

Medicare levy surcharge

To determine if a client is subject to the Medicare levy surcharge, the definition of ‘income’ for this purpose will be expanded to include:

- Taxable income,
- Reportable fringe benefits,
- Reportable super contributions, and
- Total net investment losses

However, while this definition will be relevant in determining whether a client is subject to the Medicare levy surcharge, the 1% levy itself will continue to be applied against their taxable income and reportable fringe benefits only.

In other words, where a client doesn’t have private health insurance and their ‘income for surcharge purposes’ exceeds the relevant thresholds (currently \$70,000 for singles and \$140,000 for couples) a 1% levy will apply to the total of their taxable income and reportable fringe benefits.

Summary of Income Test Rules

The following table provides an overview of the new ‘income’ definitions from 1 July 2009. The items highlighted in grey are the key changes compared to the existing definition.

	Income	Fringe benefits	Super contributions	Investment losses	Other income items
Government Benefits:					
Family Tax Benefit – Part A	Taxable income	Adjusted fringe benefits	Reportable super conts	Total net investment loss	Yes
Family Tax Benefit – Part B	Taxable income	Adjusted fringe benefits	Reportable super conts	Total net investment loss	Yes
Baby bonus	Taxable income	Adjusted fringe benefits	Reportable super conts	Total net investment loss	Yes
Child care benefit	Taxable income	Adjusted fringe benefits	Reportable super conts	Total net investment loss	Yes
Child support	Taxable income	Reportable fringe benefits	Reportable super conts	Total net investment loss	Yes
Higher education loan program	Taxable income	Reportable fringe benefits	Reportable super conts	Total net investment loss	Yes
Youth	Taxable	Adjusted	Reportable	Total net	Yes

allowance	income	fringe benefits	super conts	investment loss	
Government co-contribution	Assessable income	Reportable fringe benefits	RESCs	N/A	No
Deduction for personal super conts (10% test)	Assessable income	Reportable fringe benefits	RESCs	N/A	No
Tax Offsets:					
Senior Australians tax offset	Taxable income	Adjusted fringe benefits	Reportable super conts	Total net investment loss	Yes
Mature age worker tax offset	Assessable income	Reportable fringe benefits	RESCs	N/A	Yes
Spouse super contribution tax offset	Assessable income	Reportable fringe benefits	RESCs	N/A	No
Dependency tax offsets	Taxable income	Adjusted fringe benefits	Reportable super conts	Total net investment loss	Yes
Tax Levies:					
Medicare levy surcharge	Taxable income	Reportable fringe benefits	Reportable super conts	Total net investment loss	Yes

Commonwealth Seniors Health Card

A number of changes are set to be made to the income test for the Commonwealth Seniors Health Card from 1 July 2009.

The first is to incorporate 'total net investment losses', rather than the more narrow definition of 'net rental property losses'.

The second – which is contained in a separate Bill that is yet to be passed by Parliament – will see the income test expanded to include:

- Reportable super contributions, and
- All benefits paid from a taxed super fund (whether in the accumulation or pension phase).

This last item will include tax-free income payments/withdrawals for clients over age 60, as well as any Tax Free component paid out to clients under age 60.

The super measures are due to be debated again in the May sittings of Parliament. If the Bill is passed in its current form, however, it will result in many higher net worth clients losing access to the Health Card.

Conclusion

The revised 'income' definition for many Government benefits, tax offsets and levies could mean that clients will no longer be eligible for certain benefits or be subject to a higher rate of taxation. It also means that many popular financial planning strategies, such as salary sacrificing in order to qualify for a full or part co-contribution, will no longer be possible.

Definitions

Reportable super contributions

Reportable super contributions for a particular income year will basically comprise the following:

- 'Reportable employer super contributions' (including salary sacrifice and certain other employer contributions), and
- Personal deductible contributions.

Reportable Employer Super Contributions (RESCs)

RESCs need to be identified by employers and included on an employee's Payment Summary.

RESCs are broadly defined as super contributions made by an employer (or an associate of the employer) on behalf of an employee where the employee has, had or might reasonably be expected to have:

- The 'capacity to influence' the size of the amount contributed, or
- The ability to direct their employer to reduce their assessable income (ie via a salary sacrifice arrangement).

While salary sacrifice contributions will be relatively easy for employers to identify and report, other employer contributions will be more difficult to classify.

As a general rule, given that an employee does not have the 'capacity to influence' mandated contributions (such as Super Guarantee contributions or employer contributions required under an industrial award) these amounts will not be counted as RESCs.

However, voluntary employer contributions which exceed the mandated level may be counted, depending on the amount of 'influence' the employee has over the contributions.

This would include situations where the employee is given a choice by their employer as to how their remuneration package is structured (ie they may be able to elect or negotiate to have more employer voluntary contributions paid on their behalf).

Personal Deductible Contributions

Personal deductible contributions will also be included in the new definition of 'reportable super contributions'.

The only exception will be those Government benefits that are based on assessable income, such as the Government co-contribution and the spouse contribution tax offset. This is because the inclusion of the deductible contributions (which is already included in assessable income) would result in double counting. The income test for these benefits will instead include only 'reportable employer super contributions'. The ATO will obtain details of the client's personal deductible contributions in their annual tax return.

Personal contributions which are not claimed as a tax deduction will not be included in the definition of 'reportable super contributions'.

Total Net Investment Losses

The revised definition will relate to investments in rental properties, shares and interests in managed investment schemes to the extent that they are subject to an investment loan.

A total net investment loss will arise in an income year where:

- The client's deductions for their financial investments exceeds the gross income from these investments, and/or
- The client's deductions for their rental property exceed the gross income from the rental property.

The total net investment loss is the amount by which the deductions exceed the gross income.

For this purpose, deductions include the costs of borrowing, management fees and allowable rental property expenses, while gross income includes franking credits.

Adjusted Fringe Benefits

While many definitions of 'income' currently include 'reportable fringe benefits', a modified (or grossed down) version of this concept will apply in relation to the Senior Australians Tax Offset.

The adjusted fringe benefits total can be calculated for an income year using the following formula:

$$= \text{Reportable fringe benefits total} \times (1 - \text{FBT rate})$$

In other words, it is equal to the client's reportable fringe benefits total multiplied by 53.5%.

This definition of 'adjusted fringe benefits' is currently used in relation to family tax benefits, the baby bonus and the child care benefit.