



STATE SUPER
SAS Trustee Corporation

SASS
SSS
PSS

ALL SCHEMES

11. Reasonable Benefits Limits (RBLs)

The information in this Fact Sheet is based on current legislation but may be affected by new superannuation measures announced by the Commonwealth Government as part of the May 2006 Budget. One of the proposed measures is to abolish the RBL system. The Commonwealth Government has indicated that, if implemented, the measures would generally be effective from 1 July 2007.

INTRODUCTION

This Fact Sheet provides important information about RBLs and how they apply generally for members of the Pooled Fund superannuation schemes, ie. members of the State Superannuation Scheme (SSS), Police Superannuation Scheme (PSS) and for certain eligible members of the State Authorities Superannuation Scheme (SASS).

In particular it provides details on whether benefits will be counted against the Lump Sum or Pension RBL for taxation purposes and how the Australian Taxation Office (ATO) assesses the benefits against the appropriate RBL. It also provides details of how RBLs affect the taxation of superannuation benefits. Finally, it provides information that you should be aware of regarding the order in which pension and lump sum benefits are assessed by the ATO when they are received at the same time.

The information is generally 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 Fact Sheet.

WHAT ARE RBLs?

Reasonable Benefit Limits are the maximum amount of superannuation and employment termination benefits that you can receive over your lifetime on a concessional tax basis. Benefits received in excess of these limits are subject to higher rates of tax.

The RBLs are dollar amounts that are adjusted each year in line with movements in 'average weekly ordinary time earnings'. The limits for the past three years are as follows:

YEAR	LUMP SUM	PENSION
2006/07	\$678,149	\$1,356,291
2005/06	\$648,946	\$1,297,886
2004/05	\$619,223	\$1,238,440
2003/04	\$588,056	\$1,176,106

Note: Personal after tax contributions made after 30 June 1983 (known as undeducted contributions for taxation purposes) are **not** included in the amount of a benefit that is measured against the RBL. These contributions are tax free when they are returned to you as part of a benefit.

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The Schemes referred to in this Fact Sheet are administered by Pillar Administration on behalf of the Trustee, SAS Trustee Corporation (STC). The Schemes are governed by the *State Authorities Superannuation Act 1987*, the *Superannuation Act 1916*, the *Police Regulation (Superannuation) Act 1906*, the *State Authorities Non-contributory Superannuation Act 1987* and the *Superannuation Administration Act 1996*. The Schemes are also subject to Commonwealth superannuation and tax legislation.

Reasonable care has been taken in producing the information in this Fact Sheet and nothing in it is to be regarded as personal advice. If there is any inconsistency between the information in this Fact Sheet and the relevant Scheme legislation, the Scheme legislation will prevail. In preparing this Fact Sheet, STC has not taken into account your objectives, financial situation or needs and, because of this, you should consider your personal circumstances and possibly seek professional advice, before making any decision that affects your future.

To the extent permitted by law, STC, its directors and employees do not warrant the accuracy, reliability or completeness of the information contained in or omitted from this Fact Sheet.

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 for a transitional RBL, 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.

A person qualifies to have their benefits (including lump sums) counted against the higher Pension RBL only if 50% or more of the total lifetime benefits are determined by the ATO to be taken in the form of a **'complying'** pension or annuity. Otherwise all benefits received (including pensions) will be assessed against the Lump Sum RBL.

EXAMPLE 1

Wayne retires on 1 July 2004 at age 58 and receives a lump sum superannuation benefit of \$350,000. He also receives a complying superannuation pension of \$25,000 p.a. with a capitalised value of \$400,000 (Note, the capitalised value of a pension is explained later in this Fact Sheet). Assume no personal contributions have been made since 1 July 1983 and no other benefits have been received in Wayne's lifetime.

The total value of benefits counted towards the RBL is the addition of both benefit values, ie. \$350,000 + \$400,000 = \$750,000. As the capitalised value of the benefit amount that is taken as a complying pension (\$400,000) is more than 50% of all benefits received, the benefits are assessed against the Pension RBL of \$1,238,440. Therefore, none of the benefits would be assessed by the ATO as excessive.

Alternatively, assume the pension payable to Wayne was \$18,750 p.a. with a capitalised value of \$300,000.

The total value of benefits counted towards the RBL is now \$650,000. As the capitalised value of the benefit amount that is taken as a complying pension (\$300,000) is less than 50% of all benefits received, the benefits are assessed against the Lump Sum RBL of \$619,223. Wayne has therefore exceeded his RBL by: \$650,000 - \$619,223 = \$30,777.

Note: The capitalisation factor used in this example is 16, however this is an example only. The actual factor used will depend on your particular circumstances.

WHAT IS A 'COMPLYING' PENSION?

A complying pension is a pension that meets specific standards as set out in the *Superannuation Industry (Supervision) Regulations 1994*. Broadly, the standards stipulate that the pension:

- must be payable for life;
- must not have a residual capital value;
- cannot be commuted (exchanged) for a lump sum, except
 - within 6 months of commencement of the pension, or
 - if the pension is a reversionary pension (for example, a pension being paid to a spouse on the death of a member who was being paid a pension), within the lesser of 20 years and the member's life expectancy from the time the member's initial pension commenced.
- must be indexed at specified rates.

ARE PENSIONS PAID FROM POOLED FUND SCHEMES 'COMPLYING' PENSIONS?

Whether or not a Pooled Fund pension is classified as a 'complying' pension depends on the type of pension received:

- Most PSS and SASS retirement pensions are complying pensions for RBL purposes as they meet all the necessary standards.
- SSS **retirement** pensions, and PSS early retirement pensions that are not partially commuted immediately on retirement, are generally **not** complying pensions because members have extended options to commute part or all of the pension to a lump sum at certain times and therefore the pensions do not meet all of the complying pension standards.
- However, when a SSS or PSS early retirement pension becomes payable, members are able to convert their pension into a complying pension by electing to limit their right to commute in accordance with the standards specified previously.
- SSS and PSS **invalidity** pensions are not complying pensions as commutation rights exist, and, as they are reviewable, the pensions are **not** necessarily payable for life. However, SSS invalidity retirement pensioners have the option to convert their pension into a complying pension.

HOW CAN I TELL IF I WILL EXCEED THE RBLs?

For members who receive lump sum benefits, it is generally straightforward to assess whether or not the RBL is likely to be exceeded by comparing the estimated benefit value (less personal after tax contributions made after 30 June 1983) with the **Lump Sum RBL** applicable at the time you will receive the benefit payment. However, you would need to ensure that you include in the comparison any other benefits you may have received previously that have already been counted towards the RBL. The ATO is able to advise you of the current value of any previous benefits that have been counted towards your RBL.

The process is more difficult for members who elect to take a pension. Firstly, it should be remembered that the lump sum SANCS Basic Benefit is always paid in addition to any PSS, SASS or SSS benefit. Therefore if you elect to take a pension, you will receive both a pension and a lump sum benefit. There is also the issue of whether the pension will be paid as a complying pension and whether benefits will be assessed against the Lump Sum or Pension RBL.

When a lump sum is received, the value of any lump sum benefits to be counted towards the RBL is easily determined – the ATO simply uses the amount of the lump sum payment for this purpose. However, to determine the value of the pension to be counted towards the RBL, the ATO capitalises (converts into a lump sum value) the pension by multiplying the expected annual pension by specific valuation factors set by legislation. The actual factor used depends on a number of variables, such as your age and life expectancy at pension commencement and the level of reversion and indexation of the pension. Basically, the factor attempts to allocate a lump sum value to the pension assuming that you or your surviving spouse will live to the expected age used in setting the factors.

For pensions paid from the Pooled Fund schemes, the ATO will generally use the factors set out below to calculate the capital value of Pooled Fund pensions:

ATO Pension Valuation Factors (PVF) for retirement pensions			
	Age Next Birthday on commencement day of pension		
CPI INDEXED	51 to 55	56 to 60	61 to 65
50% - 75% reversionary pension for a spouse – applies to all PSS and SSS pensions and also to SASS pensions where reversion has been selected	18 times annual pension	16 times annual pension	14 times annual pension
0 – 50% reversion – applies to SASS pensions where no reversion selected	16 times annual pension	14 times annual pension	13 times annual pension

You should seek financial advice to assess the tax implications if you are close to exceeding the RBLs and especially if receiving your benefits as a combination of pension and lump sum payments. We are not able to advise if your superannuation benefits will exceed the RBL as this depends on your personal circumstances.

HOW DOES THE ATO ASSESS BENEFITS AGAINST THE RBLs?

When a lump sum superannuation benefit and/or a pension commences to be paid, the Fund must report specific information to the ATO in regard to the payment/s. The information required to be provided for pensions includes an indicator as to whether the benefit paid is a complying pension.

The ATO uses this information to determine the value of the benefits to be counted towards the RBL. If you receive a lump sum and commence a pension at the same time, it is important to note that they are considered as separate benefits by the ATO and counted towards the RBL independently of each other.

On determining the value of a benefit, the ATO then adds the amount to previous benefits you may have received (if any). The total is then compared to the appropriate RBL to determine if some or all of the benefit currently being assessed is greater than the relevant RBL.

If any or all of a benefit is considered to be excessive, the ATO will provide you with information *about the excessive amount*.

EXAMPLE 2

Nicole is a member of SASS and also has top up salary sacrifice benefits in First State Super (FSS). She retires on 1 July 2004 at age 60 and decides to be paid her SASS benefit of \$450,000 and defers taking her FSS benefit at that time. Her personal after tax contributions into SASS since 1 July 1983 are \$50,000. No previous benefits have been received in Nicole's lifetime.

On being advised of the payment of the SASS benefit:

- The ATO determines the amount of the benefit to be counted towards the RBL. As personal contributions are not included in the amount to be counted, the amount counted is:
\$450,000 - \$50,000 = \$400,000.
- As this is the current total of all benefits received, it is compared against the Lump Sum RBL of \$619,223.
- As the current total is below the RBL, then none of this benefit is assessed as exceeding the RBL.

Six months later at 1 January 2005, Nicole decides to be paid her FSS benefit, which amounts to \$250,000. It does not include any personal after tax contributions since 1 July 1983.

On being advised of the payment of the FSS benefit:

- The ATO determines the amount of the benefit to be counted towards the RBL. As there are no personal contributions included in her FSS benefit, the amount counted is the full benefit amount of \$250,000.
- This amount is added to benefits previously counted against the RBL to give a current total of all benefits received:
\$400,000 + \$250,000 = \$650,000.
- The current total of all benefits received is compared against the Lump Sum RBL of \$619,223.
- The current total exceeds the RBL by:
\$650,000 - \$619,223 = \$30,777.
- Therefore the benefit paid from FSS is assessed as having an excessive component of \$30,777.

Note: The running total of benefits previously counted towards the RBL is held by the ATO and is indexed annually.

WHAT ARE THE TAX IMPLICATIONS OF EXCEEDING YOUR RBL?

Superannuation benefits are subject to tax when paid.

If a benefit is paid as a lump sum, generally tax is payable at the concessional superannuation rates applying to eligible termination payments (which can be as low as zero).

The concessional rates only apply to the amount of a benefit assessed as being within your RBL. Any amount assessed as being in excess of your RBL is subject to higher rates.

For benefits paid as lump sums, the amount assessed as being in excess of the RBL is subject to tax as follows:

- The post 30 June 1983 taxed component of the excessive amount is taxed at 38% plus the Medicare levy.
- The remainder of the excessive amount is taxed at the top marginal rate of 45% plus the Medicare levy.

When a benefit is paid as a pension, that part of the pension which represents personal after tax contributions made after 30 June 1983 (ie undeducted contributions) is not subject to tax. The remainder of the pension is subject to tax at normal income tax rates less a 15% superannuation pension offset.

For benefits taken as a pension, any excessive amount will reduce the portion of the pension that qualifies for the 15% superannuation pension offset. In effect, any additional tax payable on the excess is spread across the full period in which pension payments are received.

SPECIAL CONSIDERATIONS FOR 'COMBINED' PENSION/LUMP SUM BENEFITS

I am to receive a lump sum and commence a pension at the same time which will cause me to exceed the RBL. Which benefit will be assessed as excessive in this situation?

It is important to remember that, although a pension and a lump sum may be paid at the same time, they are considered separate benefits by the ATO and counted towards the RBL independently of each other. The question is therefore in what order does the ATO count the benefits when assessing if the total value of the benefits exceed the RBL – ie. will it count the lump sum or pension benefit first. The answer is important when considering the possible tax affect on the two benefits.

The ATO has specific guidelines on the reporting of lump sum and pension benefits. The reporting of benefit payment order is based on what the ATO considers to be the earliest date the applicable benefit is paid:

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

Pensions are normally payable from the first day after you leave employment (ie. pension commencement date). However, the first pension payment may not be made until some weeks later and is backdated to the commencement day. If a lump sum is to be paid as well, it will be paid around the same time as the first pension payment (once again a couple of weeks after the pension commencement date).

Consequently, the ATO will require the date paid for the pension to be reported as a couple of weeks earlier than the date paid of the lump sum. They will therefore count the pension first.

If the total value of both benefits is in excess of the RBL, this will mean that as the lump sum is counted last, some or all of it will be deemed excessive. The excessive amount will attract tax at the higher lump sum rates detailed previously.

For tax reasons, some members may consider it preferable to have their pension benefit treated as excessive (with the consequent loss of the 15% rebate on some of the pension) rather than the lump sum being assessed as excessive. This is possible, however for this to occur, the lump sum must be counted first. To have it counted first, it must be reported as being paid on the pension commencement date. Further information on how the lump sum can be counted first for RBL purposes is detailed later in the Fact Sheet.

Note, the order in which benefits are paid is irrelevant for RBL purposes if your benefits do not exceed the RBL.

EXAMPLE 3

Kylee is a member of SSS. She retires on 30 June 2004 at age 59 and elects to be paid her SSS benefit as a part pension, part lump sum benefit as follows:

Annual non complying pension of \$25,000 p.a.
Plus a lump sum payment (including Basic Benefit) of \$350,000.

Her personal after tax contributions since 1 July 1983 to SSS are \$50,000 (to be applied to the lump sum – nil applied to pension). No previous benefits have been received prior to 15 July 2004.

Alternative 1 – Lump sum paid on 15 July 2004 – Pension counted first

- The ATO will consider that the date paid for the pension is 1 July 2004 (ie. the day after her date of retirement) and the date paid for the lump sum is 15 July 2004 (ie. The actual date of payment). Therefore the ATO will count the pension first.
- The ATO will determine the value of the pension to be counted towards the RBL:
Factor x Annual pension less personal contributions applied to pension
= 16 x \$25,000 – \$0 = \$400,000
- As this is the current total of all benefits received and the pension is not a complying pension, it is compared against the lump sum RBL of \$619,223.
- As the current total is below the RBL, then none of the pension benefit is assessed as exceeding the RBL. The 15% pension offset will apply to the full assessable amount of the pension.
- The ATO will then assess the lump sum benefit. It first determines the amount of the benefit to be counted towards the RBL:
Total benefit less personal contributions applied to lump sum
= \$350,000 – \$50,000 = \$300,000
- This amount is added to benefits previously counted against the RBL to give a current total of all benefits received:
\$400,000 (pension) + \$300,000 (lump sum) = \$700,000.
- The current total of all benefits received is compared against the lump sum RBL of \$619,223.
- The current total exceeds the RBL by: \$700,000 - \$619,223 = \$80,777.
- Therefore the lump sum benefit is assessed as having an excessive component of \$80,777. If we assume this is fully post June 1983 taxed component it will be taxed at 39.5% rather than the normal concessional rates applying to ETPs.

EXAMPLE 3 (continued)**Alternative 2 – Lump sum benefit reported as being paid on 1 July 2004 – Lump sum counted first**

- You are able to request the ATO to count the lump sum first if both benefits are reported as being paid on the same date.
- The ATO will determine the amount of the lump sum to be counted towards the RBL.
Total benefit less personal contributions applied to lump sum
= \$350,000 – \$50,000 = \$300,000
- As this is the current total of all benefits received and the pension is not a complying pension, it is compared against the lump sum RBL of \$619,223.
- As the current total is below the RBL, then none of the lump sum benefit is assessed as exceeding the RBL. The whole of the lump sum will be taxed at concessional rates applying to ETPs.
- The ATO will then assess the pension. It first determines the amount of the pension to be counted towards the RBL.
Factor x Annual pension less personal contributions applied to pension
= 16 x \$25,000 – \$0 = \$400,000
- This amount is added to benefits previously counted against the RBL to give a current total of all benefits received:
\$300,000 (lump sum) + \$400,000 (pension) = \$700,000.
- The current total of all benefits received is compared against the lump sum RBL of \$619,223.
- The current total exceeds the RBL by: \$700,000 - \$619,223 = \$80,777.
- Therefore the pension benefit is assessed as having an excessive component of \$80,777. This is 20.19% of the total value of the pension. Thus 20.19% of the assessable amount of the pension (or \$5,047 p.a.) will not be subject to the 15% pension offset.

HOW DO I REQUEST MY LUMP SUM TO BE COUNTED FIRST FOR RBL PURPOSES?

As stated above, you may be able to request the ATO to have your lump sum counted first for RBL purposes, if you prefer. However, for this to happen, there are a number of important steps that must be followed:

1. A completed benefit application must be received by Pillar Administration at least one week (and preferably two weeks) prior to the pension commencement date (remember that the pension commencement date is normally the day after you exit service). This includes ensuring that your employer has provided us with the necessary employment termination advice. You will also need to include instructions that you wish the lump sum to be counted first for RBL purposes.
2. Pillar will then ensure that the lump sum payment is reported with a paid date as the same day as the pension commencement date.
3. After the payment is made to you, you should immediately contact the RBL unit at the ATO and request that the lump sum be counted first 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 in PSS and SSS).

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 completed 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 beforehand and any election to commute the pension to a lump sum having an immediate date of effect.

Should you wish to have the lump sum counted first for RBL purposes, you will need to follow the same process as specified previously for retirement, resignation and retrenchment benefit payments.

Summary of important steps for combined pension and lump sum payments:

- You should start to consider your RBL position well before your planned retirement or benefit payment date.
 - If your own calculations or the information you have received from a qualified advisor indicates that you may have RBL issues, and you wish to have your lump sum counted first:
1. you should ensure that your completed benefit payment application is submitted to Pillar Administration at least 1 week (and preferably 2 weeks) before your planned retirement or benefit payment date.
 2. you should also attach a covering letter to your application indicating that you would like the lump sum payment and pension commencement dates reported to the ATO as being paid on the same date for RBL purposes.
 3. you should make arrangements with your employer to ensure they provide Pillar with the Employment Termination advice.

- Once you have received your benefit payment, details have been reported to the ATO by Pillar Administration, you should then contact the RBL Unit at the ATO and request that the lump sum be counted before the pension for RBL purposes.

OPTION TO POSTPONE PENSION COMMENCEMENT

Important note: *The intention of this option is to provide members with more flexibility to arrange their tax position with respect to benefit payments, particularly in respect of the Commonwealth’s Reasonable Benefits Limits (RBLs) as they apply to superannuation benefits. Members should carefully consider the advantages and disadvantages of this option and seek their own financial advice if they are unsure. It should be noted that the Commonwealth Government has announced a proposal to abolish the RBL system with effect from 1 July 2007.*

A member entitled to a pension benefit may nominate a pension commencement date that is later than the date from which pension would otherwise commence to be paid to them under the scheme rules.

If a member elects for a later commencement date, **no pension is payable in respect of the period of voluntary pension postponement** ie. pension payments are forgone for the period.

An election to nominate a later pension commencement date must be lodged with Pillar Administration no later than 3 months after the ‘original’ pension commencement date. There is no time limit on the future pension commencement date that may be nominated.

NEED MORE INFORMATION ABOUT THE RBLs?

For more detailed information about the Commonwealth’s Reasonable Benefit Limits system, it is recommended you contact the Australian Taxation Office:

- ATO Superannuation Info Line: **13 10 20**
- Or logon to the ATO website: www.ato.gov.au/super

more information

If you need more information, please contact us:

Telephone: (for the cost of a local call unless calling from a mobile or pay phone)

SASS members 1300 130 095

SSS members 1300 130 096

PSS members 1300 130 097

Deferred Benefits 1300 130 094

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