



Taxation of Australian Superannuation for Temporary Residents

In the 2008 Federal Budget, the Government proposed changes to the administration of superannuation for individuals who are temporary residents of Australia. Although not all proposed changes have been introduced, legislation has been implemented with significant implications for temporary visa holders (such as a subclass 457 visa).

Background

Temporary residents who work in Australia, and have superannuation contributions paid by their employer, are entitled to receive their superannuation benefits once they leave Australia.

A person who was the holder of a temporary visa (that has since expired or been cancelled) under the Migration Act 1958 and who left Australia can claim any superannuation they have accumulated.

The payment will be subject to withholding tax, withheld by the superannuation fund and remitted to the Australian Taxation Office.

These rates are:

- 0% for the tax-free component
- 35% for a taxed element of a taxable component
- 45% for an untaxed element of a taxable component

These rates will apply even where the applicant has not provided a tax file number.

Superannuation funds are required to make payment within 28 days of receiving complete information from the applicant.

The attached table summarises the current law relating to the taxation of Australian superannuation for temporary residents.

Item	Old Law	New Law ¹
Contribution limits - Concessional contributions (ie: employer or salary sacrifice contributions) ² - Non-concessional contributions (after tax contributions)	Individuals under age 50 – A\$50,000 per annum Individuals over age 50 – A\$100,000 per annum \$150,000 per annum (or up to \$450,000 over a three year period)	Individuals under age 50 – A\$25,000 per annum Individuals over age 50 – A\$50,000 per annum \$150,000 per annum (or up to \$450,000 over a three year period)
Taxation of concessional contributions	15%	No change
Taxation of earnings in the fund	Maximum 15%	No change
Access to superannuation funds upon permanent departure from Australia	Yes, note, New Zealand nationals unable to access funds until retirement	No change
Implications if superannuation funds are not withdrawn following permanent departure from Australia	Funds remain in existing superannuation fund. Funds continue to be invested in accordance with the individual's preferences.	After 6 months, funds transferred to the Australian Taxation Office (ATO). No earnings are paid on funds held by the ATO unless the individual becomes a permanent resident. As a permanent resident, the ATO will pay interest at the 10 year long term Bond rates.
Australian taxation of superannuation funds on withdrawal ³ :		
i) Withdrawal after departure from Australia prior to retirement age	Subject to tax at 30%	Subject to tax at 35%
ii) Withdrawal after retirement age ⁴ , before age 60	First \$145,000 tax free Balance taxed at 15% plus 1% Medicare	Withdrawals after 1 April 2009 will be subject to tax at 35%
iii) Withdrawal after age 60	Tax free	Withdrawals after 1 April 2009 will be subject to tax at 35%

(Footnotes)

- 1 New law contained in Temporary Residents' Superannuation Legislation Amendment Bill 2008 and the Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2008 were passed in the Senate in December 2008 and have subsequently received Royal Assent and have become law.
- 2 The concessional contributions limits changed in the Tax Laws Amendment (2009 Budget Measures No 1) Bill 2009, which received Royal Assent on 29 June 2009.
- 3 Non concessional (after tax contributions) are tax free in all scenarios
- 4 A person born before 1 July 1960 has a retirement age of 55 years. A person born after 30 June 1964 has a retirement age of 60 years.

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