

Impact on tax and superannuation
provisions indexed to average weekly
ordinary time earnings

Proposals Paper
April 2013

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CONSULTATION PROCESS

Request for feedback and comments

We invite interested parties to lodge written submissions on the design of this measure.

We also encourage the identification of any other issues, including interaction issues with other parts of the superannuation or taxation law that may be relevant to the design of this measure. While submissions may be lodged electronically, by post or by facsimile, electronic lodgement is preferred.

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Closing date for submissions: 26 April 2013

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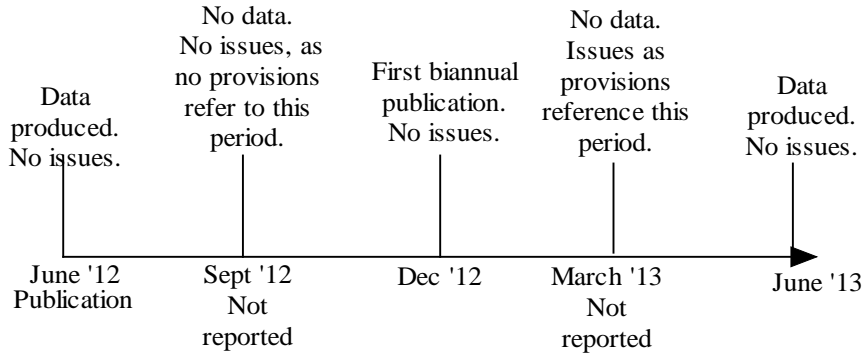
SUMMARY

1. This proposal will update a number of taxation and superannuation thresholds to reflect changes made by the Australian Bureau of Statistics (ABS) to the reporting frequency of average weekly ordinary time earnings (AWOTE).
2. Amendments are proposed to update taxation and superannuation thresholds that reference the March AWOTE quarter to instead reference the preceding December quarter. These changes are as a result of changes made by the ABS to the reporting frequencies of AWOTE.

WHY DO THE THRESHOLDS REQUIRE UPDATING?

3. In 2012, the ABS announced that instead of reporting the AWOTE survey for each quarter of the year (March, June, September, and December), it will only do so for two quarters of the year (June and December).
4. This change in frequency took effect during 2012, with the June period publication being the last quarterly issue and the December period publication the first produced on a biannual basis, although still determined in respect of that quarter. The diagram below reports the timeline of ABS publications.¹

Diagram 1.1: Timeline of ABS AWOTE publications



5. A number of thresholds in laws administered by the Commissioner reference the December and March quarters. No provisions reference the September or June quarters.
6. Therefore, as data is no longer produced for the March quarter, a number of significant thresholds may become inoperative from the 2013-14 income or financial year (depending on the relevant threshold) if these provisions are not amended.

1 Note that the ABS refers to the June and December publications as the May and November publications, reflecting the reference period when the data is collected.

WHAT PROVISIONS REFERENCE THE MARCH QUARTER?

7. The following thresholds reference the March quarter.

SUPERANNUATION GUARANTEE (ADMINISTRATION) ACT 1992

8. If a taxpayer is eligible for superannuation guarantee contributions, their employer must pay into an applicable superannuation account every three months a minimum of 9.25 per cent of the taxpayer's salary and wages from 1 July 2013 (increasing progressively to 12 per cent from 1 July 2019 onwards).

9. Section 15 limits the maximum amount of superannuation that an employer has to provide for a taxpayer each quarter. The maximum contribution base is indexed each financial year in accordance with the AWOTE for the March quarter (see section 9).

SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) ACT 2003

10. The Government Superannuation Co-contribution is a payment made by the Government to the superannuation accounts of eligible members. It is designed to boost any personal (after-tax) contributions made during the income year.

11. The maximum co-contribution is payable to individuals with incomes up to the 'lower income threshold'. The maximum amount phases down above this level, until it phases out completely at the 'higher income threshold'. These thresholds are indexed each income year in accordance with the AWOTE for the March quarter (see subsection 10A(5)).

INCOME TAX ASSESSMENT ACT 1997

12. Subsection 960-275(1A) of the *Income Tax Assessment Act 1997* (ITAA 1997) applies an indexation formula to various provisions, outlined below.

GENUINE REDUNDANCY PAYMENTS AND EARLY RETIREMENT SCHEME PAYMENTS

13. Section 83-170 allows a taxpayer to calculate the tax free part of a genuine redundancy payment and an early retirement scheme payment. These payments are tax-free up to a limit worked out under that section.

14. Subsections 960-275(1A) and 960-280(4) index the tax-free base amount for an income year in accordance with the AWOTE for the March quarter.

PRE-1 JULY 1988 FUNDING CREDITS

15. Since 1 July 1988, most contributions to superannuation schemes have been subject to a 15 per cent earnings tax in the fund (see Subdivision 295-C). An exception applies where there are pre-1 July 1988 funding credits (see subsection 295-265(2)).

16. Funding credits were granted to unfunded superannuation schemes so that contributions made after 1 July 1988 to fund benefits that accrued prior to 1 July 1988 are not taxed. This ensures

consistency with funded superannuation schemes which only pay tax on contributions from 1 July 1988.

17. Subsections 960-275(1A) and 960-280(4) index the amount of unused pre-1 July 1988 funding credits for an income year in accordance with the AWOTE for the March quarter.

PROPOSAL

18. Amendments to the provisions will ensure that income and superannuation thresholds that reference the March AWOTE quarter instead reference the preceding December AWOTE quarter.

19. Replacing the March quarter with the preceding December quarter ensures the relevant thresholds that apply, for example, in the 2013-14 income or financial year are determined by reference to the December 2011 AWOTE figure and the December 2012 AWOTE figure. This allows for a full 12 month period of increases or decreases, albeit a different 12 month period than is currently the case.

EXAMPLE 1.1: SUPERANNUATION GUARANTEE MAXIMUM CONTRIBUTION BASE FOR THE 2013-14 FINANCIAL YEAR

The superannuation guarantee maximum contribution base (MCB) for the 2012-13 financial year is \$45,750 per quarter.

To determine this amount for the 2013-14 year, the following formula in section 15 of the *Superannuation Guarantee (Administration) Act 1992* is used:

$$\frac{\text{Maximum contribution base for a quarter in the immediately preceding year}}{\text{Indexation factor for the year}}$$

These amendments provide that the indexation factor is determined by dividing the December 2012 AWOTE quarter (1396.00) by the December 2011 AWOTE quarter (1330.10) (rounded to three decimal places — see section 9).

$$\$45,750 \times 1.050 = \$48,040$$

Under these amendments, the MCB that an employer must use for the 2013-14 financial year is \$48,040 per quarter (rounded up to the nearest \$10 dollars as required under section 15).

20. Data for determining the thresholds needs to be available before the start of the relevant income year to fulfil legislative obligations (see subsection 10A(8) of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*) and administrative obligations, for example to employers. Using the preceding December quarter satisfies this requirement.

APPLICATION PROVISIONS

21. To ensure the thresholds that rely on the AWOTE data continue to operate, the proposed amendments will apply in relation to the 2013-14 income year and later years in respect to the changes to the ITAA 1997 and the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*. As the threshold test in the *Superannuation Guarantee (Administration) Act 1992* is based on a financial year, these amendments apply in relation to that Act from the 2013-14 financial year and later years.