

4 TAKING CONTROL OF YOUR FINANCES

4.1 Introduction

This chapter is designed to give you a summary of the way the Australian social services and tax systems operate in relation to older people. It also deals briefly with some new financial products which are aimed at retirees. Because of the complexity and the regularity of changes in this area of the law it is not possible to cover all of the detail that may be relevant to your situation. Once you are familiar with the general information contained here we recommend that you seek the advice of a qualified financial adviser or lawyer or make further inquiries to the government departments suggested within this chapter.



4.2 The Age Pension

The Age Pension is an income support payment from the government. Whether you are entitled to the Age Pension depends on your age, income, assets, and how long you have lived in Australia.

If you are a Veteran or a wife, widow or dependent of a Veteran, you may be entitled to receive a Service Pension or other entitlements from the Department of Veterans' Affairs. You cannot receive a Service Pension from Veterans' Affairs at the same time as receiving the Age Pension, but there are significant advantages to receiving the Pension from Veterans' Affairs rather than the Age Pension. If you think there is a chance you may be eligible for the Pension from Veterans' Affairs, you should contact the Department of Veterans' Affairs or seek free independent legal advice from the Legal Aid Veterans Advocacy Service. Contact details are set out in Chapter 14.

4.3 How old do I have to be to qualify for the Age Pension?

Men qualify for the Age Pension at 65 years of age. Women qualify at different ages depending on their date of birth. For example, women born before 1 July 1935 qualify for the Age Pension at 60 years of age. Women born on 1 January 1949 or later qualify for the Age Pension at 65 years of age. You should seek advice from Centrelink if you were born between 1935 and 1949.

If you are under the Age Pension age there are other pensions, benefits and allowances to which you may be entitled, which are discussed under the heading "Other Allowances, Pensions and Benefits" below.

4.4 How long must I have lived in Australia?

Before you can claim the Age Pension, you must have had lived in Australia for a total of 10 years, and at least five of these must have been continuous.

There are exceptions for people who have:

- (a) lived in New Zealand,
- (b) arrived in Australia as refugees, or
- (c) arrived from countries which have an agreement with Australia in relation to payment of pensions.

You should seek further advice from the International Services Branch of Centrelink on 131 673 if you fall into one of these categories. More Centrelink contact numbers are listed in Chapter 14.

4.5 How much do I receive for the Age Pension?

The amount of Age Pension you will receive (if any) will depend on your income and assets. The income and assets test applies to everyone who might be entitled to the Age Pension (except if you are blind). The income and assets test also takes into account the income and assets of your partner if you are a member of a couple.

The Age Pension increases each year in accordance with a special set of factors set by the government. As at 20 September 2005, if you are single, the *maximum* rate of the Age Pension is \$488.90 per fortnight (or roughly \$12,711.40 per annum). As at 25 September 2005, if you are a member of a couple, the *maximum* rate is \$408.20 each (or roughly \$10,613.20 per annum).

On top of the pension, you may also be entitled to additional entitlements, which are set out in the heading "Other Allowances" below.

4.6 Is the Aged Pension taxed?

The Age Pension is taxable. However, if the pension is your only source of income no tax will be paid. Income tax is also discussed later in this chapter.

4.7 Pension Bonus Scheme

If you work and defer claiming the Age Pension you may be entitled to earn a one-off tax-free lump sum bonus when you do finally claim the Age Pension. To be eligible, you must register for the scheme within 13 weeks of the day you first qualify for the Age Pension.

You must register *before* the bonus starts to accrue and you must defer the pension for a minimum of 12 months from the date you register. You cannot accrue a bonus after the age of 75. If you are approaching the Age Pension age or are working and are already over the Age Pension age, you should seek advice from Centrelink to ensure you are registered for the bonus.

4.8 Am I a member of a couple for Centrelink purposes?

The amount of money you are paid by Centrelink will be significantly reduced if you live as a "member of a couple". It is Centrelink who must form a view of a particular relationship and it does not only depend on whether you are married or in a de facto relationship. Centrelink looks at financial and household arrangements, the social and sexual relationship and whether or not there is permanence to or commitment in the relationship.

The test affects older people in two important ways. Many older people live together for companionship but do not consider themselves as a couple. Other people may still be married, but are permanently separated from their partners, even if under the same roof.

In both cases, Centrelink must decide whether a person is in a "married-like relationship" and whether the person is living "separately and apart". This will depend on many different factors and differs on a case by case basis. In other words, it will depend on the opinion the assessing Centrelink officer takes of your particular relationship.

If you disagree with the view of Centrelink, you can appeal the decision made and should seek legal advice from one of the agencies listed below. Members of same sex couples are not considered "members of a couple" for social security purposes.

4.9 The income test

The various income tests that apply to the Age Pension are complicated and you should not rely on the information below: seek advice from Centrelink in relation to any income you receive.

As a basic overview, you can earn income (except compensation income) up to certain limits without having your Age Pension payments reduced. As at 1 September 2005 the income limit for a single person is \$124 per fortnight and for the combined income of a couple is \$220 per fortnight.

Income you or your partner earn over these limits will reduce your payments by 40 cents in the dollar each if you are a member of a couple or 20 cents in the dollar if you are single.

Income includes all money gained from employment as well as income earned from assets, including financial investments such as money in bank accounts, term deposits, shares, gold and deferred annuities (if you are over the pension age). Income is treated differently depending on where it comes from:

- *Income from Employment:* Centrelink looks at your *pre-tax* income, or “Gross” income.
- *Income Financial Investments* (including money in bank accounts): Centrelink considers the “deemed” income. “Deemed” income means that Centrelink calculates what would be earned on a particular interest rate (which is set) and ignores what was actually earned on financial investments.
- *Income from Superannuation:* After you reach superannuation age, income is treated as normal income if it is paid to you by way of periodic instalments. If your superannuation is paid to you as a lump sum then it is considered in the same way as a financial investment asset and the “deeming” laws that apply to other financial investments will apply to the lump sum.
- *Income from Property Investments* (rent or board): Centrelink looks at the “Net” income. However, some deductions that are allowed in relation to investment properties to determine net income for Taxation purposes are *not* allowed for Centrelink purposes.
- *Income from Compensation payments:* Compensation income is treated very differently from other types of income unless you were already on the pension when you started receiving your compensation payments. If you were already receiving compensation payments when you apply for the Age Pension, each dollar of compensation paid to you will reduce your pension by a dollar.

Some payments that are not considered to be income include Medicare and lump sum private health care payments; social security benefits; certain veterans’ entitlements; insurance or compensation payments for property damage; rent assistance; first home buyers’ grants; periodical gifts from a child or parent; and jury or witness fees.

For more information, contact your local Centrelink office or a financial or legal adviser.

4.10 **The asset test**

Your principal place of residence is not included in the assets test. This includes fixtures and adjoining private land (up to 2 hectares) that is used for domestic purposes and is not occupied by persons other than close relatives. If there is another dwelling on your land and it is occupied by a person other than a close relative or carer, then that dwelling may be separately valued and included as an asset. If a person lives in a caravan or a boat, that can also be counted as that person’s principal place of residence.

You can sell your home and the proceeds won’t be counted in the assets test for up to 12 months but only if you intend to use the money to buy another principal place of residence. There are also special rules relating to your home and residential or aged care facility care - see below.

Assets that are counted in the test include the total amount of money you have in the bank as well as the value of any other assets such as real estate, businesses, farms, gifts and loans, motor cars, boats, caravans, household contents and personal effects.

The value of an asset is taken to be what you would get for it if it were sold (that is, the net market value). Generally, any debt owing on an asset is deducted from the value of that asset. The amount of assets you are able to hold before the amount of pension you are entitled to is affected varies depending on whether you are single or a member of a couple and whether you are a homeowner or non-homeowner.

If you are unable to sell or realise an asset for legal reasons or you are trying to sell your asset but no one will buy it and you are suffering severe financial hardship, then you can apply to Centrelink to have the “hardship” rules apply. In these situations Centrelink may disregard the value of an “unrealisable” asset for the purpose of the asset test.

The table below lists the asset test rates that were correct as at 1 September 2005. Check with Centrelink for current rates. Rates are not listed here for people who are members of couples that are separated due to illness: contact Centrelink for more information.

Assets Test for Homeowners		
	<i>For Full Pension</i>	<i>For Part Pension</i>
<i>Single</i>	up to \$157,000	less than \$322,000
<i>Couple (Combined)</i>	up to \$223,000	less than \$497,500
Assets Test for Non-Homeowners		
	<i>For Full Pension</i>	<i>For Part Pension</i>
<i>Single</i>	up to \$270,500	less than \$435,500
<i>Couple (Combined)</i>	up to \$336,500	less than \$611,000

If your total assets are more than the limits set out in this table, the rate of pension will be reduced. For every \$1,000 in assets you have over the limit the pension will be reduced by \$3 a fortnight. You can continue to get a part pension under the assets test until the value of your assets reach the limits set out in the table under the heading 'part pension'. The amount of assets you can hold before it affects your pension will be higher if you have dependent children or receive Rent Assistance. Since 1 July 2005, accommodation bonds are exempt from your assets test.

4.11 What if I leave my home to move into an aged care facility or other residential care?

If you move into a "care situation", then your home will not be considered as an asset for a period of 2 years. If you are a member of a couple, the two years will commence only from when you both move into residential care.

The period that the asset is exempt from the assets test may be extended indefinitely if you move into a residential aged care facility or other form of residential care in certain circumstances. For example, if you move into a residential aged care facility and are required to pay an accommodation charge or bond, and you rent your home, then your home may remain an exempt asset indefinitely. If you sell your home however, it will be immediately included in the assets test unless you intend to buy another home with the proceeds.

It is important to seek advice from Centrelink if you move into a temporary or permanent care situation to ensure that your situation is correctly assessed.

4.12 Can I give assets away?

Centrelink has rules that prevent people from giving assets away in order to manipulate their finances to receive a social security benefit. This means that if you give away assets and have not received a benefit in return or have received an "inadequate" benefit, then Centrelink may consider you to still have that asset for the purpose of both the asset test and the deeming provisions for the income test.

The rules in this area changed on 1 July 2002 and are now quite complicated. If you give away assets worth more than \$10,000 in any one year then Centrelink will consider you to still possess that asset for the next 5 years. If you give away assets more than \$30,000 over a rolling period of 5 years, then the amount over that \$30,000 will also be considered to remain as an asset for another period of 5 years. Because the rules are complex, if you are considering gifting any assets that added up are worth more than \$10,000 in one year or \$30,000 over a 5 year period, you should contact Centrelink for the implications of that action or seek financial or legal advice.

If you sell or reduce your assets to meet normal expenses or to pay for holidays then these rules do not apply. If you are a low income farmer giving your farm to younger family members, special rules under the Retirement Assistance for Farmers Scheme may apply so that you do not lose your entitlement to the Age Pension.

You should also be aware that if you give away or sell assets other than money (for example; rental property, shares, etc.) that you acquired on or after September 1985, you may have to pay capital gains tax. Capital gains tax is discussed later in this chapter.

4.13 Other allowances, pensions and benefits

In addition to the Age Pension, there are additional allowance, payments and benefits that you may be eligible for:

- (a) *Disability Support Pension:* If you are under Age Pension age but are unable to work because of a disability, you may be entitled to apply for the Disability Support Pension. There are complex rules governing whether you are entitled to this pension and you should seek advice from Centrelink. If you disagree with a decision made by Centrelink as to your level of disability, you should seek legal advice for your rights in appealing the decision. The Disability Support Pension is paid at the same rate as the Age Pension.
- (b) *Newstart Allowance:* This is the unemployment benefit and is available if you are under the Age Pension age, unemployed, and available for and actively seeking work. The rate, if you are over 60 years of age and have been on Newstart for over 9 months as at 20 September 2005, was \$443.40 per fortnight for singles or \$365.00 per fortnight if you are a member of a couple. The rate is lower if you are under 60 or haven't been on Newstart for 9 months.
- (c) *Carer's Payment:* If you are under the Age Pension age and are not disabled, but spend a substantial amount of your time caring for someone who is on the Age Pension or the Disability Support Pension you may be eligible for the Carers Payment. The Carers Payment is paid at the same rate as the Age Pension and cannot be paid in conjunction with another pension.
- (d) *Widow Allowance:* This allowance is being phased out and only applies to women born before 1 July 1955. It is available to women who were widowed, divorced or separated since turning 40 and who have no relevant workplace experience. The rate is paid at the same rate as the unemployment benefit and the women are required to attend an interview with a Centrelink "Personal Adviser" once a year.
- (e) *Carer's Allowance:* This payment is an income supplement that is available in addition to your Age Pension or other income if you provide daily care at home to a person with a disability. You must live with the person for whom you are caring to receive this allowance. There is no income or assets test for this allowance. The allowance is currently \$92.40 a fortnight. This allowance is an additional payment to whatever other income or pension you are currently receiving. Note that "Carer's Allowance" is different to the "Carer's Payment", which was discussed above.
- (f) *Special Benefit:* If you are not eligible for any other payment and are experiencing financial hardship, then "Special Benefit" may be available. Contact Centrelink for details.
- (g) *Pharmaceutical Allowance:* If you are in receipt of the Age Pension or the Disability Support Pension, you will automatically receive a Pharmaceutical Allowance. As at 1 September 2005, the Pharmaceutical Allowance is \$5.80 per fortnight for singles and \$2.90 per fortnight for a member of a couple.
- (h) *Telephone Allowance:* This is paid quarterly to assist with the cost of maintaining a telephone service and is paid to pensioners and some holders of Seniors Health Cards. The rate as at 20 September 2005 is \$20.40 per quarter.
- (i) *Utilities Allowance:* This is paid to persons of pension age who receive income support. The rate as at 20 September 2005 is \$50.60 for singles and \$25.30 per member of a couple per year. It is paid every six months.

- (j) *Rent Assistance*: If you pay rent, and do not live in public housing, you may be eligible for rent assistance. The amount differs depending on your rent and situation and special rules apply to people living in retirement villages.
- (k) *Abolished Payments*: There are many payments which have been phased out for which no new claims are being accepted. However, if you are already in receipt of one of these payments, you may continue to receive it. Examples of a payment you may be on that is no longer being granted include the Mature Age Allowance, the Partner Allowance, the Widow B Pension and the Wife Pension.

4.14 How are pension payments made?

Centrelink pays the Age Pension or other social security benefit and any other allowances (such as the Pharmaceutical Allowance and Rent Assistance) directly to your bank, credit union or building society account. The payments are generally made fortnightly.

4.15 Concessions

A number of concessions are offered to pensioners. Some examples are: hearing aids, dental care, eye examinations and glasses, vehicle registration and driver licence fees, clubs, theatres and cinemas. In addition to the pensions and allowances already discussed there are other benefits, rebates and concessions to which you may be entitled. Some of these are listed below.

- (a) *Pensioner Concession Cards*: These are issued automatically to all social security and Veteran's Affairs pensioners. They are also issued to people who are above 60 years old who have been receiving a social security benefit for 9 months or more.
- (b) *Commonwealth Seniors Health Card and Seniors Concession Allowance*: This card is aimed at self-funded retirees who do not qualify for a pension because of assets or income but who have an annual income of less than \$50,000 for singles or \$80,000 combined for couples (as at 1 September 2005). Holders of the Seniors Health Card are paid an allowance twice a year to assist in meeting household expenses. The rate at 1 September 2005 was \$202.80. The card also allows access to cheaper medications through the Pharmaceutical Benefits Scheme.
- (c) *NSW Seniors Card*: The NSW Government issues the Seniors Card to anyone 60 years of age or over provided they do not work more than 20 hours per week in paid employment and are permanent residents of NSW. A Seniors Card gives a number of concessions such as discounts and special offers from 4,000 businesses around Australia on things such as travel, insurance and goods and services, as well as public transport such as rail, ferries and buses. For more information call the Seniors Card information line on 1300 364 758 or visit the website at www.seniorcard.nsw.gov.au.
- (d) *Rebates*: Your local council may offer pensioner concessions on land rate payments. Rebates are also offered by organisations such as Sydney Water and Telstra. In order for you to be eligible for pension rates on gas or electricity, you need to notify the relevant company that you are in receipt of a pension.

4.16 Disputes, advice and assistance

The rules for assessment of the correct amount which you should be paid are quite complex and mistakes do occur. If you think that you are being paid the wrong amount (either too much or too little) or your assets are being assessed incorrectly, you can contact Centrelink directly and ask for a review. An Authorised Review Officer (**ARO**) will investigate your complaint. The ARO will be another Centrelink employee, but one that was not involved in making the original decision.

If the problem cannot be resolved within Centrelink, you can apply to the Social Security Appeals Tribunal (or the Veterans Review Board in veteran's related matters) for a review of the ARO's decision. If you are not satisfied with the Social Security Appeals Tribunal's decision, you can apply to the

Administrative Appeal's Tribunal for a further review. You should note the time limits that apply: this means you should also apply for a review as soon as possible after you receive notification of the decision.

At any of these stages, you may contact Welfare Rights NSW for assistance or the Veterans' Advocacy Service may also assist you (see Chapter 14 for details). Another alternative is to contact the Commonwealth Ombudsman, which has a special unit dealing with complaints about Centrelink.

4.17 Superannuation

Superannuation is a form of savings designed to provide you with an income when you retire or if you become disabled and are unable to work. Special low rates of tax apply to superannuation contributions and earnings. The Government places some restrictions on your ability to withdraw your superannuation benefits prior to retirement. This is called preservation. From 1 July 1999 all future superannuation contributions are generally preserved until you retire and are 55 years old or older. The age limit is being increased to 60 by 2025 for those born after 30 June 1964 with phasing in for those born after 1 July 1960.

Higher taxation rates apply to most benefits paid prior to age 55. However, from 1 July 1997 the preserved component of your superannuation benefit can be paid out prior to the age of 55 and retiring if:

- (a) you become permanently incapacitated;
- (b) you die;
- (c) in cases of severe financial hardship, you meet the criteria set by the government and the superannuation fund trustees agree to the early release of the funds;
- (d) on compassionate grounds, if you meet the criteria set by the government and the fund trustees agree to the release of the funds; or
- (e) if you change your employer and your superannuation account has a balance of less than \$200.

Also from 1 July 2005 you have a choice as to which superannuation fund to pay your money into.

4.18 Disability and death benefits

Most superannuation policies automatically include insurance for death or disability. If you are disabled before retirement age and have been making superannuation contributions you may be entitled to a disability payout. This is different, and possibly in addition, to accessing your preserved component mentioned above. Disability payouts can be substantial sums of money and may be available if you are unfit to do your old job or other suitable employment that suits your training. If you think you might be eligible you should contact your superannuation company or seek legal advice.

4.19 Superannuation complaints

If a superannuation company refuses your claim for benefits or makes any other decision you disagree with, you have a right to ask for an internal review. If you still disagree with the decision you can take your complaint to the Superannuation Complaints Tribunal or seek legal advice. Contact details are set out in Chapter 14.

4.20 How is superannuation taxed?

The amount and timing of income taxation of superannuation and other retirement benefits depends on many factors including the nature of the benefit and your age when you retire. Tax concessions are given to complying superannuation funds and retirees of those funds. Superannuation Schemes must comply with certain prescribed standards which cover the level of contributions, retirement age for payment, composition of Trustees, preservation and portability of benefits, vesting of benefits, communication to

members about benefit entitlements and certain restrictions on fund investments. Tax concessions are generally denied to non-complying funds. You should enquire with your fund directly or financial adviser.

4.21 **Income Tax**

Australian residents are taxed on their income from various sources (other than exempt income) and their capital gains (capital gains tax is discussed in greater detail below). Income means total amounts received or accrued and includes ordinary income, for example, wages, salary and rental income, and statutory income (such as pensions). Some amounts such as windfall gains from lottery and betting wins, inheritances and gifts that do not arise from employment are exempt from income tax. In addition, you might not have to pay tax on any money you make from your hobby (if any) if you are not making a regular income from it.

If your allowable deductions exceed your assessable income and net exempt income in a particular financial year, then you will have a tax loss for that particular financial year, which can be carried forward indefinitely and offset against any future assessable income.

If part of your income is foreign income, for example income from rental on an overseas home, expenses in relation to that foreign income may be offset against certain other foreign income derived. Any expenses in excess of your foreign income can be carried forward to future income years. From 1 July 2001, excess interest paid on loans to purchase foreign income-producing assets can now be offset against assessable Australian income. If you are an Australian resident you may be entitled to certain tax rebates and credits for foreign tax paid.

Non-resident individuals are taxed only on income which has some connection with, or is produced directly or indirectly from, sources in Australia. Relief from Australian taxation may be provided to non-resident taxpayers under country-specific Double Tax Agreements to which Australia is a party. Whether a person is considered a resident or a non resident will depend on their personal circumstances.

4.22 **How is income tax calculated?**

You are liable to pay income tax and therefore lodge a tax return at the end of financial year, if the total income you earned for that financial year is above a certain threshold. The relevant income threshold depends on your personal circumstances (e.g. whether you are employed, received a government allowance or pension and other income, or whether you received the Senior Australian's tax offset and other income during the relevant financial year).

Income tax is levied at progressive rates on the amount of your taxable income. Your taxable income is determined by deducting outgoings and losses from your income for the tax year. Outgoings and losses must be related to the income earned and cannot relate to private consumption or be capital in nature. You should make sure you keep records of your income, expenses incurred in respect of your income, investments and assets evidence for five years from 31 October of the year in which you lodge your tax return or, if you lodge later, for five years from the date you lodge it. These records could include rental and other income receipts, receipts and/ or logbook entries of any expenses that relate to your income or investments, statements, contracts and records relating to your investments and all costs associated with purchasing and disposing of them.

4.23 **How is income tax paid?**

How income tax is paid depends upon whether you are employed or earn income from business or investments. If you are employed, then your employer will withhold tax from the payments they make to you and send those payments to the Australian Taxation Office (**ATO**). This system is called the Pay As You Go (**PAYG**) withholding. If you earn investment or business income you are required to make either annual or quarterly instalments towards your expected tax liability on your investment or business income under the PAYG instalments system. Regardless of which of the above systems you fall under, you are required to lodge an income tax return at the end of each income year.

If your annual income is above the tax free threshold and you do not pay any PAYG tax, you may be required to pay income tax on receipt of a notice of assessment after lodging your income tax return.

CGT asset is greater than your capital proceeds. The capital loss is the difference between the capital proceeds and the reduced cost base. Generally capital losses may be carried forward to future years and offset against your capital gains. For further information in relation to calculating your capital gain or loss, contact the ATO or, if you are able, your accountant or tax lawyer.

Any assets that you may give away as a gift are also subject to CGT. The gift recipient is treated as having acquired the asset at its fair market value (that is, at the price that a person would have paid for that asset if they had purchased the asset). Valuations should be obtained and kept as evidence of the market value. Assets passing on death will not be taxed at that point however, CGT will be payable when the asset is subsequently sold.

4.28 Do I have to pay CGT?

To determine whether you have to pay CGT, you will need to know if you have made a net capital gain. For this, you will need to know the following:

- (a) whether a CGT event has happened;
- (b) the date of the CGT event;
- (c) what assets are subject to CGT;
- (d) the date and amount of any expenditure you incurred that forms part of the cost base of the asset; and
- (e) the amount of money and value of property you received or were entitled to receive for the asset.

4.29 CGT assets

CGT assets include:

- (a) real estate (e.g. a holiday home);
- (b) shares in a company;
- (c) units in a unit trust or managed investment fund;
- (d) collectables (e.g. jewellery);
- (e) personal use assets (e.g. furniture);
- (f) other CGT assets include contractual rights, options, foreign currency; and
- (g) goodwill.

4.30 CGT events

CGT events are the different types of transactions or events that may result in a capital gain or capital loss. Many CGT events involve a CGT asset, for example, a sale of shares. Some of the more common CGT events or situations that may produce a capital gain or capital loss are:

- (a) an asset you own is sold, lost or destroyed;
- (b) you give an asset away;
- (c) you enter into an agreement not to work in a particular industry for a set period of time;
- (d) shares you own are cancelled, surrendered or redeemed;
- (e) shares you own are declared worthless by a liquidator;

- (f) you grant an option to someone to buy an asset that you own;
- (g) you receive a non-assessable payment from a unit trust or managed fund;
- (h) you dispose of a depreciating asset that you used for private purposes (e.g. a boat); or
- (i) you stop being an Australian resident.

4.31 Exemptions & rollovers

Some of the main exemptions from CGT include:

- (a) an asset you acquired before 20 September 1985;
- (b) disposing of your main residence. This can change depending on how you came to own the residence, whether it is on more than 2 hectares of land and what you have done with it; for example, if you have rented it out, you may be liable to some tax when you sell it;
- (c) cars, motorcycles and similar vehicles;
- (d) compensation you received for personal injury;
- (e) proceeds of life and superannuation policies, unless you were not the original owner (eg you were the beneficiary of your spouse's superannuation policy);
- (f) gains on light motor vehicles (cars, station wagons, utilities etc); and
- (g) gains on 'personal use' assets acquired for \$10,000 or less. These are assets kept for the personal use and the enjoyment for you and your family and include items such as clothing, white goods, furniture, sporting equipment, cameras and boats, but cars are excluded. The concession does not cover works of art, jewellery, rare books, stamps and coins and antiques (called "collectables"). Disposals of personal use assets can give rise to a taxable gain, but not an allowable loss. Disposal of collectables bought for more than \$500 each give rise to taxable gains, but any losses made can only be offset against taxable gains on other listed assets. It is therefore important to keep records of the purchase and sale of both collectables and personal use assets that are likely to appreciate in value.

Provided you satisfy the relevant requirements you may be able to defer your CGT liability for example in relation to:

- (a) any government compulsory acquisitions of your property or your property has been stolen or destroyed; or
- (b) asset transfers following a marriage breakdown; or
- (c) ownership changes following company restructures.

4.32 The Medicare levy

The Medicare levy funds the Medicare scheme, which scheme gives Australian residents access to health care. If you are resident in Australia or temporarily absent during the income year you will be liable to pay the Medicare levy unless your taxable income for the year is low or you are a prescribed person for the purposes of Medicare levy payments.

The amount of Medicare levy you pay is usually calculated at a rate of 1.5% of your taxable income and is payable in addition to your income tax (if any). This amount is not reduced by any tax offsets you may be entitled to unless they are refundable tax offsets. Note, the rate at which your Medicare levy is calculated may vary depending on your personal circumstances.

High income earners who do not have an appropriate level of private hospital insurance may also be liable to pay a Medicare levy surcharge at the rate of 1% of their taxable income. The Medicare levy surcharge is payable in addition to the Medicare levy.

4.33 Exemptions and reductions

You may be exempt from paying the Medicare levy or it may be reduced if you have low income or you are a prescribed person for the purposes of Medicare levy payments. To find out whether you fall within the low income category of taxpayers and to obtain information on current income thresholds for Medicare levy purposes you should contact the ATO or, if you are able, your accountant or tax lawyer. If you are a prescribed person you may be entitled to a full or half Medicare levy exemption for the period you are a prescribed person. Prescribed persons are:

- (a) Defence Force members who are entitled to full free medical treatment for all conditions;
- (b) Department of Veterans' Affairs Repatriation Health Card (Gold Card) holders;
- (c) blind pensioners;
- (d) sickness allowance recipients;
- (e) persons who are not residents of Australia for tax purposes;
- (f) residents of Norfolk Island;
- (g) persons who have a certificate from the Levy Exemption Certification Unit of the Health Insurance Commission showing they are not entitled to Medicare benefits; and
- (h) members of a diplomatic mission or consular post who are not Australian citizens and do not ordinarily live in Australia.

4.34 Need more information on tax?

If you would like to find out more about whether your income is taxable, whether you need to lodge an income tax return, about CGT or the Medicare levy:

- (a) phone the general public Personal Tax Info-line on 13 28 61. Keep your tax file number handy when you call this number. If you are a low income earner ask the consultant when you call if you qualify for free help to prepare your tax return (Tax Help);
- (b) download information from the ATO web site at www.ato.gov.au;
- (c) order free information books, videos and fact sheets on topics which affect you on 1300 720 092;
- (d) write to the ATO at PO Box 9935 in your capital city;
- (e) obtain a copy of TaxPack (a print publication designed to help you to complete your individual income tax return) from the ATO, your accountant or check if your local newsagency stocks copies of TaxPack;
- (f) the National Information Centre on Retirement Investments Inc (**NICRI**), which is an independent body funded by the Australian Government to provide the public with free information on planning and saving for retirement, investment options and effective use of financial resources in retirement; or
- (g) see your accountant or tax lawyer.

4.35 The Goods and Services Tax (GST)

GST is a broad-based tax applied to most supplies of goods and services in Australia from 1 July 2000. In most cases, if an entity makes a supply of goods and/ or services, then it will be liable to pay GST at a tax rate of 10% of the value of the supply. GST is generally included in the price paid by the recipient of the goods and services. Some goods and services are GST-free, for example, basic food, ambulance services, exports, education, hospital treatment and prescription medication.

GST is added to the cost of goods and services at each stage of the production and distribution chain, and the eventual cost including GST must be displayed on the price of the goods.

The total displayed price should include GST. Receipts will also show how much GST you paid. To calculate the amount of GST you are paying on fully taxable goods and services divide the price by 11. For example: Something costing \$110 will include \$10 GST.

4.36 Do I need to register for GST?

Registering for the GST allows you to claim a credit from the ATO for the GST component in the price you pay for goods and services. This is called an input tax credit and is netted off against your entity's own liability to GST on its supplies to its customers. To obtain an Australian Business Number (ABN) you must first register with the ATO.

In general, if you are operating a business with an annual turnover of \$50,000 or more or a non profit organisation with a turnover of \$100,000 or more you will need to register for the GST. Businesses with a lower turnover may register for GST (but it is not compulsory to do so). If you are a taxi driver carrying on your own business then regardless of your annual turnover you must register for GST. You cannot charge GST or claim input tax credits if you are not registered for GST.

If you are a self-funded retiree you only need to register if you are an investment property owner and will need to claim back GST charged to you on goods (building materials) and services (by property agents, accountants, solicitors, builders, electricians, plumbers). Hobbyists and employees cannot register for the GST.

4.37 How to register for GST

Complete a registration form which can be obtained by calling the ATO Business Tax Enquiries Infoline on 132866 and request a registration package or register electronically through the Business Entry Point at www.business.gov.au. Alternatively, contact your lawyer or accountant who will be able to lodge your application for you.

4.38 Land Tax

Land tax is a state tax payable on the unimproved and unencumbered value of land you own in addition to land owned and occupied as a principal place of residence (your home) in NSW.

4.39 Who needs to pay land tax?

You may be liable for land tax if you own or part-own:

- (a) vacant land, including vacant rural land;
- (b) a holiday home;
- (c) investment properties;
- (d) company title units; or
- (e) residential, commercial or industrial units.

4.40 How is land tax calculated?

Land tax is calculated on the combined value of all taxable land owned by you as at 31 December each year. The Office of State Revenue (OSR) Commissioner of Land Tax sets the rates for land tax each year for the following year.

Unlike income tax, which operates on the basis of a financial year (that is, from 1 July to 30 June each year), land tax operates on the basis of a calendar year (that is, 1 January to 31 December each year). For example, your land tax liability for 2006 would be based on all liable land held at midnight 31 December 2005.

4.41 How are valuations made?

The Valuer-General sets the land value of all land in NSW each year as at 1 July before the tax date 31 December. These valuations are different from those made approximately every three years for local government rating purposes.

The valuation does not take into account any improvements (such as houses etc) on the land, nor does it allow for a deduction of any mortgage of the land. That is, the valuation is based on the unimproved and unencumbered value of the land.

4.42 Exemptions and concessions

Exemptions from land tax include the following:

(a) Your principal place of residence

You can claim the principal place of residence exemption for land, including strata lots, that is *used* and *occupied* as your principal place of residence (i.e. your home). The area or land value of the property does not affect whether you qualify for the exemption or not. A family, including dependents under 18 years, can only claim the principal place of residence concession for **one** property. If there is more than one owner for the land, at least one owner must use and occupy the property as their principal place of residence.

To be eligible for this exemption you must:

- (i) have continuously used and occupied the land since 1 July of the year prior to the current land tax year (eg. for 2005, you must have occupied the land since 1 July 2004). However, if you do not occupy the property until after 1 July, the Chief Commissioner of the Office of State Revenue may grant an exemption if he is satisfied that the property is used and occupied as your principal place of residence;
- (ii) have used the land for residential purposes. However, if you have used the land for incidental business purposes (e.g., if one room is used as a home office or workshop) and the business is primarily conducted at a place outside of your land, you can still claim the exemption;
- (iii) not have used any other land as your principal place of residence since the preceding 1 July; and
- (iv) be a natural person (that is, not a company), a beneficiary of a concessional trust, a life tenant, or a person with a right to reside under the terms of a will.

Provided you satisfy the relevant eligibility criteria, you may also be able to claim a principal place of residence concession as follows:

- (v) If you purchase vacant land on which you intend to build your principal place of residence, provided you do not own another property which is currently your exempt principal place of residence. This concession applies for two years from when you either acquired the vacant land or when the land became unoccupied

and you commenced building works for your future principal place of residence. This two year period may be extended where there is a delay in completion due primarily to reasons beyond your control.

- (vi) If you purchase a new residence prior to completing the sale of your former residence before 31 December, you may be able to claim an exemption for both residences.
- (vii) If you move out of your principal place of residence (your home), and move into another residence that you *do not own* (for example, if you move overseas or interstate), you may be able to claim an exemption from land tax. This exemption is allowed for a maximum period of six years.
- (viii) With respect to property which you have inherited, if the property in question was the deceased's principal place of residence it will be exempt from land tax for 12 months after the date of death, or until the deceased's interest is transferred in accordance with their will, whichever occurs first.
- (ix) If you rent out part of your principal place of residence to another person/s (for example, a student boarder) and receive income from this, you may still be able to claim an exemption.

(b) Land used for primary production.

You can claim this exemption for land used primarily for primary production (i.e. farming) for the purpose of selling the produce of primary production. This exemption applies even if you do not use or occupy the land but you lease it to someone else who uses it for primary production purposes;

- (c) property used for boarding houses;
- (d) low cost accommodation;
- (e) residential parks including caravan parks;
- (f) land used and occupied as a retirement village or an aged care facility (e.g. an aged care facility); and
- (g) land owned by non profit organisations.

4.43 Making Payments

If you own property other than your principal place of residence and you think you might be liable for land tax, you need to fill in a registration form (initial return) with the Office of State Revenue (OSR).

Once OSR receives your registration form, they will determine your land tax liability for that year (e.g. 2005) based on the property you owned at midnight on 31 December of the previous year (e.g. 2004). The OSR will send to you a notice of assessment which will set out all the land you own, including taxable and exempt land, and how much land tax you need to pay. If you do not receive a notice of assessment but believe you are liable to pay land tax you should seek advice from your lawyer or accountant.

Payment is generally made by instalments, however, an early payment discount is available if you pay up front. If payment of a land tax assessment will cause you serious financial hardship, you can make an application to extend or defer payment.

4.44 Need more information on Land Tax?

To find out further information about land tax, you can visit the OSR website at www.osr.nsw.gov.au or contact the OSR by telephone on 1300 139 816 or email on the following address landtax@osr.nsw.gov.au or alternatively (if you are able to) contact your accountant or tax lawyer.

4.45 New financial products - Equity release products

You may have recently heard about 'equity release products'. This is the technical term for a range of financial products marketed under various names such as 'reverse mortgages', 'home reversion schemes' or 'shared appreciation mortgages'. These financial products are sold as a way for seniors to use their own homes to generate income and are increasingly popular among people who have accumulated fixed assets, but have little income when they retire. They work by allowing you to borrow money against your house in return even though you have little income.

However, as you will see below, the way these products work means that there are risks involved (such as eviction from your home) and you should see an independent financial adviser, lawyer or accountant before purchasing or entering into any of these products.

In Australia there are currently three general types of equity release products available. We will briefly explore each below, but we recommend you contact the Australian Securities and Investment's Commission (**ASIC**) or visit its website for further details about these products before purchasing (See chapter 14, listed under 'ASIC'). ASIC have a special section dealing with consumer education and complaints about financial services.

(a) Reverse mortgages

Reverse mortgages allow older people to borrow money against their primary residence. However, unlike normal mortgages, repayments don't usually have to be made until you leave and move into care, sell your home or pass away. At that time, the loan ends and the home is sold. You, or your estate, must repay the loan, plus accrued interest and repayments owing out of the sale proceeds.

Each year the fees and interest you would ordinarily pay are added to the loan. Over time, you're charged interest on the interest, or compound interest, and that builds up the total amount that you owe.

So it is easy to see that over time and depending on the size of the loan, the amount owing can grow to eat away at the value of your property and may leave very little (or nothing) once the property is eventually sold. This will be reduced if the value of the property increases or if the reverse mortgage allows you to draw down amounts as needed rather than taking a lump sum upfront. You should check if this option exists.

If the amount owing grows to be greater than the value of your house when it is sold, then you have 'negative equity' in the home. Some, but not all, reverse mortgages guarantee that if this happens, you (or your estate) will not have to repay more than the value of your house when it is sold. However you should ask about this option and the conditions that will apply to it. For instance, you may lose this guarantee if you do not keep the house in good condition.

(b) Home Reversion Schemes

In a home reversion scheme you sell a part or all of your home to a home reversion company at a discounted price (usually between 35% and 60% of what your house is worth). But you have the right to keep living in your home until you pass away or decide you want to move.

There are two main types of home reversion schemes:

- **A sale and mortgage scheme:** You agree to sell your home, but final settlement is put off until you die or move out. A mortgage and caveat will then be placed on the property so you will not be able to deal with the property (eg lease, mortgage or sell it) without the home reversion provider's consent.

- **A sale and lease scheme** - where the home reversion provider owns the house and leases it back to you.

Home reversion schemes give best value for money for those that will be able to live in the house for a long period of time. However, if you pass away or have to go into aged care soon after entering such a scheme, you may have sold your home too cheaply compared with selling it on the market.

As with reverse mortgages you also need to be aware of the conditions that apply which will normally include an obligation on you to maintain and repair your home if it is a 'sale and mortgage scheme'. This means you must repair the property to the lender's standard and risk eviction if you don't. With a 'sale and lease scheme' it becomes the provider's obligation to repair the property, just as like in a landlord and tenant relationship. This means that you might think the house needs repair but the provider might disagree and refuse.

(c) **Shared Appreciation Mortgages (SAMs)**

With SAMs, you give up a right to some of the capital gain on your home in return for paying reduced or little interest on the loan. These types of products are relatively new and were first designed to assist home buyers by allowing them to borrow more in return for giving the provider a share of any future capital gain from the property. But some products can also be used by existing home owners to borrow money against their homes in return for giving up a share of any increase in the value of the property.

For instance, you will be able to borrow up to 20% of the value of your home and will not need to pay interest on this money. But when the property is ultimately sold, you repay up to 40% of capital gain on the property to the finance provider. If a loss is made (because the property has fallen in value over that period) then the provider will also share a percentage of that loss.

Like other equity release products, certain conditions will apply. Some common examples are that you must continue to occupy the house as your primary residence, you cannot lease the property or mortgage the property without the finance provider's consent and you may not improve or renovate without the finance provider's consent.

In considering any of these products, you should keep in mind that if someone else lives in your home with you, they must also sign up as they won't generally have any right to live there after you die unless they repay the loan.

4.46 **Getting advice and asking questions**

Make sure you get a lawyer to read the terms and conditions and explain exactly what you're signing up for. On the financial side, if you already use a licensed financial planning service, then talk the idea over with your adviser. If you don't use a financial planner, you could ask an accountant to help. You need someone who understands financial matters, knows your personal needs and will put your interests ahead of anything else. Always check how your adviser is being paid for the advice they give you.

In seeking advice, we have adapted a list of questions from ASIC's website, which you should discuss with your financial adviser, accountant or lawyer:

- (a) What are the upfront and ongoing fees (including legal, valuation, application, maintenance, insurance, early repayment and ongoing costs)?
- (b) What is the interest rate? Is it fixed or variable? (If interest rates rise, you may have much less equity in your home.)
- (c) How will it affect my pension and tax?

- (d) Could I be left owing more money than my house is worth (ie a 'negative equity' situation)? What are my obligations if this happens?
- (e) Will I have enough money left to pay for aged care accommodation if I need it?
- (f) What is the likely cost of future maintenance and repairs while I continue to live there? Can the provider evict me if I can't repair and maintain the property?
- (g) What are my rights if anything goes wrong? Can I get complaints resolved impartially and at low cost?
- (h) What is the affect on other people living with me at my house?
- (i) Would I be better off selling your home and moving to somewhere smaller?

(Sourced from: www.fido.gov.au/equityrelease with permission)

4.47 'Get Rich Quick' schemes

While we are talking about financial products and services, we stress the need for you to be vigilant before buying or entering into them. While there are many new financial products and services legitimately aimed to assist the elderly to better manage their finances, there are also a few high risk or questionable products out there too. If something sounds too good to be true, it generally is.

If you are being asked to buy a product or financial service, we recommend you seek advice before proceeding. Do not let them push you into making a hurried decision. Some techniques to buy you time to make an informed and considered decision include taking their contact details and telling them that you will contact them once you have had a chance to think it over. Or you can also ask them to put their offer in writing before you make a decision. If they refuse, reinforce your legal right to quality advice and quality information before purchasing.

Once you have bought some time, you can then contact ASIC for information about financial products or see your accountant or licensed financial adviser.

There is no shortage of people offering you 'once in a lifetime deals' to financial security, whether it be a share in some unclaimed money they have discovered or property investment schemes with 'absolutely guaranteed returns'. You can see some amusing, and tragic, examples of scams and shady financial products on ASIC's consumer website www.fido.gov.au (see chapter 14 under 'ASIC' for full details)