



May 2008

Income contributions

WHAT HAPPENS TO MY INCOME WHILE I AM BANKRUPT?

If your after-tax income exceeds a certain amount, you will have to pay contributions from your income to your trustee.

If you are a low-income earner you will not have to pay contributions. However, you may make voluntary payments to your trustee.

IF I HAVE TO PAY CONTRIBUTIONS, HOW MUCH?

You will be required to pay one half of the amount by which your after-tax income exceeds the prescribed threshold amount ie 50 cents of every \$1 of the excess amount.

(Note: 'income' for income-contribution purposes under the Bankruptcy Act has a wide meaning and includes certain amounts that are not included in taxable income)

HOW ARE CONTRIBUTIONS CALCULATED?

At the start of your bankruptcy your trustee will calculate whether you will be required to pay any income contributions during the first year of your bankruptcy. Also, the trustee will repeat that process at the start of each subsequent year of your bankruptcy

The calculation is done using the following formula:

$$\frac{\text{'Assessed income' minus 'Actual income threshold'}}{2}$$

WHAT IS ASSESSED INCOME?

Assessed income for bankruptcy purposes includes your earnings, salary or wages plus other financial benefits received by you from various sources **less** the tax paid or payable (including the Medicare levy) on such amounts and if applicable, child support or maintenance payments. It includes:

- wages and salary (including second jobs)
- tax refunds for financial years during bankruptcy

- fringe benefits from your employer or others (eg use of a car, subsidised rent)
- salary sacrifice arrangements
- business profits
- some benefits and pensions
- income you earn which is paid to someone else.

Your trustee will be able to answer any questions you have about what is included as income.

Warning:

You must disclose all income and benefits to your trustee. **Penalties apply** for non-disclosure.

Your trustee will calculate your assessed income by:

- determining your total income from all sources
- deducting your income tax, Medicare levy and child support or maintenance payments.

WHAT IS THE ACTUAL INCOME THRESHOLD AMOUNT (AITA)?

The AITA (approx 3 1/2 times the maximum pension rate) is based on an indexed figure and changes periodically*. If you have dependants the income threshold amount increases in accordance with the number of dependants.

Example

Bob expects his gross income for the first 12 months of his bankruptcy to be \$65 000. He has one dependant.

Step 1: The trustee calculates Bob's assessed income.

gross expected income	\$65 000.00
deduct income tax	\$13 524.66
deduct Medicare levy	\$975.00
Assessed income	\$50 500.34

Step 2: The trustee works out Bob's AITA.

AITA (with 1 dependant)	\$47 354.58
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Step 3: The trustee uses Bob's assessed income and AITA to calculate his annual contribution liability.

$$\$50\,500 - \$47\,354 = \$3\,146 \div 2 = \$1\,573$$

Bob receives a notice of assessment, requiring him to pay \$1 573.00 at \$60.50 per fortnight. Payment arrangements may be changed by the trustee if Bob is paid monthly or his income is seasonal.

NOTICE OF ASSESSMENT

You will be sent a notice of assessment by your trustee with:

- the amount you have to pay (if any)
- how the amount was calculated
- the dates your payments are due.

CONSEQUENCES FOR NON-PAYMENT

Your trustee may:

- garnishee (automatically deduct without your consent) funds from your income or bank account or from a third person who holds money for you, and/or
- extend your bankruptcy by five years and assess additional contributions for this period, and/or
- obtain judgment for unpaid contributions and take enforcement action after your discharge
- require you to open a supervised bank account into which all your income must be paid from which all withdrawals are authorised by the trustee.

WHAT IF MY CIRCUMSTANCES CHANGE?

You must advise your trustee immediately if your income or number of dependants changes, or you think these details will change in the next 12 months. If you fail to do so, your assessment may be incorrect and you may pay too much or not enough.

At the end of each 12-month period your trustee will re-assess your contribution liability based on your actual income and dependants for the period. If you have not paid enough because your income was greater than you estimated then you will have to make up the shortfall. If you have paid too much the extra payments cannot be refunded but they will be credited to the next assessment.

HARDSHIP VARIATIONS

Hardship grounds are limited to exceptional circumstances which would impose an excessive financial burden on you including:

- ongoing medical expenses
- cost of child day care essential for work
- high rent
- substantial travelling expenses to and from work, or
- loss of contribution, usually made by your spouse or someone residing with you, to the costs of maintaining your household.

Contact your trustee for more details if you think you may be eligible for a hardship variation.

Applications for hardship must be in writing and:

- explain why you will suffer hardship
- include documentary evidence of your income and expenses.

Your trustee will make a decision on your application within 30 days and give you a written notice setting out their reasons.

REVIEW

Contact your trustee if you disagree with your contribution assessment or a decision to refuse a hardship variation. If you still disagree you may request a review by the Inspector-General.

The request for review needs to be in writing and lodged within 60 days of you being notified of the assessment. However, you must still make payments during the appeal period.