



# Westpac Protection Plans Technical Guide.

19 October 2009

**This document outlines important information about Taxation and Superannuation, relevant to your Westpac Protection Plans products.**

**It should be read in conjunction with the Westpac Protection Plans Product Disclosure Statement and Policy Document, dated 19 October 2009.**

## **To find out more:**

**Ask** your financial planner.

**Call us** on 131 817, Monday to Friday 8.00am – 6.30pm EST, for enquires.

**Visit** [westpac.com.au](http://westpac.com.au) to find out more.

## **Who's responsible for Westpac Protection Plans**

**The insurer** is Westpac Life Insurance Services Limited (Westpac Life) ABN 31 003 149 157, Australian Financial Services Licence Number 233728.

**The issuer** for all products, except for Westpac Term Life as Superannuation, is Westpac Life. For Westpac Term Life as Superannuation, the issuer is Westpac Securities Administration Limited (WSAL) ABN 77 000 049 472, Australian Financial Services Licence Number 233731, RSE Licence Number, L0001083.

**The Trustee** of Westpac Term Life as Superannuation is WSAL which is part of the Superannuation Division of Westpac MasterTrust (**the Fund**) ABN 81 236 903 448, SFN 281412, SPIN WFS0112AU, RSE Licence Number R1003970.

This is the Technical Guide referred to in the current Westpac Protection Plans Product Disclosure Statement and Policy Document (PDS). The Technical Guide is valid until it is replaced by a later version. You should use the Technical Guide to obtain further information about the Westpac Protection Plans products that are of interest to you. The Technical Guide must be read in conjunction with the PDS and is not intended to be read as a document in its own right. The PDS makes specific reference to this Technical Guide.

# Understanding Tax.

The taxation information described in this section is a general statement only, and is based on continuance of present tax laws at August 2009 and interpretation of those laws. Your individual situation may differ and you should seek independent professional tax advice.

## Taxation treatment of your Product (except Westpac Term Life as Superannuation)

### 1. Westpac Term Life, Westpac Standalone Living Insurance, Westpac Standalone Total and Permanent Disablement and Westpac Children's Benefit

#### (a) Premium impact

- **For individuals:** Premiums are not tax deductible.
- **For Business:** The deductibility of premiums will depend on the specific circumstances of each Policy. For example, if you take out Westpac Term Life and the objective of the Policy is to cover the loss of business revenue associated with the loss of a key employee, the premiums paid by the business may be an allowable tax deduction.

There may be fringe benefits tax implications in respect of premiums, where benefits are to be applied for employees or their dependants.

Certain components of the Total and Permanent Disablement insurance premium may be considered to be not tax deductible and you should seek specific tax advice.

#### (b) Benefit impact

- **For individuals:** Generally any benefits will not be treated as assessable income for tax purposes. However, there may be capital gains tax implications in certain circumstances\*. We recommend you seek individual tax advice.
- **For business:** The assessability of the benefit will depend on the specific circumstances of the Policy. For example, if you take out Westpac Term Life and the objective of the Policy is to cover the loss of business revenue associated with the loss of a key employee, the benefit may be treated as assessable income. There may also be tax implications if a death benefit termination payment is made by the business to dependants or non-dependants of the deceased.

\*Such as when we pay a Death Benefit under a Term Life Policy and the Policy Owner is not the original owner of the Policy, or where we pay a benefit under a Living Insurance or Standalone Total and Permanent Disablement Policy and the Policy Owner is not the Insured Person or a relative (as defined for tax purposes).

### 2. Westpac Income Protection, Westpac Income Protection Plus and Westpac Business Overheads

#### (a) Premium impact

Premiums paid are generally tax deductible.

#### (b) Benefit impact

Payments you receive are generally assessable for tax purposes.

## Taxation treatment of Westpac Term Life as Superannuation

### 1. Tax concessions on contributions

#### (a) Employer contributions

Employers can claim tax deductions on all contributions to superannuation on behalf of their employees, subject to the eligibility rules described in 'Eligibility to contribute to Superannuation' on page 4.

#### (b) Personal contributions

You may be eligible to claim a full tax deduction on your personal after tax contributions if you are self employed or substantially self employed. There are no limits on the amount you may claim as a deduction, but additional tax will apply on those contributions made in excess of the concessional contributions cap (refer to 'Contributions caps' on page 5).

To be able to claim the deduction, you will need to provide a valid personal tax deduction notice to the trustee by the earlier of:

- the date you lodge your personal tax return in which you claim the deduction for the contributions, and
- the end of the financial year following the financial year in which you made the contributions, and
- the date the trustee ceases to hold the contributions covered in the notice, and
- the date you cease to be a member of the Fund (generally the date your cover ceases).

#### (c) Spouse contributions

Your spouse may be able to claim a tax offset of up to \$540 for contributions they make to your superannuation account. The maximum offset will be available if your income is below \$10,800 pa and reduces to \$0 once your income is \$13,800 pa. Government eligibility rules apply.

## 2. Tax payable on contributions

### (a) Concessional contributions

The following concessional contributions are subject to taxation at a maximum rate of 15% within Westpac Term Life as Superannuation:

- employer contributions; and
- personal after tax contributions for which you claim a personal tax deduction.

### (b) Excess concessional contributions

If contributions are made in excess of the relevant concessional contributions cap (refer to 'Contributions caps'), those contributions are liable for additional tax at a rate of 31.5%. The Australian Taxation Office (ATO) will inform you of this liability and provide you with a Release Authority which will allow you to meet the liability by withdrawing amounts from a superannuation fund. Alternatively, you may pay the tax with your own money. Westpac Term Life as Superannuation will not be able to release amounts to pay your tax liability since no account balance is maintained for you.

### (c) Non-concessional contributions

No tax is payable on the non-concessional contributions made to the Fund unless the relevant non-concessional contributions cap (refer to 'Contributions caps') is exceeded.

### (d) Excess non-concessional contributions

If your contributions are made in excess of the non-concessional contributions cap, those contributions are liable for tax at a rate of 46.5%. The ATO will inform you of this liability and provide you with a Release Authority. You must withdraw the required amount from a superannuation fund to pay the tax, using the Release Authority. Westpac Term Life as Superannuation will not be able to release amounts to pay your tax liability since no account balance is maintained for you.

## 3. Tax on superannuation lump sums

### (a) Taking a cash lump sum benefit

Any tax the Trustee is required to deduct will depend on your age and the tax components within your benefit, as shown in the table below:

Age	Taxable component	Tax-free component
<b>Under 55</b>	20% + Medicare levy	Tax free
<b>55-59</b>	Up to the low rate cap*: Nil Above the low rate cap: 15% + Medicare levy	Tax free
<b>60 and over</b>	Tax free	Tax free

\*\$150,000 for 2009/10. This amount will be indexed to Australian Weekly Ordinary Time Earnings (AWOTE) rounded down to the nearest \$5,000 in subsequent years.

If you are under age 60 and the trustee does not hold your Tax File Number (TFN), it is required to deduct tax on the taxable component at the highest marginal tax rate plus the Medicare levy.

### (b) Taking a cash lump sum as a result of suffering from a terminal medical condition

Members who are suffering from a terminal medical condition will be able to receive a lump sum superannuation benefit that is exempt from tax. For this product, this may be the result of receiving either a TPD Benefit or Terminal Illness Benefit.

A member will be taken to be suffering from a terminal medical condition if two registered medical practitioners certify that the member suffers from an illness, or has incurred an injury that is likely to result in their death within a period of 12 months (the certification period). At least one of these certifying practitioners must be a specialist practicing in an area related to the member's injury or illness.

## 4. Tax on death benefits

Death benefits paid as a lump sum to your dependants (for tax purposes) are tax-free. A dependant for tax purposes includes your spouse or former spouse, your children under 18, a person who was wholly or substantially financially dependent on you at the time of your death and a person with whom you were in an interdependency relationship\* at the time of your death.

Death benefits paid as a lump sum to a non-dependant for tax purposes will be taxed in the following manner:

<b>Tax free component</b>	Tax free
<b>Taxable component</b>	Taxed at 15% plus the Medicare levy.
<b>Taxable component (untaxed element)</b>	Taxed at 30% plus the Medicare levy.

An untaxed element arises where the lump sum death benefit contains an insurance payout, where the benefit is paid to a non-dependant. The amount of the untaxed element is calculated by using a statutory formula.

Death benefits paid as a lump sum to your estate are taxed within the estate depending on whether your Beneficiaries are your dependants or non-dependants for tax purposes.

Westpac Term Life as Superannuation does not pay death benefits as pensions. The tax treatment of death benefits paid as an income stream is different to that outlined above. You should consult your financial planner for advice.

\*An interdependency relationship is a close personal relationship between two people who live together, where one or both of them provide for the financial and domestic support and personal care of the other. An interdependency relationship may still exist if there is a close personal relationship but the other requirements are not satisfied because of some physical, intellectual or psychiatric disability.

# Understanding Super.

**The superannuation information described in this section covers information relevant to Westpac Term Life as Superannuation, and is based on current superannuation laws at 31 August 2009 and interpretation of those laws. Your individual situation may differ and you should seek independent professional advice.**

## 1. The Westpac MasterTrust ('Fund')

The Fund is a regulated superannuation fund under the Superannuation Industry (Supervision) Act 1993 and is a Registrable Super Entity (RSE) under the Act. Westpac Life is responsible for day-to-day management including the recording of contributions, administration and payment of benefits on behalf of the Trustee.

The operation of the Fund is governed by the Trust Deed. You can request a free copy of the Trust Deed by writing to us or calling 131 817.

The Trustee is indemnified for liability it incurs in respect of the insurance, unless the liability arises from fraud, a negligent act, default, omission, breach of duty or breach of trust, or such other act or omission specified by superannuation legislation.

## 2. Membership of the Fund

As a member of the Fund with insurance, you pay contributions to the Fund to cover the premiums that are due under the insurance policy (throughout this document, we may use the term 'premiums' instead of 'contributions').

To be a member of the Fund with insurance you must be eligible to contribute to superannuation or have contributions made to superannuation on your behalf. Please note that the eligibility criteria to make contributions may change from time to time as required by law.

## 3. Tax File Numbers (TFNs) and contributions

While you are not required by law to supply the Trustee with your TFN, you will be ineligible to apply for Westpac Term Life as Superannuation if you have not provided us with your TFN.

Due to Government legislation, the Trustee is unable to accept non-concessional contributions (generally after-tax contributions made by you, or on your behalf, other than employer contributions) from you if you have not provided them with your TFN. The Trustee has further determined that the Fund will not accept any contributions made by you or on your behalf unless your TFN has been provided to them. Please read the Tax File Number Notification in the Application Form at the back of the PDS for further details relating to the quoting of your TFN.

## 4. Eligibility to contribute to Superannuation

The rules that apply to superannuation contributions generally depend on your age and/or employment status. These rules are outlined below.

Age	When contributions can be made
<b>If you're aged under 65 years</b>	You can make contributions to superannuation or have contributions made on your behalf at any time. You don't need to be employed or meet any other eligibility rules.
<b>If you're aged between 65 and 74 years</b>	<p>You can make contributions, or have them made on your behalf (except for spouse contributions) if you have been gainfully employed for at least 40 hours in a period of not more than 30 consecutive days in the financial year in which you wish to make the contributions or have contributions made on your behalf. You must make a new employment declaration for each financial year.</p> <p>Spouse contributions can only be made on your behalf if you meet the work test described above and you are under 70 years of age.</p> <p>Superannuation Guarantee contributions (SG) are only required to be made until age 70.</p>
<b>If you're aged 75 years and over</b>	Only mandated employer contributions (award or certified agreement but not SG) are allowed.

## 5. Contributions accepted into Westpac Term Life as Superannuation

The following contributions can be accepted:

Contributions made by	Description
<b>Your employer</b>	Your employer can make mandated or voluntary employer contributions. You may be able to arrange salary sacrifice contributions with your employer. These are additional employer contributions made from your pre-tax salary.
<b>You</b>	You can make your own personal contributions to superannuation from your after tax income. In some cases you may be able to claim a personal tax deduction for these contributions (refer to 'Tax concessions on contributions').
<b>Your spouse</b>	Your spouse may make contributions to your superannuation, as long as the contribution is paid from an account in the name of the contributing spouse or a joint account where the contributing spouse is an account holder.

The following contributions **cannot** be accepted:

Contributions made by	Description
<b>Government</b>	Subject to eligibility criteria, each year the Government will contribute up to \$1.00 for each dollar of personal after tax contributions you make. Personal contributions made to Term Life as Superannuation may qualify you for Government co-contributions, but the Fund is unable to accept these co-contributions. You must nominate another superannuation account to accept these contributions.

## 6. Contributions caps

The Government has set caps on the amount of contributions which can be made each year on a concessional basis. Additional tax applies to contributions made in excess of the relevant cap.

These caps depend on whether the contributions are classified as concessional or non-concessional contributions, or are being made as a result of the sale of a qualifying small business. The caps apply to all contributions you make to any superannuation fund, including the Fund, as they apply on a per person basis. The table below outlines the types of contributions that may count towards your contributions caps.

<b>Concessional contributions cap</b>	This cap includes the following types of contributions: Employer contributions (including salary sacrifice) After tax contributions for which you claim a personal tax deduction Untaxed elements of the taxable component of directed termination payments over \$1 million contributed under the transitional rules for employment termination payments*	The cap is \$25,000 per member for the 2009/10 financial year, and will be indexed to Average Weekly Ordinary Time earnings (AWOTE), rounded down to the nearest \$5,000 in subsequent years.  For those aged 50 or over at any time in a transitional financial year, a transitional cap of \$50,000 (not indexed) will apply. Transitional financial years are the years between 2008/09 and 2011/12 inclusive.  Concessional contributions in excess of the relevant cap will be subject to additional tax (refer to 'Taxation treatment of Westpac Term Life as Superannuation' on page 2).
<b>Non-concessional contributions cap</b>	This cap includes the following types of contributions: After tax contributions for which no tax deduction is claimed (including spouse contributions) Amounts transferred from overseas super funds (excluding the taxable amount of such transfers)* Amounts in excess of the CGT cap* Amounts of concessional contributions in excess of the concessional contributions cap	The cap is \$150,000 per member for the 2009/10 financial year. This will not be separately indexed, but will remain fixed at six times the concessional contributions cap (currently \$25,000).  People under age 65 will be able to 'bring forward' future entitlements to two years' worth of non-concessional contributions, allowing up to \$450,000 over a three year period to be contributed without an additional tax liability. There is no indexation during the three year period.  Non-concessional contributions in excess of the relevant cap will be subject to additional tax (refer to 'Taxation treatment of Westpac Term Life as Superannuation' on page 2).
<b>CGT cap</b>	Contributions made from certain amounts arising from the disposal of qualifying small business assets, provided that a tax deduction is not claimed for the contribution*	A lifetime cap of \$1.1 million (indexed) is available, provided that this is a personal contribution for which no deduction is claimed.

\*These contribution types are not able to be made to Westpac Term Life as Superannuation. They are included to show you the main types of contributions that may count towards your contributions caps.

There are no caps on amounts contributed from certain payments for personal injury, provided that no deduction is claimed for the contribution.

In addition to the member caps described above, superannuation funds are generally unable to accept single non-concessional contributions in excess of \$450,000 (or \$150,000 if you are 65 or over on 1 July of the financial year in which you contribute) from a member in any financial year.

Please note that it is your responsibility to ensure contributions to superannuation are within your concessional and non-concessional contributions caps. The trustee is required to reject certain single contributions which are in excess of the non-concessional contributions caps (as outlined above) but cannot monitor your overall position.

## 7. Beneficiary Nomination Guidelines

### (a) Payment in the event of your death

You can nominate one or more persons to receive the whole or a part of your benefit in the event of your death. If you do so, the nominated person will be paid the relevant share of your benefit on your death if at that time:

- the nominated person is a dependant for the purpose of superannuation law or your legal personal representative ('LPR') (normally the executor of your will) and
- you have not revoked the nomination and
- your nomination is not invalid for any reason (see below).

For this purpose a dependant includes:

- your spouse\* and
- any of your children (including adopted, step and adult children) and
- any person with whom you are in an interdependency relationship at your death and
- any other person who is financially dependent on you at the date of your death.

An interdependency relationship is a close personal relationship between two people who live together, where one or both of them provide for the financial and domestic support and personal care of the other. An interdependency relationship may still exist if there is a close personal relationship but the other requirements are not satisfied because of some physical, intellectual or psychiatric disability.

If you do not make a nomination, or the nomination you make is defective, your benefit will be paid to your LPR or, failing that, to one or more of your dependants as the Trustee determines.

### (b) It is important to review your nomination regularly

You should review your nomination regularly to ensure that it continues to reflect your wishes. You can change your nomination at any time by completing the Nomination of Beneficiaries Form, obtainable by telephoning the Customer Relations Centre on 131 817. You can also revoke your nomination at any time without making a new one by writing to us.

Normally, after being notified of your death, the Trustee will consider whether to approve the last nomination received from you. Once the Trustee approves it, your nomination becomes valid and binding. But the Trustee will not approve a nomination if it has reason to believe that the nomination was invalid when you made it, or became invalid afterwards.

### (c) Invalid nomination

Your nomination will be invalid when you make it if:

- it is unclear to the Trustee (e.g. because it is illegible or because the nominated proportions do not total 100%) or
- the Trustee has actual knowledge that, when you made the nomination, you did not understand the consequences of making it or
- you do not sign or date the form.

Your nomination may also become invalid after you make it if certain events occur, including marriage, divorce, and commencing or ceasing co-habitation with a person of either sex. At the date of your death, your nomination may have become invalid if a nominated person has either:

- died or
- is no longer your dependant.

You should contact us to revise your nomination if any of these events occur.

### (d) What if I don't make a nomination?

If you do not nominate any Beneficiaries then your benefit will normally be payable to your estate.

### (e) Professional estate and financial planning advice

Ordinarily, a valid nomination will be approved by the Trustee and so become binding. You should therefore take professional estate and financial planning advice before making one.

## 8. Conditions applying to payment of benefits under superannuation law

Superannuation law restricting payments from superannuation funds applies to all Benefits paid under the Policy. This means the Trustee can only release benefits to you if you meet a condition of release for superannuation law purposes.

Examples of some circumstances (referred to as 'conditions of release') in which the Trustee currently may be permitted to release preserved benefits are as follows:

\*Your spouse includes:

- your husband or wife via marriage or
- your de facto partner or any other person with whom you are in a relationship (provided that this relationship is registered under a certain state or territory law) or
- another person who, although not legally married to you, lives with you on a genuine domestic basis in a relationship as a couple.

- meeting the financial hardship conditions
- qualifying on compassionate grounds
- departing Australia permanently, having been a temporary resident of Australia (on a specified class of visa)
- having reached your preservation age and permanently retired from full or part-time employment
- having turned 60 and ceased employment with an employer on or after that age
- suffering from a terminal medical condition
- having turned 65
- becoming permanently incapacitated.

Preservation age is between age 55 and 60, depending on your date of birth:

Date of birth	Preservation Age
Before 1 July 1960	55
From 1 July 1960 to 30 June 1961	56
From 1 July 1961 to 30 June 1962	57
From 1 July 1962 to 30 June 1963	58
From 1 July 1963 to 30 June 1964	59
On or after 1 July 1964	60

Permanent incapacity means ill-health (whether physical or mental), where the Trustee is reasonably satisfied that you are unlikely, because of the ill-health, to engage in gainful employment for which you are reasonably qualified by education, training or experience.

A terminal medical condition exists at a particular time if two medical practitioners certify that you are suffering from an illness, or have incurred an injury, that is likely to result in death within 12 months from the date of the certification (the certification period). At least one of the medical practitioners must be a specialist in the area of your illness or injury.

If you do not satisfy a condition of release, the Trustee must preserve the benefit in the Fund until it is allowed to release it. Should this situation arise, the Trustee will write to you, explaining your options in relation to the preserved benefit. Please keep this in mind if you are eligible for a Terminal Illness or Total and Permanent Disablement Benefit.

## 9. Family law – treatment of superannuation on divorce

### (a) Family Law Act 1975 ('FLA')

Provisions of the Family Law Act 1975 ('the Act') deal with the treatment of superannuation on relationship<sup>1</sup> or marriage breakdown with a spouse<sup>2</sup>. The Act provides that a member's superannuation benefit may be split with the member's spouse or former spouse on marriage or relationship breakdown. Alternatively a payment flag may be imposed on your benefit in the Fund.

You only accrue a benefit in the Fund in the unfortunate event that you have a valid claim under the Westpac Term Life as Superannuation Policy. In this event, Westpac Life will deposit the relevant amount of insurance to your account with the Fund.

In order for the Trustee to commence any payment split or impose a payment flag on your account, the Trustee must have been served with either:

- a superannuation agreement, made between you and your spouse or former spouse, and in accordance with the requirements of the Act, or
- an order of the Family Court of Australia, that specifies how your benefit is to be split with your spouse or former spouse or that a payment flag must be applied to your account.

The Act also specifies that the Trustee must be provided with certain evidence of marriage or relationship breakdown if you serve a superannuation agreement on the Trustee. You and/or your spouse or former spouse may arrange for the required documents to be served on the Trustee. Documents can only be served on the Trustee for the purposes of the Act at the following address:

Family Law and Superannuation Officer  
Legal Department  
Westpac Securities Administration Limited  
Westpac Place, 275 Kent St  
SYDNEY NSW 2000

All documents served on the Trustee should be either an original or a certified copy.

If the Trustee is required to effect a payment split on your benefit, the value of your account will reduce by the amount that is paid to, or for the benefit of, your spouse or former spouse.

### (b) Information about your superannuation benefit

Where an eligible person under the Act wishes to negotiate a superannuation agreement with you (which may be before or during a relationship, or after relationship breakdown) or facilitate the preparation of an order of the Family Court, they may apply to the Trustee to receive information about your benefit. Where the application is made in accordance with the requirements of the Act, the Trustee will be obliged to provide the requested information and will not be permitted to inform you about the application.

### (c) Fees and expenses may apply

If your accrued benefit and/or account with the Fund becomes affected by the FLA and the Trustee is required to take certain action, you will be notified of any fees that may be charged by the Trustee for undertaking such action.

### (d) Professional advice

The Act involves many complex requirements in relation to splitting a superannuation benefit. It is recommended that, if you believe your benefit will be affected by the Act, you should consult your legal adviser, financial adviser and/or accountant.

**Should you have any questions in relation to the above, please do not hesitate to call our Customer Relations Centre on 131 817, 8.00am to 6.30pm (Sydney time), Monday to Friday.**

1. Legislation to expand the Family Law Act to cover relationship breakdown as well as marriage breakdown came into effect on 1 March 2009 (with the possible exception of South Australia and Western Australia).

2. Your spouse includes:

- your husband or wife via marriage; or
- your de facto partner or any other person with whom you are in a relationship (provided that this relationship is registered under a certain state or territory law); or
- another person who, although not legally married to you, lives with you on a genuine domestic basis in a relationship as a couple.