you wish the lump sum to be counted first.
- Customer Service will then ensure that the lump sum payment is reported on the day from which the pension is payable.
- Once your payment details have been reported to the ATO, you should contact the RBL Unit at the ATO and request the lump sum to be counted first for RBL purposes.
- If this procedure is followed, it is likely that any excess amount will relate only to the pension. In this case, no excess lump sum tax will become payable, but the excessive amount of the pension payments will not be entitled to the 15% tax rebate.

Note: If your benefits do not exceed your Lump Sum RBL, the order in which benefits are paid is irrelevant for RBL purposes.

Other matters to consider when deciding on order of payment

If you are intending to commute any part of your pension to a lump sum and the nominated date of effect is later than the pension commencement date, then you are unable to select the order of reporting for RBL purposes. This is because Customer Service can only report the lump sum as having been paid after the pension became payable.

The same applies if you are in receipt of an invalidity pension that cannot be commuted until a later date i.e. until you reach a certain age (age 55 or 60 in SSS and 60 in PSS).

In both of these cases, the lump sum payment date will be reported as occurring after the pension payment date and tax may be payable to the ATO at the excess lump sum rates.

What about a deferred benefit?

In the case of deferred pension/lump sum benefits, benefits are generally payable from:

- the date on which you attain the 'retirement age' (generally 55 or 60), where the benefit application is received **before** that date, or
- the date of receipt of a benefit application, where such application is made **after** the earliest date from which the benefit would otherwise be payable.

Therefore, a deferred pension and lump sum benefit will be payable on the same date, subject to all of the benefit application requirements being met, and any election to commute pension to a lump sum having an immediate date of effect.

Request to ATO

As stated above, if a pension commences to be paid on the same day as a lump sum payment is effectively made, you can request the RBL Unit at the ATO to treat either the lump sum or the pension as having been received first. Where the lump sum payment and pension commencement dates are not the same, the ATO cannot change the order in which they are determined.

Summary of important steps – combined pension and lump sum beneficiaries

- If your own calculations or the information you have received from a financial advisor indicates that you may have RBL issues, you should ensure that your benefit payment application is submitted to Customer Service at least 1 week before your planned retirement or benefit payment date. You should confirm with Customer Service that the application has been correctly completed.
- Once your benefit payment details have been reported to the ATO, you can then contact the RBL Unit at the ATO and request that the lump sum be counted first for RBL purposes.
- State Super is not required to report benefit payment details to the ATO until the 15th day of the month after the payment was made. You should, therefore, wait until this date before contacting the ATO.

It is important to start to consider this matter well before your planned retirement or benefit payment date so that if you do have potential RBL issues, you can ensure that your benefit application is submitted to Customer Service in advance. It is recommended that you also attach a covering letter with your application indicating that you would like the lump sum payment and pension commencement dates to be reported to the ATO on the same date, for RBL purposes.

Fiscal 2003–04 was a very good year

When investment advisors, such as asset consultants, actuaries and fund managers advise on asset allocation, they generally look at how investment markets have behaved over the long-term. Investment outcomes tend to be more stable over the long-term and history is used as a yardstick against which short-term scenarios can be assessed.

The defined benefit schemes in the Pooled Fund are reviewed by the Fund's actuary every three years. One of the outcomes of this review is an actuarial earnings rate, which encapsulates what the Fund would have to earn as a long-term average annual return for the assets and liabilities to be matched. Currently this earnings rate is around 7% pa.

It is not expected that the Fund's growth option will earn 7% each and every year, because there are years where investment markets are difficult and then there are years where markets are more generous. The past year was one of those years where equity markets in particular performed strongly, which allowed the Growth Strategy to return 13.5% for the year ended 30 June 2004. As the return was almost double what the actuarial earnings rate calls for, and the quarterly returns were nice and steady, 2003–04 was a good year.

	September Quarter 03 %	December Quarter 03 %	March Quarter 04 %	June Quarter 04 %
Pooled Fund (Growth strategy)	2.9	3.2	2.5	4.2

The solid return for the year was partly due to the strong Australian share market, which returned 21.6% for the year. Unlike most other major equity markets, which generally lost momentum towards the end of the fiscal year, the Australian market recorded several all time highs in the June quarter. The strength in the Australian market was underpinned by a buoyant domestic economy combined with strong economic growth in the US and the Asia-Pacific region especially in China. The demand from these regions combined to provide a major boost to the earnings outlook for Australian companies.

The improvement in the global economy was not a positive for fixed interest markets. Investors were increasingly concerned that interest rates were too low for the current level of activity, and therefore would have to rise in particular in the US. During most of the year, fixed interest markets were wondering when interest rates would rise and by how much. At the end of June 2004, the Federal Reserve increased the official interest rate from 1.0% to 1.25% p.a., but expectations are that further increases will follow. Consequently bond returns were subdued during the year to the point of cash being a better alternative.

Member crediting rates for periods ending June 2004

Rates are determined **after** allowance for tax and fees.

Strategy	3 Months %	1 Year %	3 Years % per annum	5 Years % per annum
Growth	4.2	13.5	1.2	4.6
Balanced	2.6	N/A	N/A	N/A
Conservative Growth	1.7	N/A	N/A	N/A
Cash	1.2	N/A	N/A	N/A

Past performance is no guarantee of future performance. The Trustee does not guarantee the performance of any product.

Asset Sector Index Returns (before allowance for tax and fees)

Australian Shares (ASX 200)	4.4	21.6	4.4	7.5
International Shares (unhedged)	10.7	19.4	-9.4	-2.8
Listed Property Trusts	6.2	17.2	14.7	14.0
Australian Fixed Interest	0.4	2.3	6.1	6.4
International Fixed Interest (hedged)	-0.7	3.1	7.6	7.4
Cash	1.4	5.3	5.0	5.3

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09/04

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Reasonable benefit limits and you.

If you are considering retiring within the next three to five years and are a member of an STC scheme (ie SSS, Police or SASS), you should be familiar with the concept of 'Reasonable Benefit Limits' (RBLs).

The Australian government has a long-standing policy to encourage retirees to be 'self-funded'. One of the inducements to do this has been tax concessions, and RBLs may affect tax on super benefits.

What is a Reasonable Benefit Limit?

Essentially it is a limit on the amount of concessionally taxed superannuation benefit you can receive in your lifetime. There are two different RBLs. One is used to measure superannuation payments taken as 'complying pensions', and the other measures superannuation benefits taken as lump sums and 'non complying pension'. A non complying pension is one that does not meet the criteria of a complying pension.

A complying pension must be purchased with at least 50% of the total amount of superannuation benefit you will receive in a lifetime. It must be non-commutable, which means once you commit to the lifetime pension there is no option to change your mind and cash out of that pension at a later stage.

For the tax year 2004/2005 the RBL amounts are:

Lump Sum RBL	$619,223
Pension RBL	$1,238,440

Amounts in excess of these limits are taxed at up to the highest marginal tax rate, currently 47% plus the Medicare levy.

There are strict guidelines regarding what qualifies as a complying pension and the application of these guidelines can be quite complex. If you are eligible to receive a pension from your superannuation fund, you should discuss your situation with a financial planner to ensure that you fully understand your RBL position before you make a final decision.

Are you eligible for a Transitional RBL?

- Were you employed in the public sector prior to 1994?
- Was your salary at that time greater than $45,000?

If you answered yes to these questions, you need to speak to a financial planner before you leave work.

There is another category of benefit measures called Transitional RBLs. These limits recognise that in some circumstances, standard RBLs are not equitable for taxpayers, and so higher limits can be applied for.

If you fit the criteria outlined in the box, you may be eligible to apply for a transitional RBL.

You should speak to a financial planner regarding applying for a transitional RBL before you leave work. It can take some time to determine your RBL position, and whether you may be eligible to subsequently apply for the higher Transitional RBL. To make the most of your retirement benefit, you need to be sure of your position before you make any retirement decisions.

How can a State Super Financial Services Australia financial planner help you?

For the past 14 years, State Super Financial Services Australia has been providing professional financial planning advice exclusively to current and former public sector members and their families. Our professional financial planners will help you to make the right decisions to secure your financial future.

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