

# THE BEGINNING OF THE END OF THE CASTLE: THE AGE PENSION, AGED CARE AND THE HOME

By Richard McCullagh



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It might sound a little alarmist, but the exalted status of the Australian home is beginning to undergo a process of fiscal erosion under the increasing weight of demands on the public purse to pay for, amongst other things, the welfare and care of our ageing population.

It is not just a matter of ageing, or the increasing incidence of dementia and macular degeneration. Those of traditional retirement age have accumulated more private wealth than any previous cohort. For most, the bulk of that wealth lies in the equity in the unencumbered market value of their principal residence. Eighty per cent of retirees own their home with little or no mortgage and are full or part pensioners - the 'Great Australian Dream' realised.

## The changes

A fiscal shift in government policy is evident in several recent amendments to the *Social Security Act 1991* (Cth) ('SS Act'). These changes came into force on 1 January 2017 and relate to:

- the age pension asset thresholds and the doubling of the rate of reduction of the pension payable under the *Social Services Legislation Amendment (Fair and Sustainable Pensions) Act 2015* (Cth); and
- the end of exemptions for rental income from the home and the market value of the home, for pension purposes if a single elder has to move into permanent residential aged care as regulated under the *Aged Care Act 1997* (Cth) ('AC Act'). This comes from schedule 18 of the *Budget Savings (Omnibus) Act 2016* (Cth).

## The castle

It is common knowledge that the principal home owned and occupied by a natural person or persons is exempt from the age pension assets test. This applies to just about any home - a house in the suburbs, a strata unit, a retirement village unit occupied under a lease or licence, even a habitable vessel upon the

## Snapshot

- Eighty percent of retirees (did) get the full or part pension.
- As of 1 January 2017 under the pension assets test:
  - the maximum asset cut-offs have been reduced by 20-30 per cent; and
  - the rate of pension reduction has been doubled to \$3/\$1,000 of excess assets.
- The home is exempt, but when sold any surplus not applied to the next home will most likely be assessable and attract deemed income.
- A single person moving into an aged care facility of choice will usually need their house to be sold.

water. The same condition of exemption holds for capital gains tax and for most residences, land tax. This is so whether it is a small home on the edge of a regional town or a waterfront mansion in a capital city - the 'Egalitarian Australian Dream'.

## Selling the home

Absent any superannuation concessions, if the home is sold, that part of the net sale proceeds applied otherwise than to the acquisition of another principal home will generally no longer be exempt and will attract deemed income if invested or even stashed under the bed.

## Pension assets test

The surplus on selling the home will be added to the value of the elder's other non-exempt assets and be subject to the following new thresholds:

Category:	Single homeowner
Full pension:	\$250,000
Nil pension:	\$542,500

Category:	Homeowner couple combined
Full pension:	\$375,000
Nil pension:	\$816,000

The full pension is around \$800/fortnight ('fn') and asset thresholds for the full payment have gone up between 20 per cent and 30 per cent, while at the other end the nil pension thresholds have come down by similar proportions.

If your client's assets are within the new narrower 'part pension band', the rate of reduction of pension has been doubled from \$1.50/\$1000 of excess assets to \$3/\$1,000 as of 1 January 2017. As four out of five retirees are currently pensioners, this will affect a lot of people.

## Pension income test

The surplus if invested, for example, on deposit with a bank or in shares in listed companies, will be treated as a 'financial asset' attracting deemed income for the purposes of the income test. Actual return on investment is irrelevant.

Currently, the first \$49,200 attracts 1.75 per cent interest per annum and the balance attracts 3.25 per cent per annum.

The thresholds are:

Category:	Single person
Full pension:	\$164.00/fn
Nil pension:	\$1,918.20/fn

Category:	Couple combined
Full pension:	\$292.00/fn
Nil pension:	\$2,936.80/fn

## Pension means test

The pension payable will be either the income test reduced rate or the asset test reduced rate - whichever of these two tests reduces the pension payable the most. If neither applies, the full pension will be payable.

## Keeping the home

All this suggests that retaining the family home as the principal residence is a great idea. Of course most elders seek to do exactly that for as long as they possibly can. Government subsidised home care is readily available. A reverse mortgage can be obtained to pay for

care fees and live more comfortably. A part pensioner can apply to Centrelink to have this topped up to the full pension under the pension loans scheme. There may come a time, however, when living independently in the family home, or retirement village unit or serviced apartment is no longer feasible, even with home care. At this point permanent residential aged care is usually the only sensible option.

### Two year pension exemption

For age pension purposes the market value of the principal home continues to be exempt for two years as from moving into care (*SS Act*, s 11A(9)). For as long as the partner stays there, the exemption also continues. If a partner then also moves into care, there are various extensions to that two year period. Note that this is the pension home exemption, not the aged care exemption.

### Aged care rental exemption

Formerly, if an elder moved into residential aged care and:

- owned their home;
- rented it out; and
- paid a daily equivalent of at least part of the lump sum payable for care,

the *market value* remained exempt for pension purposes. This is no longer available to elders who move into care on or after 1 January 2017 (*SS Act*, s 11A(8)-(8C)).

Further, the former exemption for the rent received under the income test for both the pension and aged care is no longer available for those new residents (*SS Act*, s 8(10A)-(10B)).

A strategy for singles to push the pension exemption beyond two years is no longer available.

### Aged care RAD exemption

Upon moving into permanent care an elder usually has to pay an upfront lump sum. This is called the 'refundable accommodation deposit' (**RAD**). The amount is market-determined but cannot exceed the advertised price on the MyAgedCare website for example. It might be anywhere from \$100,000 to \$1,000,000 (or more). This may be reduced or waived if paying it would leave the elder with less than a minimum amount of assets, currently \$46,500.

However, a care provider does not have to admit an elder who is unwilling to pay the advertised RAD. There are incentives for a provider to do so, as having less

than a certain proportion of 'low-means residents' may reduce the government subsidy payable but it all depends on 'the numbers' when your client wants to move in.

The market value of the home is exempt from the aged care assets test if, on the day the elder moves into permanent care, it is the principal residence of the elder's partner. So far this is the same as the pension exemption but aged care goes further to include:

- a family member who is a pensioner and has lived there for the last two years; or
- a carer who is a pensioner and has lived there for the last five years; or
- a dependent child.

The home is either 'all in or all out' for the purposes of the RAD (*AC Act*, s 52J-5(3)) and it is never reviewed.

For pension purposes, the RAD itself is exempt both as an asset and a financial asset attracting deemed income (*SSA*, ss 9(1D) and 1118(1)(v)).

### Aged care DAP

A resident may elect to pay a daily equivalent of any part of the RAD that they do not want to pay as a lump sum. The 'daily accommodation payment' (**DAP**) is calculated at 5.76 per cent pa of that part not paid upfront. This interest rate is reviewed twice annually.

In the current low interest rate environment the DAP may not be an attractive option for the resident. However, this has to be balanced against the surplus on sale after paying the RAD because of the doubling of the asset reduction rate and the lowering of the 'nil pension' thresholds.

### Aged care fee concession

The elder in care may be liable to pay a co-contribution called the 'means tested care fee' (**care fee**). It is a mass of complicated calculations. For present purposes it is sufficient to note that if the market value of the home is not exempt as outlined above, then only the first \$160,000 (rounded) is included (*ACA*, s 44-26A(7)). This threshold was about \$154,000 when first introduced in 2014 and slowly (so far) increases each year. Retaining the home is not a big impost from this point of view.

Unlike the once-only RAD assessment, the care fee is reviewed every three months. There are a number of factors that may cause this to change when reviewed, such as a partner also moving

into care, or dying, or the elder's increasing care needs pushing up the cost of care.

### Aged care income test

The income tests for the age pension and aged care are, thankfully, similar in the result, though by different routes (*SS Act*, s 1064-E1 and *AC Act*, s 44-26(1)). Even the new non-exemption for rental income now applies to both.

Basically, actual income plus deemed income on financial assets is totalled and each \$1.00 that exceeds around \$25,000 pa (+/- \$700):

- reduces the pension by \$0.50/fn; and
- gets added to the income tested amount for the aged care fee.

For couples, combined income is aggregated and half attributed to each. The same aggregation and halving applies to assets.

### The castle revisited

Most single elders will either have to, or want to, sell their home to fund the RAD payable for a residential aged care facility of choice. Even if occupied by a partner or other 'protected person', and so exempt, the facility may decline to offer a place. If vacant, \$160,000 will be included in the means tested care fee and the full value included for the RAD. Either way, the pension asset exemption applies for at least two years.

Selling the home, in the absence of alternative sources, will fund payment for the RAD or DAP or both for the facility of choice. However, any surplus proceeds will usually be counted as assets attracting deemed income for both pension and aged care purposes, potentially reducing the pension and increasing the means tested care fee.

Holding onto the 'Great Australian Dream' in the twilight years has just got a lot more complicated. **LSJ**

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