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Death & Taxes

Tax Considerations in Risk Advice

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Death & Taxes

Tax efficiency is a critical component of life insurance advice. Whether it's premiums, claims payments, or even fees, tax is always an area of key concern for clients.

In this session we consider funding strategies, structural considerations and claims outcomes in risk advice through a tax lense while considering the impact of TD 2024/7 on risk advice fees.

Agenda

- 01 Tax & Risk Advice in 2025
- 02 When do we create tax events?
- 03 Tax treatment of premiums
- 04 Tax treatment of claims
- 05 Tax deductibility implementation
- 06 Commercial implications



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01

Tax & Risk Advice in 2025

“

In this world nothing is certain but

Death & Taxes

Benjamin Franklin

ATO Tax Determination 2024/7



Background

- **Previously TD 95/60** had been the standard with a far more limited scope of deductibility on fees.
- **TD 2024/7** replaces TD 95/60 providing the scope for financial advice fees to be partially deductible for individuals.
- **Section 8-1 ITAA:** General deduction for advice relating to gaining or producing assessable income.
- **Section 25-5 ITAA:** Deduction for costs of managing tax affairs, including tax (financial) advice



Implementation

- **Points 23 & 24** of TD 2024/7 explicitly points to the deductibility of fees relating to income protection under s8-1.
- **Point 36** gives the view of the ATO that tax (financial) advice as defined in s90-15 of the Tax Agent Services Act will be deductible.
- **Individuals** are responsible for apportionment of fees and sufficient apportionment methodology.



Considerations

- **When** does tax (financial) advice impact life insurance advice?
- **How** do we appropriately apportion and demonstrate methodology?
- **How** do we support our advice deductibility in files notes and client documentation?

ATO Determination: Example Scenario

Risk Advice & Deductibility

Advice in Relation to Insurance Policies

- **Lara** is a financial adviser and a recognised tax adviser for the purposes of section 25-5. Lara meets with Ollie who is seeking advice on his insurance needs to protect his lifestyle and family.
- **Lara** makes relevant enquiries about Ollie's personal circumstances. Lara assesses Ollie's financial situation by considering his assets and liabilities, income, risk profile and tax profile. In doing so, Lara considers the costs and benefits of holding insurance policies both inside and outside of superannuation before making any recommendations.
- **Lara** provides advice to Ollie about how much insurance cover Ollie needs to protect his lifestyle and family. Lara advises Ollie about the tax implications of making payments for income protection, life, total and permanent disability and trauma insurance policies. She also advises Ollie about the income tax treatment of any payments received under the policies. It is reasonable to assume that Ollie will rely on Lara's advice.
- **Lara** advises Ollie to apply for a number of policies provided by an insurance company and that these policies should be held outside of the superannuation system. Lara charges Ollie a fee for providing this advice with the component of the fee that relates to the provision of advice on the income protection insurance deductible under section 8-1 as it is incurred in the course of gaining assessable income and is not capital or of a capital nature.
- **Ollie** will be able to claim a deduction under section 25-5 for the portion of the fee that is for tax (financial) advice provided by Lara. This is because the advice was provided in relation to managing Ollie's tax affairs, it is provided by a recognised tax adviser and the requirements of section 25-5 are satisfied.

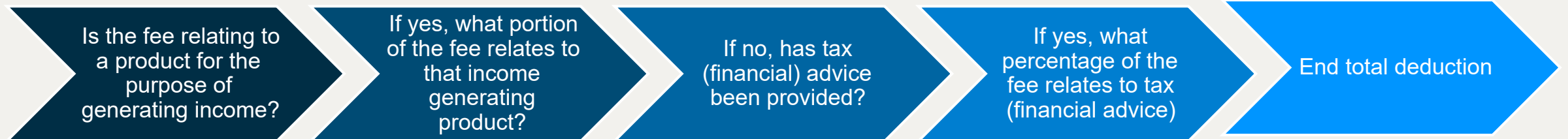
Avenues for Deduction

S8-1 ITAA 1997

- General deduction for expenses in the course of generating assessable income.
- Income does not need to be produced in the year the outgoing is incurred
- Must be sufficient connection between the expenses and the 'activities which more directly gain or produce assessable income'

S25-5 ITAA 1997

- Tax (financial) advice
- Not factual information about a product
- Requires application or interpretation of tax laws in relation to the client's circumstances
- Must be authorised as a recognised tax adviser



What this means for Risk Advice

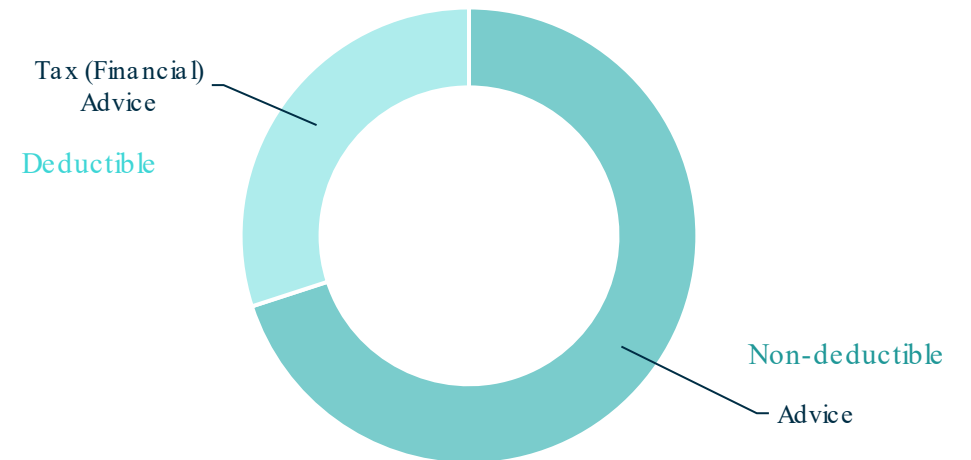
Income Related (s8-1)

Income producing products (income protection) – 100% of apportioned amount of fee relating to income protection.



Cost of Managing Tax Affairs (s25-5)

Tax (Financial) Advice in relation to lump sum insurance – apportion percentage of total cost based on professional judgement.



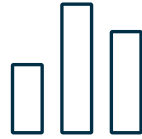
Methods of Apportionment

Third Option— *may suit Holistic Advice*

Strategy Basis

Percentage split of Fee relating to different strategies

- Take total premium cost
- Split by portion of overall strategy
- Overlay premium split with fee
- Apportion deductibility under s8-1 and s25-5



Premium Split Basis

Percentage split of Fee relating to product vs percentage of premium relating to product

- Take total premium cost
- Split by product
- Overlay premium split with fee
- Apportion deductibility under s8-1 and s25-5



Time Basis

Percentage of time spent on advice in each product area overlayed with total fee

- Break fee down by time spent on each product/advice area.
- Apply to fee
- Apportion deductibility under s8-1 and s25-5

Example Scenario

Premium Split Apportionment

- Start by taking the total premium cost = \$5000
- Break into premium for each product
- Apply the percentage split the advice fee
- Full amount deductible for Income Protection portion under s8-1
- 30% of Life/TPD portion deductible under s25-5

Pros:

- Simple
- Easy to calculate
- Clean
- Avoids further documentation and record keeping

Cons:

- May not be as precise in product area apportionment to cost of advice provision in fee calculation

Premium Split Method

Total Premium	\$5,000
Total Advice Fee	\$1,000

Product	Premium Amount	%	Deductible Amount
Income Protection	\$2,500	50%	\$500
Trauma	\$1,000	20%	\$0
TPD	\$750	15%	\$45
Life	\$750	15%	\$45
Total	\$5,000	100%	\$590

Example Scenario

Time Split Apportionment

- Start by taking the total fee amount
- Break down fee by time allocated to each product area
- Overlay percentage with fee to arrive at deductible portions
- 100% of IP portion deductible under s8-1 & 30% of Life/TPD portion under s25-5

Pros:

- Precise

- True reflection of complexity

- Aligned to cost-to-serve

Cons:

- Complex

- Record keeping

- Consistency

- Open to interpretation

Time Allocation Method			
Total Premium	\$5,000		
Total Advice Fee	\$1,000		
Product	Time Allocated (hours)	%	Deductible Amount
Income Protection	2	44.44%	\$444.44
Trauma	0.5	11.11%	\$0
TPD (Super)	1	22.22%	\$66.67
Life (Super)	1	22.22%	\$66.67
Total	4.5	100%	\$577.78

Example Scenario

Strategy Based Apportionment

- Start by taking the total fee amount
- Break down fee by the portion of the strategy each recommendation relates to
- Overlay percentage with fee to arrive at deductible portions
- 100% of IP portion deductible under s8-1 & a percentage of Life/TPD portion under s25-5

Pros:

- Flexible
- Easy to Use
- Great when insurance is part of holistic strategy

Cons:

- May not be precise
- Potential lack of basis to support apportionment
- Requires some additional steps of analysis

Strategy Based Apportionment					
Total Premium	\$5,000				
Total Advice Fee	\$1,000				
Strategy	Portion related of total advice	Deductible Under s25-5	Deductible Under s8-1	Deductible Portion of Activity	Deductible Fee Amount
Purchase Income Protection	30%	No	Yes	100%	\$300
Purchase Life & TPD	20%	Yes	No	50%	\$100
Purchase Trauma Insurance	10%	No	No	0%	\$0
Make Non-Concessional Contribution to Superannuation	20%	Yes	No	50%	\$100
Cash Flow & Budgeting Analysis and Advice	20%	No	No	0%	\$0
Total	100%				\$500

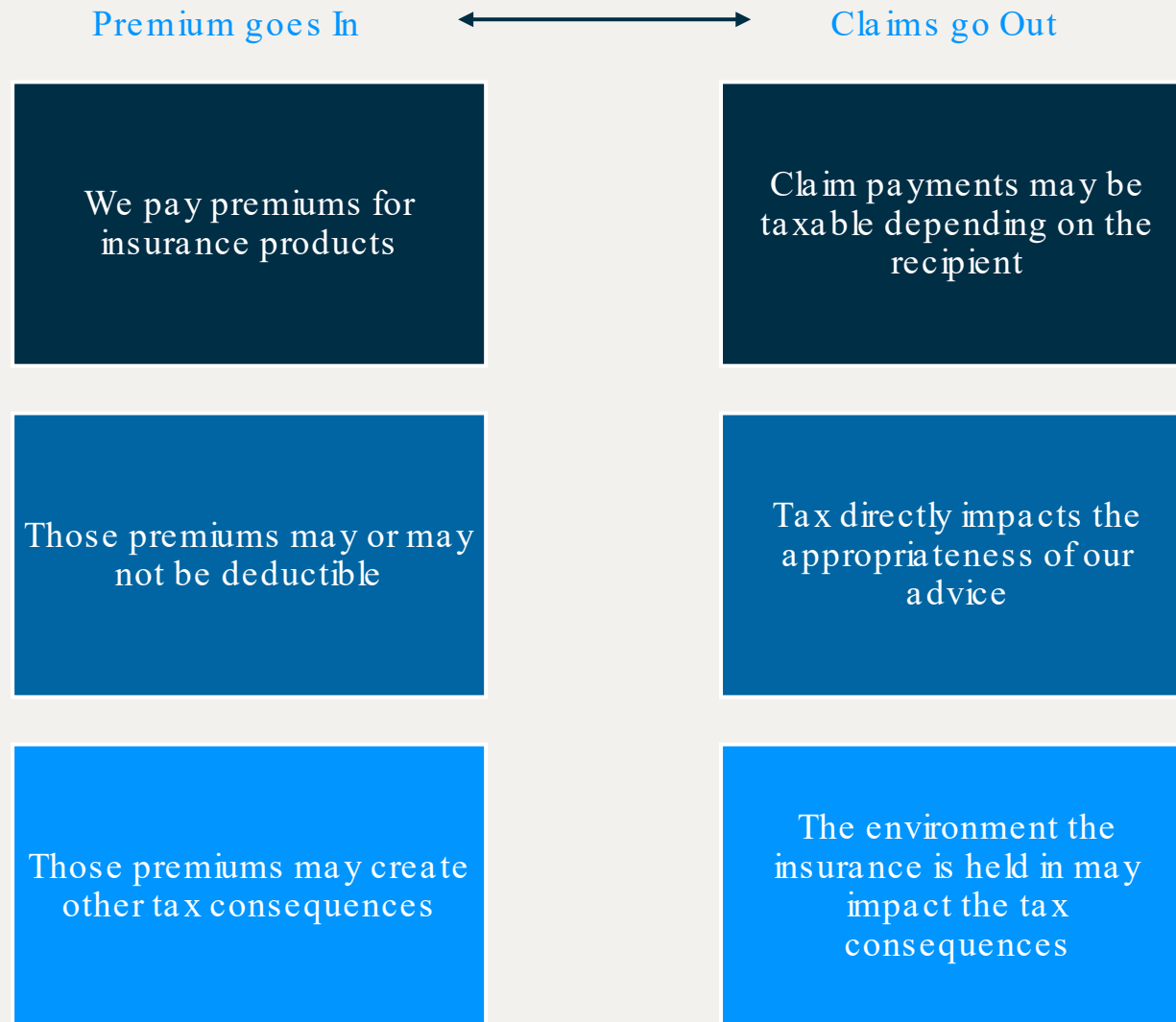


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02

When do we create tax
events?

When do we create Tax Events?



Superannuation & Risk Advice

Housing Life Insurance in Superannuation

- Superannuation has become a hugely popular vehicle for life insurance advice.
- May offer cash flow benefits
- May offer estate planning benefits
- May offer tax benefits
- May offer claims flexibility
- Will impact future retirement savings
- Is an important part of strategic life insurance advice

Over
70%

Of new business
recommendations for
Life/TPD are
owned/funded via
Superannuation

Life Insurance and Tax Events



Advice

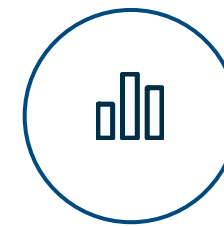
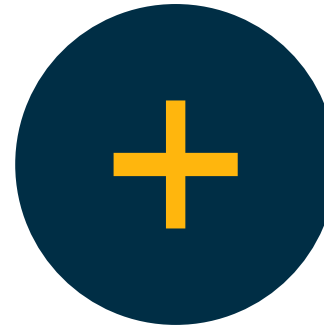
- Provides certainty through funding risk exposures
- Gets the right amount, to the right person, in the right form, at the right time.

Pay Premiums

- Interacts with tax law
- Interacts with superannuation law.

Make Claim

- Interacts with tax law
- Interacts with superannuation law.

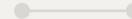
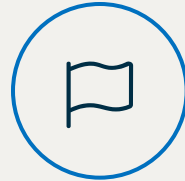


Superannuation

- Trustee as policy owner
- Receives/pays premiums and receives/pays claims benefits
- Subject to both SIS and Tax law
- Adds complexity.

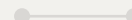
Client Expectations and Tax

Expectation
The product purchased will provide the adequate amount of funding for the exposures identified.



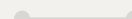
Reality
The product may pay – but will the end amount received align?

Paying Tax
Expectation to pay as little as possible – or if not educated an expectation that all benefits are tax-free..



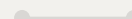
Expectation
Must align with reality and be supported by our advice

Claims Payments
Aren't just a pile of money but are designed to fill a specific need and this may mean different forms of payment will be adequate and tax will impact decisions..



Expectation
Once the benefit is paid by the insurer, I will be able to take a lump sum straight away and tax-free.

Advice
Should create certainty, including tax impacts to maximise efficiency and appropriateness of premiums and claims benefits received



Outcome
Informed risk mitigation with advice that gets the right amount to the right person in the right form at the right time.



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03

Premium Payments & Tax

Premium Payment Methods

How can we pay premiums inside and outside of super?

- **Paying** premiums via a non-super ownership & payment may be efficient for some covers (Income Protection) but not others (Life & TPD)
- **Rollover** payment under super is common and gives some efficiency
- **Greater** efficiency again may come from funding via a personal contribution, or a combination of the two.

1 From non-super after tax dollars

2 From superannuation accumulation account (with rollover rebate and contributions tax on contributions)

3 From personal contribution

4 Combination

Inside vs Outside Super Comparison

Life &TPD Cover

Tax efficient Funding

- **Superannuation** provides an opportunity for incredibly tax-effective funding of normally inefficient Life &TPD benefits
- **The trustee** premium deduction of 15% (shown in rollover rebates) starts to illustrate this
- **Individual** s often have a far higher MTR than a superannuation trustee
- **What's the true cost** of funding instead from the individual and claiming as a personal contribution?

Comparison – Funding Life &TPD Gross Cost \$ 1000 Premium		
MTR	Outside Super Earnings (Pre-Tax)	Inside Super Contribution (Post Deduction)
18%	\$1,219.51	\$1,039.51
32%	\$1,470.59	\$1,150.59
39%	\$1,639.34	\$1,249.34
47%	\$1,886.79	\$1,416.79

Notice of Intent to claim a tax deduction (s290 form) cheat sheet

All superannuation contributions are non-concessional by default

The NOI form provided to the trustee then classifies the contribution as a concessional contribution

Member must still be a member of the fund when form received

Monies must still be within the fund when form received

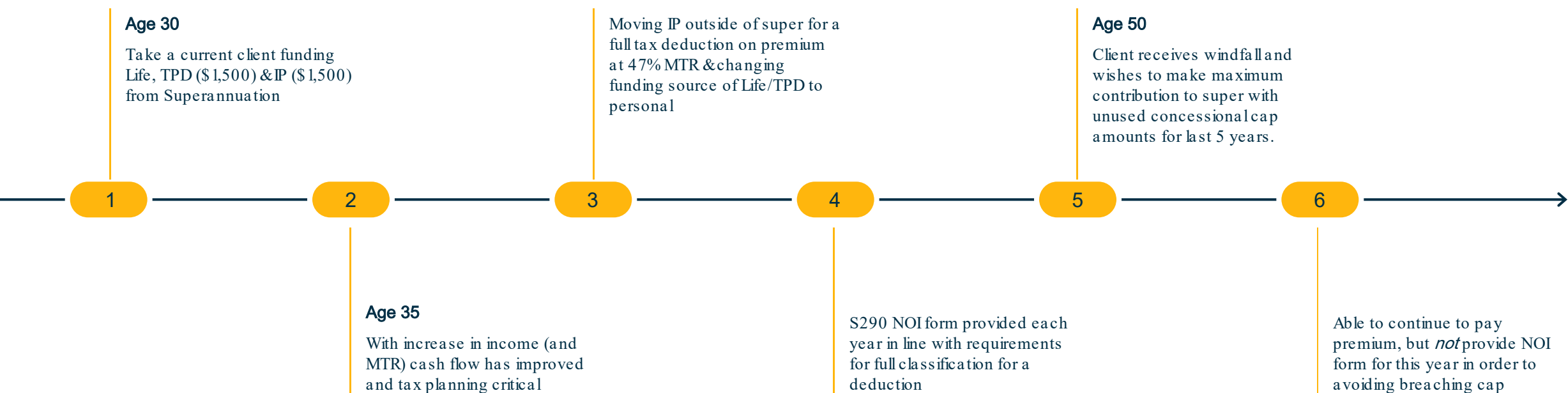
Must provide form by the day member lodges tax return for year in question, no later than the end of the following FY

Income	FY25/26 SG Contributions	FY25/26 Concessional Cap	Available Room (with no other concessional contributions)
\$50,000	\$6,000	\$30,000	\$24,000
\$100,000	\$12,000	\$30,000	\$18,000
\$150,000	\$18,000	\$30,000	\$12,000
\$200,000	\$24,000	\$30,000	\$6,000
\$250,000**	\$30,000	\$30,000	\$0*

*Bring forward of up to 5 years unused concessional contributions will allow taxpayers with super balances under \$500,000 to contribute up to \$137,500 in FY 25/26

**Division 293 tax of an additional 15% contributions tax applies to superannuation contributions and income exceeding \$250,000 in total.

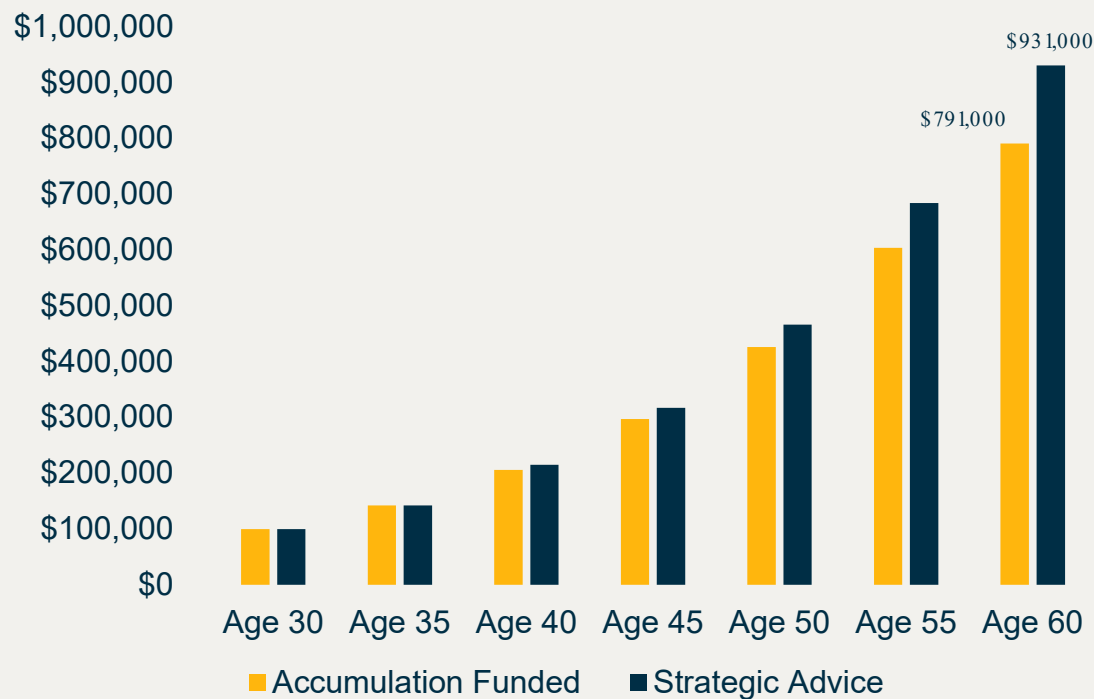
Example Scenario: Premium Funding



Outcome

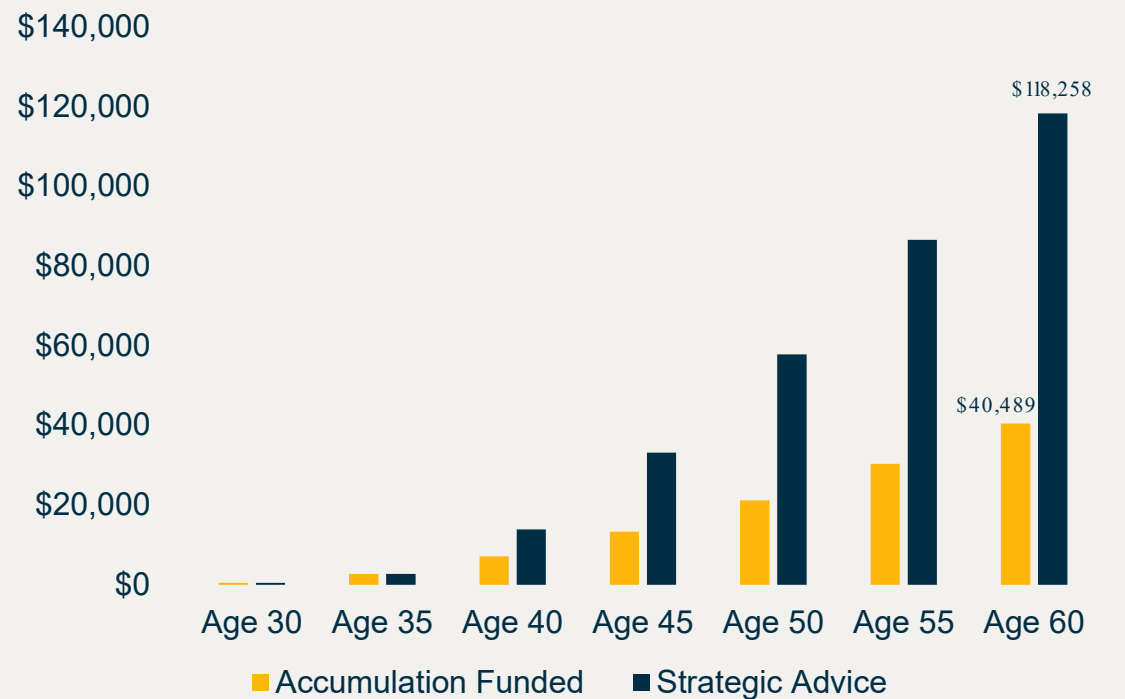
Superannuation Balance

Planning strategically and adjusting cover for the long-term may not only be tax efficient but provide protection to long-term retirement objectives.



Total Tax Deductions

Taking a pro-active approach to risk advice planning can make a significant difference to tax outcomes



Other Tax Considerations

Funding choices impact claims

Eligible service periods are inherited from rollovers

A new fund with fresh contributions has a contemporary service date

This will flow through to Tax calculations at claim time

Rollover

Benefit	Service Date	Taxable component	Tax	Benefit Received
\$1,000,000	01/01/2000	\$562,389	\$123,725	\$876,276

Personal Contribution

Benefit	Service Date	Taxable component	Tax	Benefit Received
\$1,000,000	01/01/2020	\$212,330.27	\$46,712	\$953,288



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Claims Payments

Superannuation

Tax and SIS Dependency

- **Superannuation** death benefits require the recipient to first meet the requirements of SIS dependency to be eligible as a beneficiary.
- **Tax** is then payable based on tax dependency status
- **Form** of payment is more flexible for tax dependents with death benefit pensions available
- **How** we structure our cover and sums insured should account for SIS and Tax implications

Person	SIS Dependent	Tax Dependent
Spouse*	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Child (Up to 18)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Adult Child	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Interdependent Relationship	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Financial Dependants**	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Sibling	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Parent	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Pet	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

*Former spouses are explicitly included in tax dependency, but not SIS dependency

**The ITAA and ATO do not define financial dependency but will look for 'substantial' support whereas the superannuation complaints tribunal has taken a broader view when applying the SIS act.

Claims Payments

Life Insurance

Outside of super Life Insurance has a **CGT exemption** for the original policy owner, or a party who acquired the policy for no consideration.

Inside of super is as follows:

Person	Income Stream	Lump Sum
Tax Dependent	<ul style="list-style-type: none">Either deceased or recipient aged 60+ = 0% on taxed element and MTR – 10% on untaxed elementBelow 60 = MTR less 15% on taxed element and MTR on untaxed element*	Nil
Non-Dependent	N/A	15%+ Medicare on Taxed Element 30%+ Medicare on Untaxed element

Reminder: If paying the estate, the executor must deduct tax from the taxable component of the benefit before paying a non-tax dependant beneficiary however the medicare levy is not payable.

TPD Insurance

Outside of super TPD insurance is tax free to the ill/injured party or a first degree relative (including a trust if the beneficiary meets this criteria)

Inside of super is as follows:

Age	Lump Sum	Income Stream
Above 60	Tax-Free	Tax-Free
Below 60	0% on Tax-free Component* 22% on Taxable Component	MTR – 15% tax offset

*Tax-free component calculated by multiplying the benefit by days to retirement (65) and dividing by the total service period (days from eligible service date to age 65) to calculate the future service period.

Reminder: Superlink benefits will always be assessed and paid under the superannuation policy first and transfers of ownership for claim eligible clients will be denied

Claims Considerations

What form of payment is most tax effective while still meeting needs?

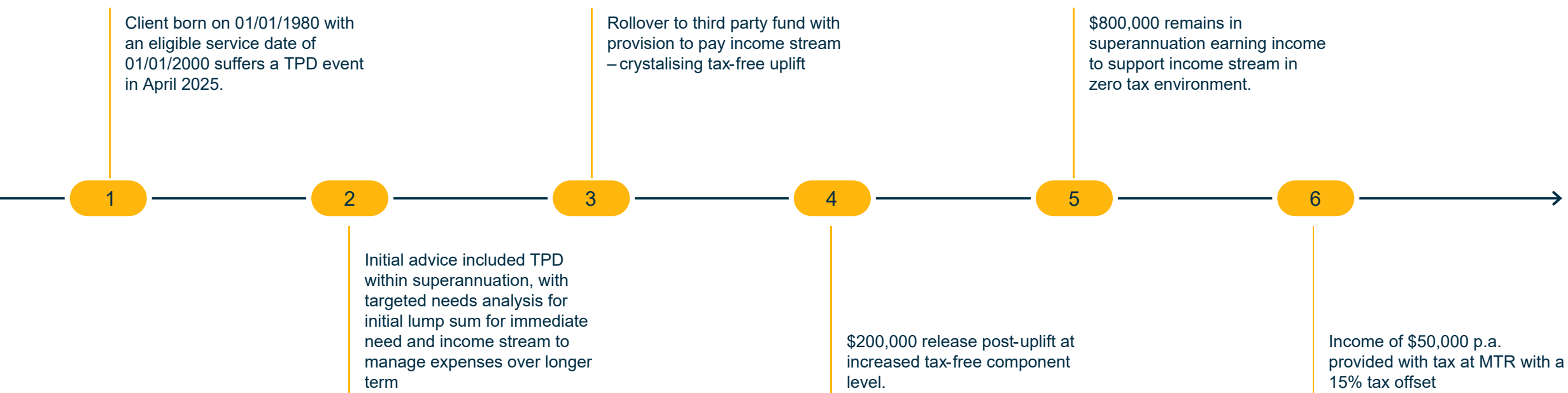
Accounting for tax will the sum insured still be aligned to our analysis?

Is more advanced estate planning required?

Income stream payments will impact transfer balance cap

Strategic planning at set up, makes for effective outcomes at claim time

Example Scenario: TPD Claim



Example Scenario: Comparison

Full Lump Sum

- Taken immediately via lump sum withdrawal from super, and invested to provide income for future living expenses.

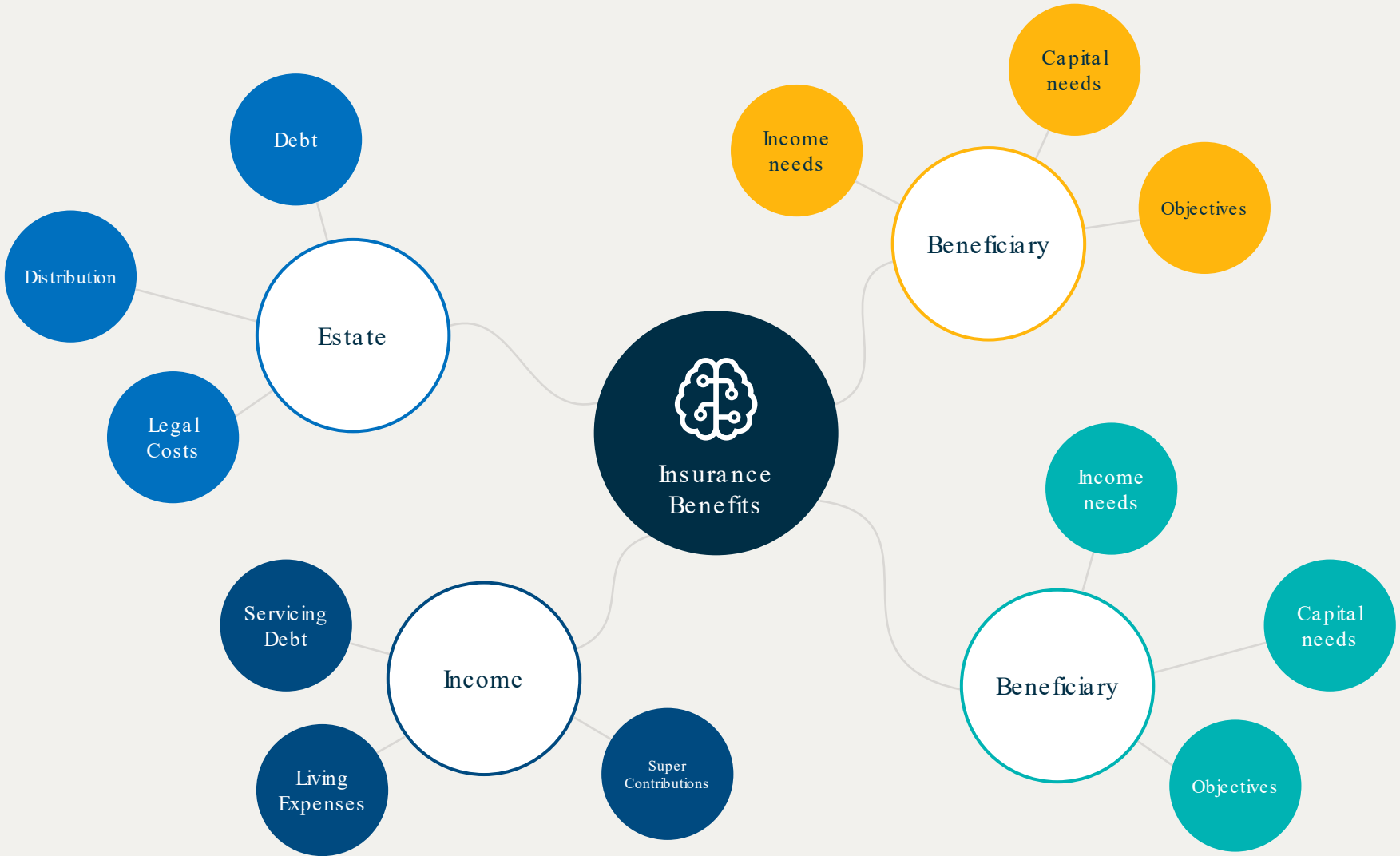
Benefit	\$1,000,000
Tax Paid	\$220,000
Net Received	\$780,000
Income Tax (10 Years)	\$199,680
Total Tax Paid	\$419,680
Total Benefit (inc investment earnings less tax)	\$1,204,320

Strategic Risk Advice

- Tax-free uplift completed via later service date period due to funding
- Small lump sum (\$200,000) taken to fund immediate costs
- Remainder rolled to fund to pay pension (\$50,000 p.a) with assets remaining in pension phase

Benefit	\$1,000,000
Tax Paid	\$24,745
Net Received	\$190,657 (\$800,000 in super)
Income Tax (10 Years)	\$0 (due to progressive tax rate and tax offset)
Total Tax Paid	\$24,745
Total TPD Benefit (inc investment earnings, less pension drawings and tax on pension/initial benefit)	\$1,678,066

Mapping the Benefit: Tax Implications



Including in Strategic Advice

Planning with the end in mind

- **Risk mitigation** planning should be targeted and linked to objectives
- **How** the benefit is paid should be part of the strategic planning to provide the best possible outcome
- **A transparent** plan shows a client what is and isn't covered, how a benefit will be paid and why
- **Tax efficiency** and capital preservation are a core part of long-term risk management objectives

Objective	Exposure	Risk Insured	Claim Payment	Risk Self-Insured	Self-Insurance Strategy
Debt	\$600,000	\$600,000	50% as lump sum with to manage serviceability with remainder funded from income stream	\$0	N/A
Disability Costs & Treatments	\$200,000	\$200,000	\$100,000 lump sum for immediate expenses followed by income stream to manage ongoing costs and protect capital	\$0	N/A
Future Income	\$500,000	\$250,000	Income stream to manage expenses and protect capital	\$250,000	<ul style="list-style-type: none"> • Reduced living expenses • spouse increased work capacity • family support • Social security
Children Education	\$200,000	\$100,000	Income stream to manage annual fees & expenses and protect capital	\$100,000	Secondary school only with primary school via public system



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Implementing Tax Deductibility

Implementing Partial Tax Deductibility of Advice Fees



Positioning

- Advice fee vs commission (for implementation)
- Partial deduction only (unless 100% Income Protection advice)
- Refer to tax agent to claim deduction



Clarity

- Be clear around how much of the fee is deductible and why
- Be clear around the tax outcomes of the advice and confirm understanding of consequences



Documentation

- File notes supporting elements of tax (financial) advice and income protection advice
- Supporting evidence of apportioning method (whether time or premium)
- Apportioned tax invoice

The Deduction

Clearly laid out and apportioned

- Clear as to whether deduction apportioned under s8-1 or s25-5
- Clear as to which areas of taxation law are applicable to the tax (financial) advice provided

100%

Of fee relating to income
protection advice

%

Of fee relating to tax
(financial) advice under
s25-5

Tax (Financial Advice) Reference Sheet for Risk Advice

Lump Sum

Section (ITAA97)	Summary	Risk Advice Consideration
s118-37	CGT (TPD/Trauma)	Policy Ownership: The CGT exemption for benefits to ill/injured party or first-degree relative
s118-300	CGT (Life Cover)	Policy Ownership: The CGT exemption for an original policy owner or one received for no consideration
Subdivision 290 -C	Concessional Contributions & NOI	Funding: Allows deductability of personal contributions if meeting certain requirements including notice of intent detailed in s290
Subdivision 291 -B	Excess Concessional Contributions	Funding: Allows consideration of current contributions and consequences of exceeding contribution cap
Subdivision 292 -C	NCC's	Funding: Rules around Non-concessional contributions, exceeding contribution caps & consequences
S295-465	Tax deductability for trustees	Funding: Ability for trustees to claim a deduction for insurance premiums for members and flow on to premium costs
Division 293	Additional contribution tax	Funding: Additional tax on contributions for those with combined/earnings over \$250,000
Subdivision 301 -B	Tax treatment of super benefits	Claims: Tax-rates on lump sums & income streams based on recipient and age
Subdivision 302 - B	Tax treatment to tax dependents	Claims: Tax liability for death benefit recipient via superannuation
Subdivision 302 - C	Tax treatment of non-tax dependents	Claims: Tax liability for death benefit recipient via superannuation
Subdivision 302 -D	Tax dependency & interdependency	Claims: Eligibility for receiving benefits and tax liability via superannuation
Subdivision 307 -C	Taxable components & proportioning	Claims: Treatment of untaxed elements, calculation of proportions for TPD and death benefits

Income Protection

Section	Summary	Client Scenario
ITAA s8-1	Allows a deduction in the extent an expense is incurred in gaining or producing assessable income, or is necessarily incurred in carrying on a business for that purpose	Recommending Income Protection with the objective of protecting future generation of assessable income in the event of disability.

Example Invoice

Risk Advice Fee

Incorporating Deductibility Apportionment

- Incorporate what services the fee relates to
- Be clear as to portion of fee that relates to which service/product
- Be clear as to portion that is deductible
- Support with advice documentation, file and apportionment method.

Service

Advice on Income Protection

Advice relating to the establishment of an income protection policy to provide replacement income in the event of temporary disability. \$1,000

Deductible Portion (s8-1 ITAA 1997) \$1,000

Advice on Trauma Insurance

Advice relating to the establishment of a Trauma insurance policy to provide capital payment in the event of a major health event \$500

Advice on Life and Total & Permanent Disability Insurance

Advice relating to the establishment of Life and Total & Permanent Disability Insurance via Superannuation including the taxation implications of premium funding and claims payments, in the event of death or disability \$500

Deductible Portion (s25-5 ITAA 1997) \$150

Total \$2,000

GST \$200

Total \$2,200



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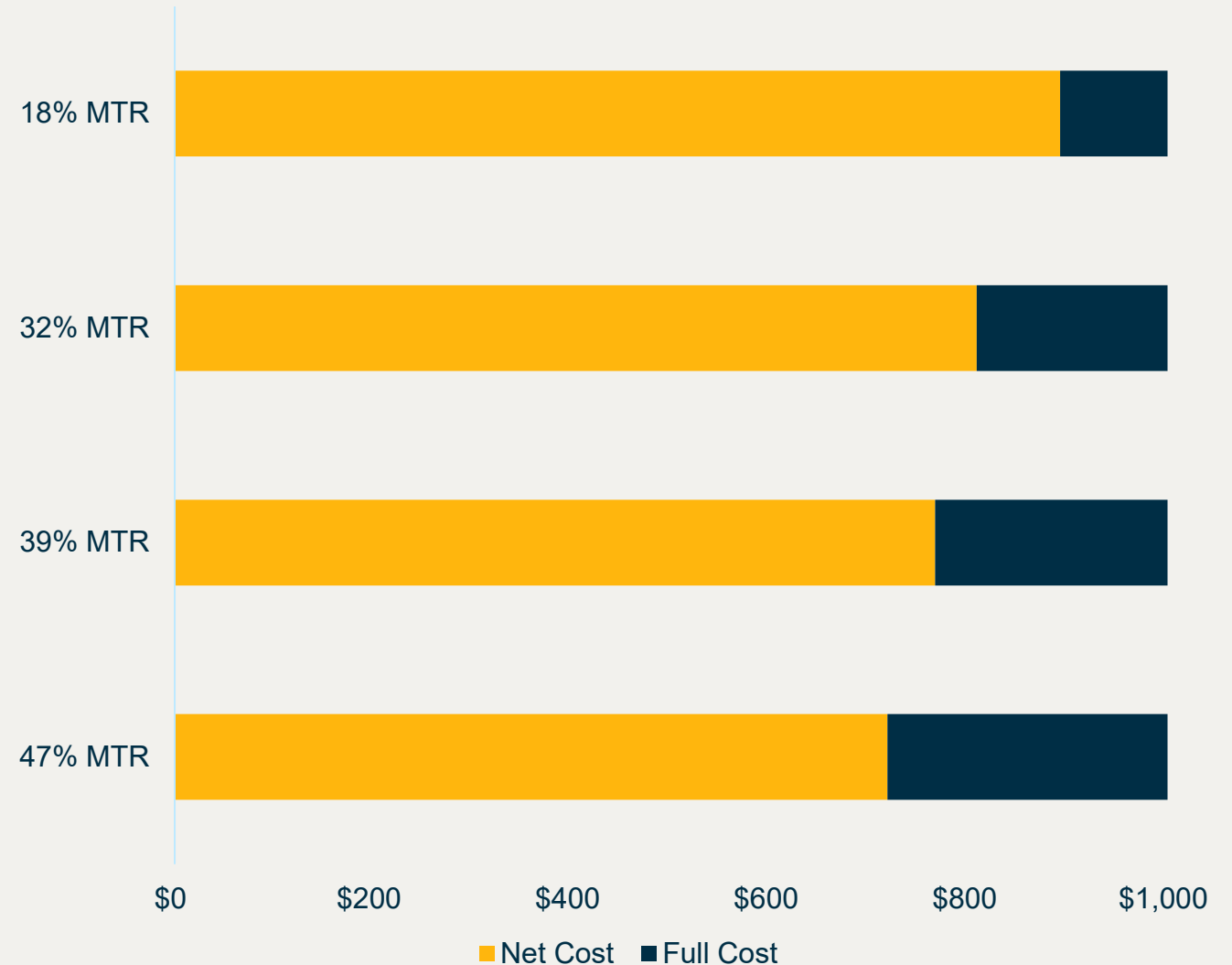
Commercial Implications

Commercial Opportunities

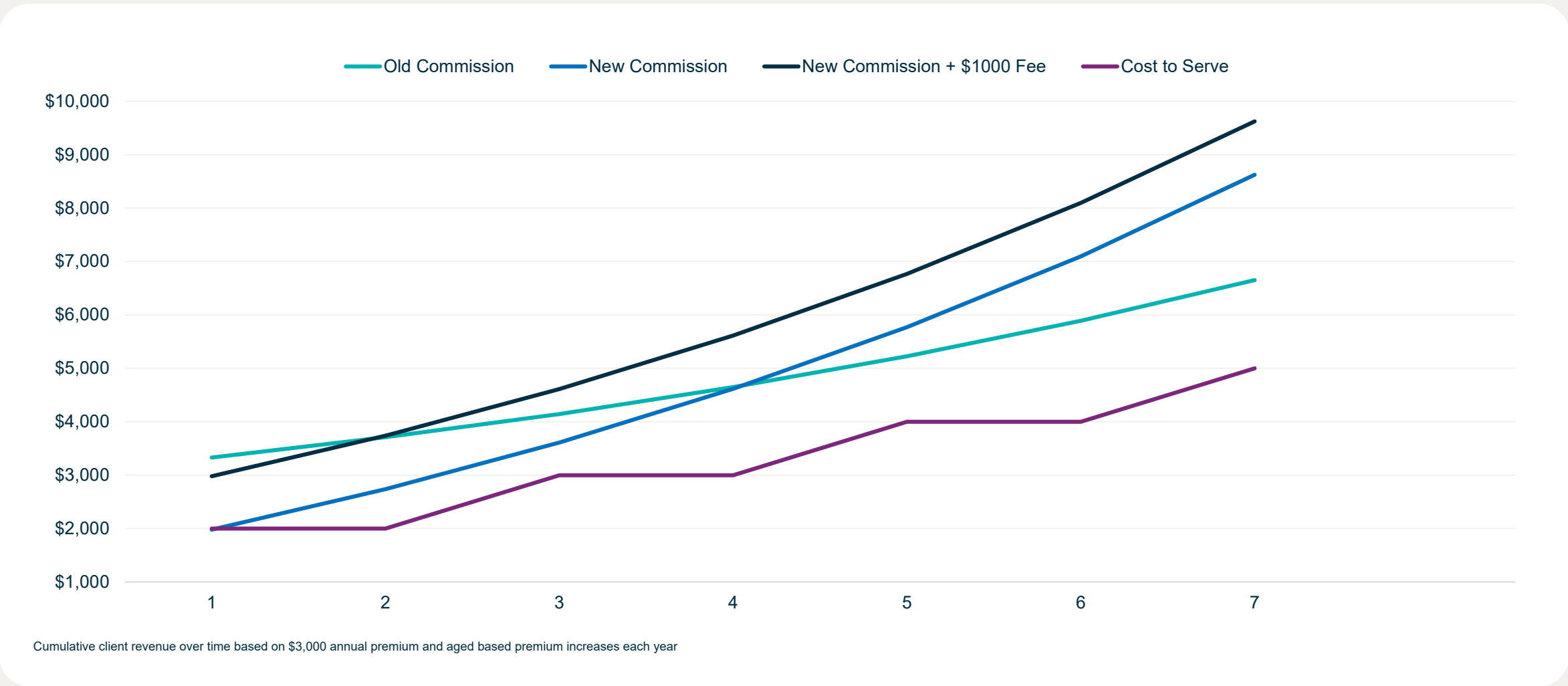
Partial tax deductibility of advice fees

- **Often** perception of value may be a barrier to charging fees for risk only advice
- **Taking** a hands on approach to tax (financial) advice as part of the risk advice process allows demonstration of tangible value
- **Tax deductibility** of portions of the fee allows the ability to show more value by creating a tax benefit for the client
- **This opens** opportunities when it comes to growing our risk advice footprint.

Potential Net Fee Cost post ATO TD 2024/7



Individual Client Cost to Serve Comparison



Practice Revenue Comparison

Ability to increase annual revenue stream

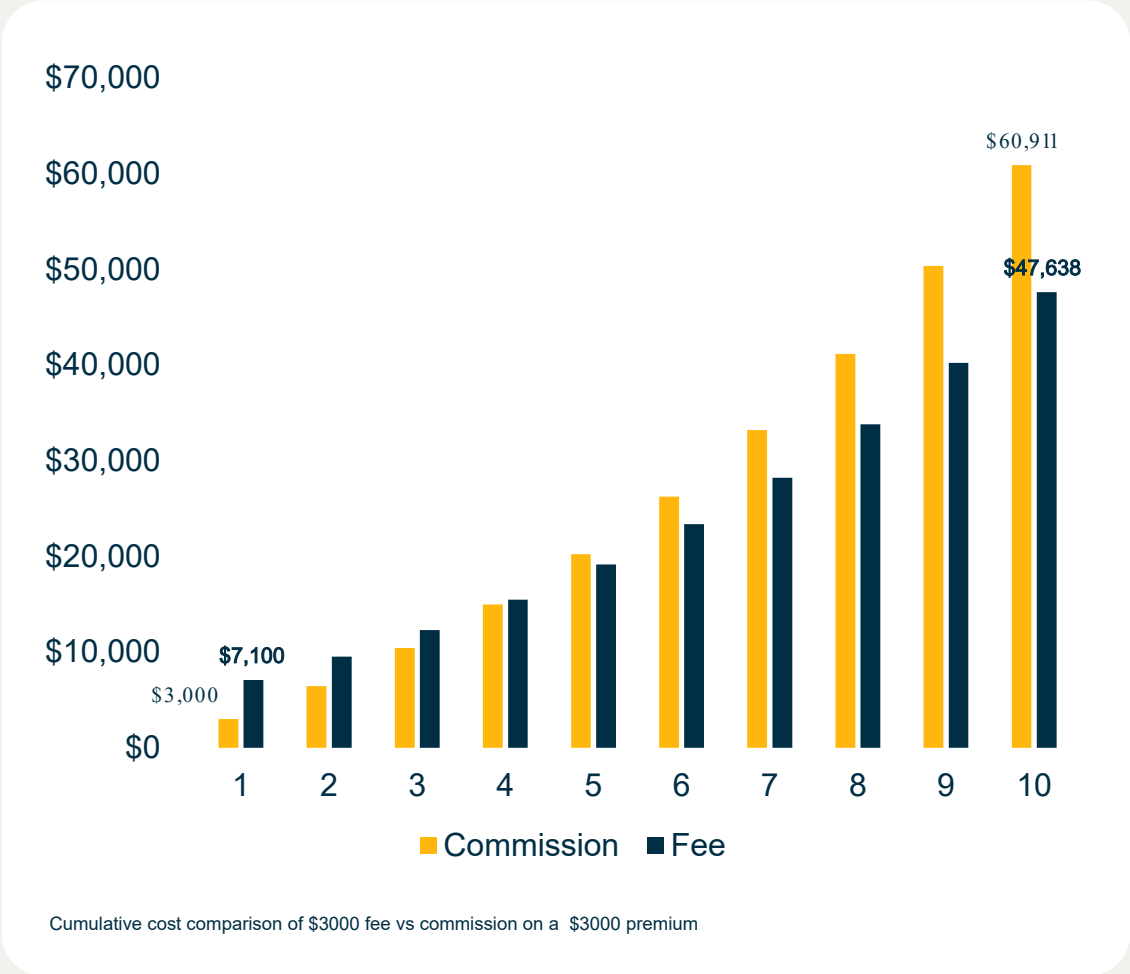
Example case study

- \$3000 average annual premium per year
- 25 new clients per year
- Various partially deductible advice fees



Client Cost Comparisons

Fee Only vs Full Commission



Comparison Cost by MTR for Fee & Premium

MTR	\$1000 Fee	\$3000 Premium	Total Gross Cost	Total Net Cost
18%	\$892	\$2,550	\$4000	\$3,442
32%	\$808	\$2,200	\$4000	\$3,008
39%	\$766	\$2,025	\$4000	\$2,791
47%	\$718	\$1,825	\$4000	\$2,543

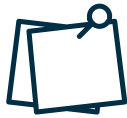
Based on 50% of fee/premium being income protection + Life/TPD being funded via concessional contribution

Comprehensive Planning & Tax Deductibility Outcome



Client Benefit

- Tax effective strategic, affordable personal advice that solves problems.



Adviser Benefit

- Protect against regulatory or consumer concerns and provide tangible demonstration of value



Commerciality

- Add a new revenue stream and increase commerciality of risk advice



Uptake

- The opportunity is now open to uplift comprehensive risk advice, charge for the value and show appeal to clients



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07

Summary & Next Steps



Death & Taxes

01

Insurance & Tax Events

Decisions create tax consequences we must educate clients on as part of our advice

02

Strategic Advice

Includes informing, planning for, and optimising tax outcomes.

03

Opportunity

To create value for clients with strategic advice and a tax benefit through partially deductible fees.

04

Real World Impact

By implementing to drive more risk advice, at greater commerciality, to grow businesses and deliver for clients.

Resources and next steps

Further information

Reach out to your BDM for a copy of materials. CPD will be available via your licensee or in the Zoom Event Hub.

Partner education sessions

Catch up on past webinars or register for future PD sessions.



Upcoming sessions

- *Demographic Trends Shaping Financial Advice*
- *Inside the Industry Live Q&A events monthly*

Technical support

Connect on LinkedIn for live technical Q&A or reach out via BDM for case-by-case support.

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Acenda 

The text "IS BECOMING" is in a small, white, uppercase, sans-serif font. Below it, the word "Acenda" is in a large, white, sans-serif font, with the "A" capitalized. To the right of "Acenda" is a stylized orange logo icon consisting of three overlapping leaf-like shapes.