

Abolition of Offsetting Arrangement

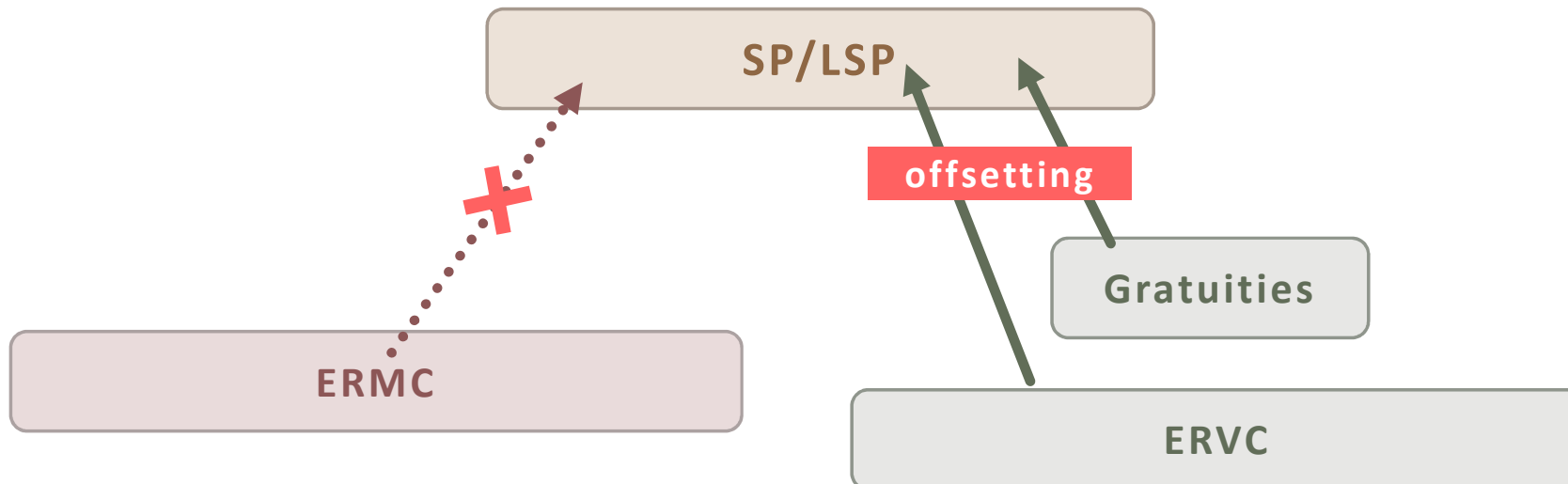
- ▶ The Legislative Council passed the Employment and Retirement Schemes Legislation (Offsetting Arrangement) (Amendment) Bill 2022 on 9 June 2022 to abolish the use of the accrued benefits of employers' mandatory contributions under the Mandatory Provident Fund (MPF) System to offset severance payments (SP) and long service payments (LSP) (the offsetting arrangement)
- ▶ The offsetting arrangement will be abolished starting from a date to be appointed – the transition date
- ▶ The Government will implement the abolition of the offsetting arrangement in tandem with the full implementation of the eMPF Platform of the Mandatory Provident Fund Schemes Authority, which is expected to be in 2025



If the employee's employment commences after the transition date, how will the offsetting arrangement be changed?

IF THE EMPLOYEE'S EMPLOYMENT COMMENCES AFTER THE TRANSITION DATE

- ▶ The employer can **no longer use ERM** to offset SP/LSP
- ▶ Other arrangements remain unchanged –
 1. Accrued benefits derived from employers' MPF **voluntary contributions** (ERVC) and **gratuities** based on length of service **can continue to be used to offset SP/LSP**



IF THE EMPLOYEE'S EMPLOYMENT COMMENCES AFTER THE TRANSITION DATE (CONT'D)

2. Calculation of SP/LSP remains unchanged:—

Rate for calculating SP/LSP:

Two-thirds of the monthly wages subject to a maximum of \$22,500, for each year of service

Monthly wages for calculating SP/LSP:


The employee's last monthly wages before termination of employment

Maximum payment of SP/LSP:

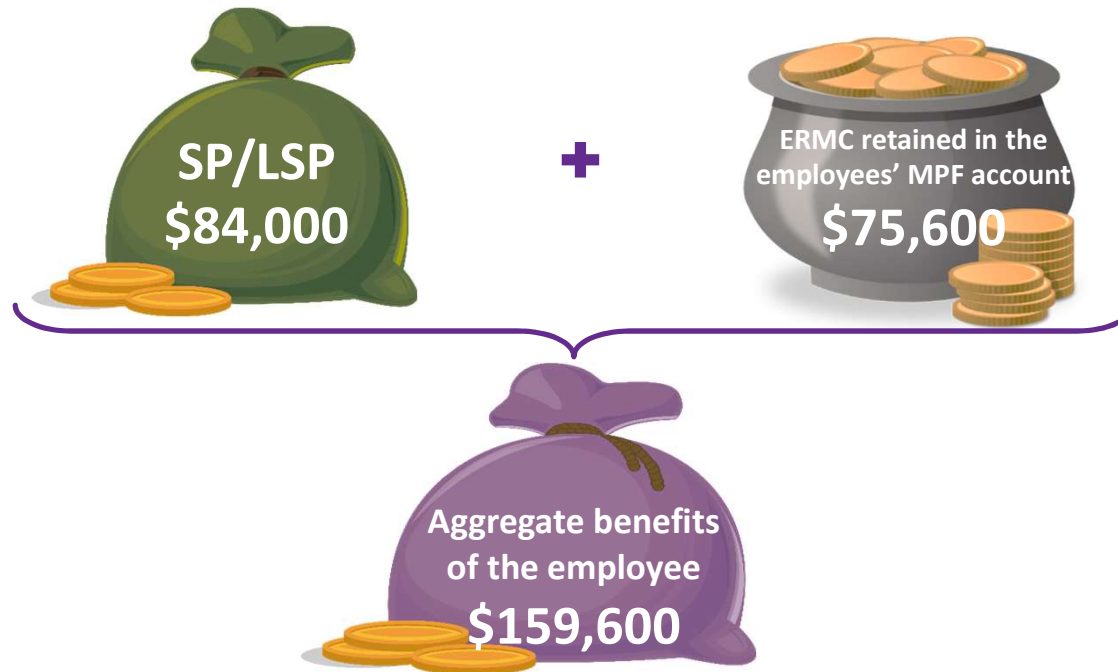
\$390,000

Remain unchanged

CALCULATION OF SP/LSP & THE OFFSETTING ARRANGEMENT FOR EMPLOYEES WHOSE EMPLOYMENT COMMENCES AFTER THE TRANSITION DATE : ILLUSTRATIVE EXAMPLE

$$\begin{array}{l} \text{Last month's wages} \\ \text{before termination of} \\ \text{employment} \\ \$18,000 \end{array} \times \frac{2}{3} \times \begin{array}{l} \text{Years of service} \\ 7 \text{ years} \end{array} = \begin{array}{l} \text{SP/LSP} \\ \$84,000 \end{array}$$


The employer cannot use ERM (assumed to be \$75,600) to offset the employee's SP/LSP

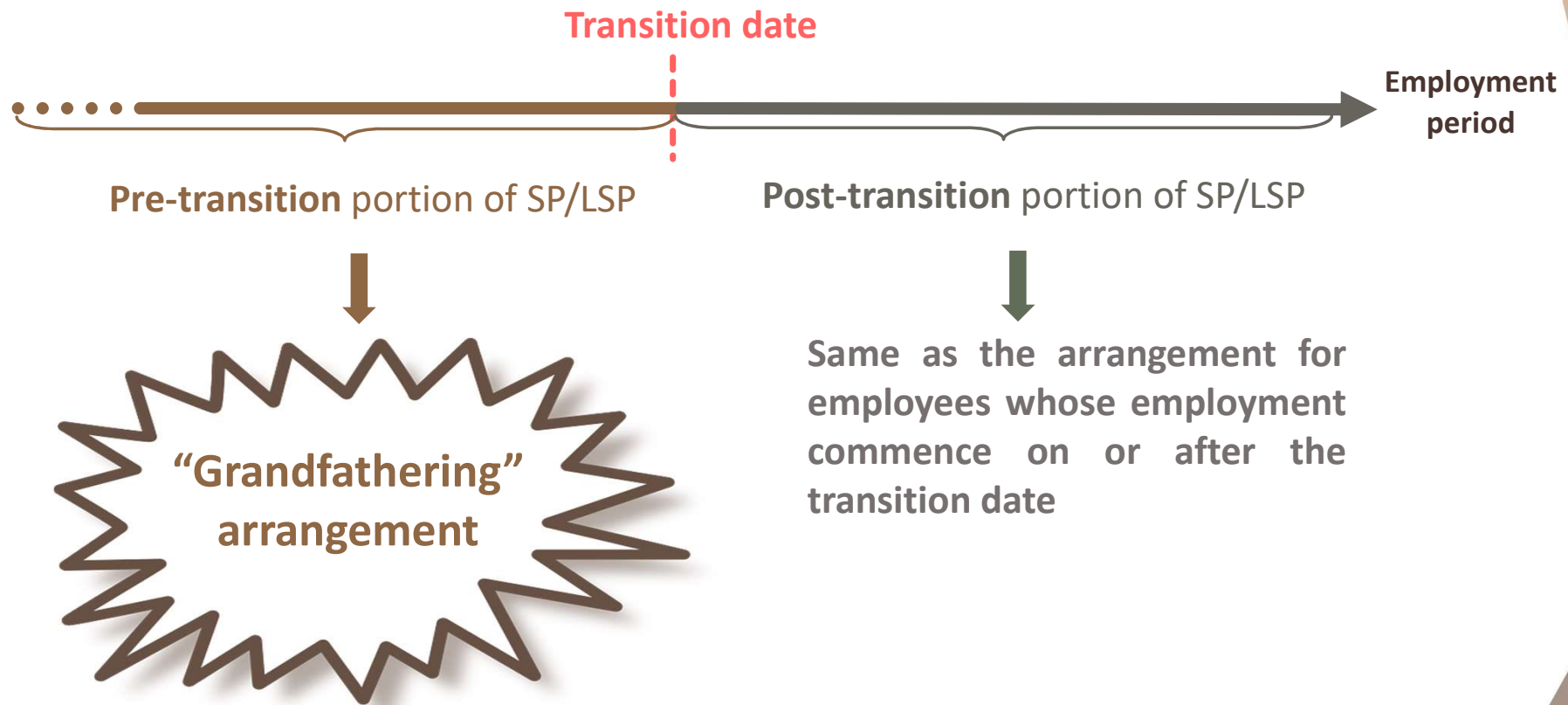


If the employee's employment commences before the transition date, how will the offsetting arrangement be changed?



IF THE EMPLOYEE'S EMPLOYMENT COMMENCES BEFORE THE TRANSITION DATE

- ▶ SP/LSP will comprise : (i) a **pre-transition portion** and (ii) a **post-transition portion**



THE “GRANDFATHERING” ARRANGEMENT

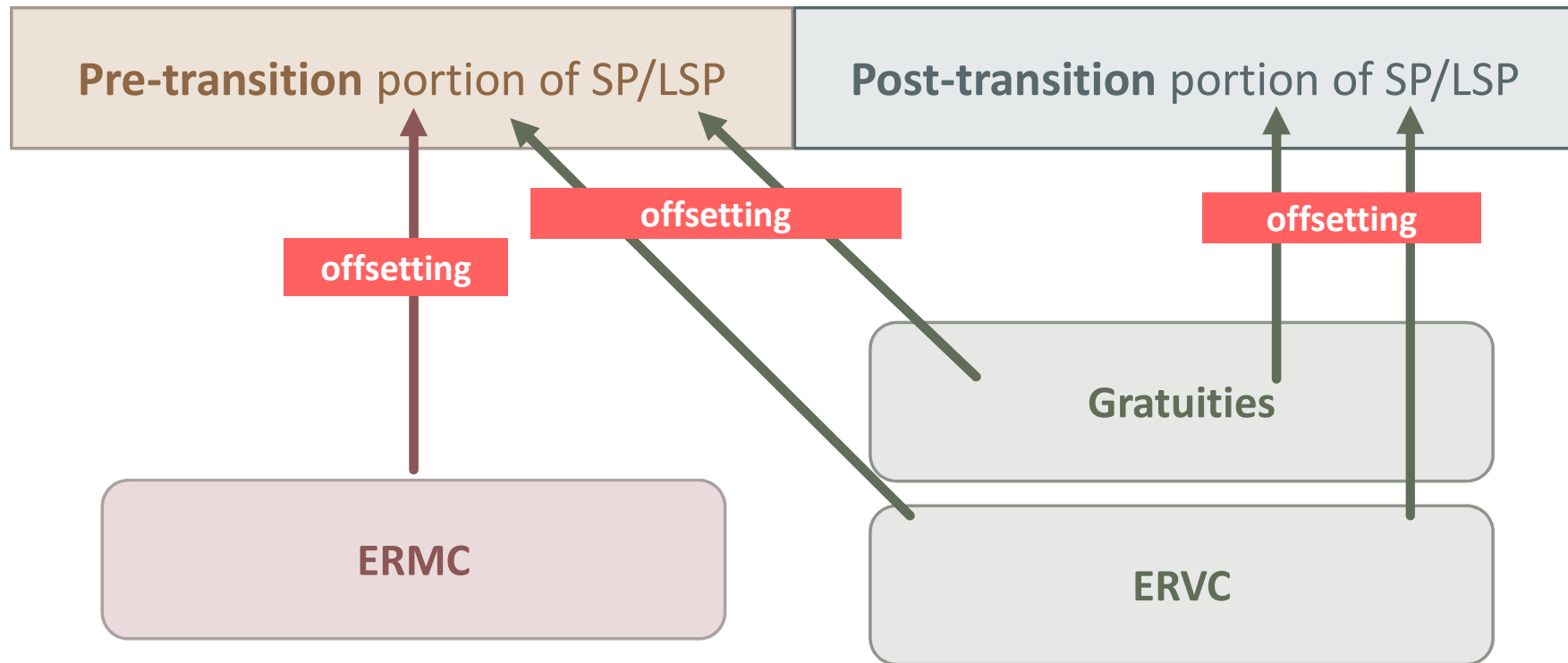
1

The abolition will have no retrospective effect – employers may continue to use the accrued benefits derived from employers' **MPF contributions** (irrespective of contributions made before, on or after the transition date, and irrespective of mandatory or voluntary contributions) **to offset** the pre-transition portion of SP/LSP

2

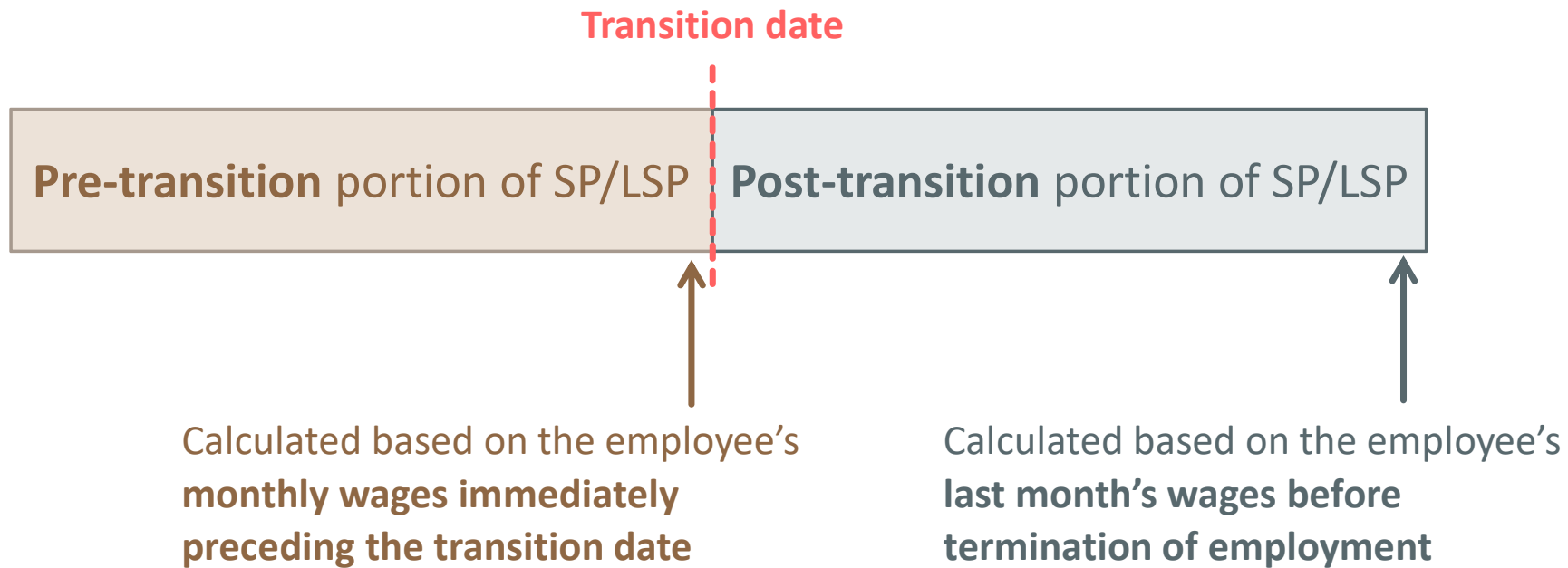
The pre-transition portion of SP/LSP would be calculated on the basis of **the monthly wages immediately preceding the transition date**

THE OFFSETTING ARRANGEMENT FOR EMPLOYEE WHOSE EMPLOYMENT COMMENCES BEFORE THE TRANSITION DATE



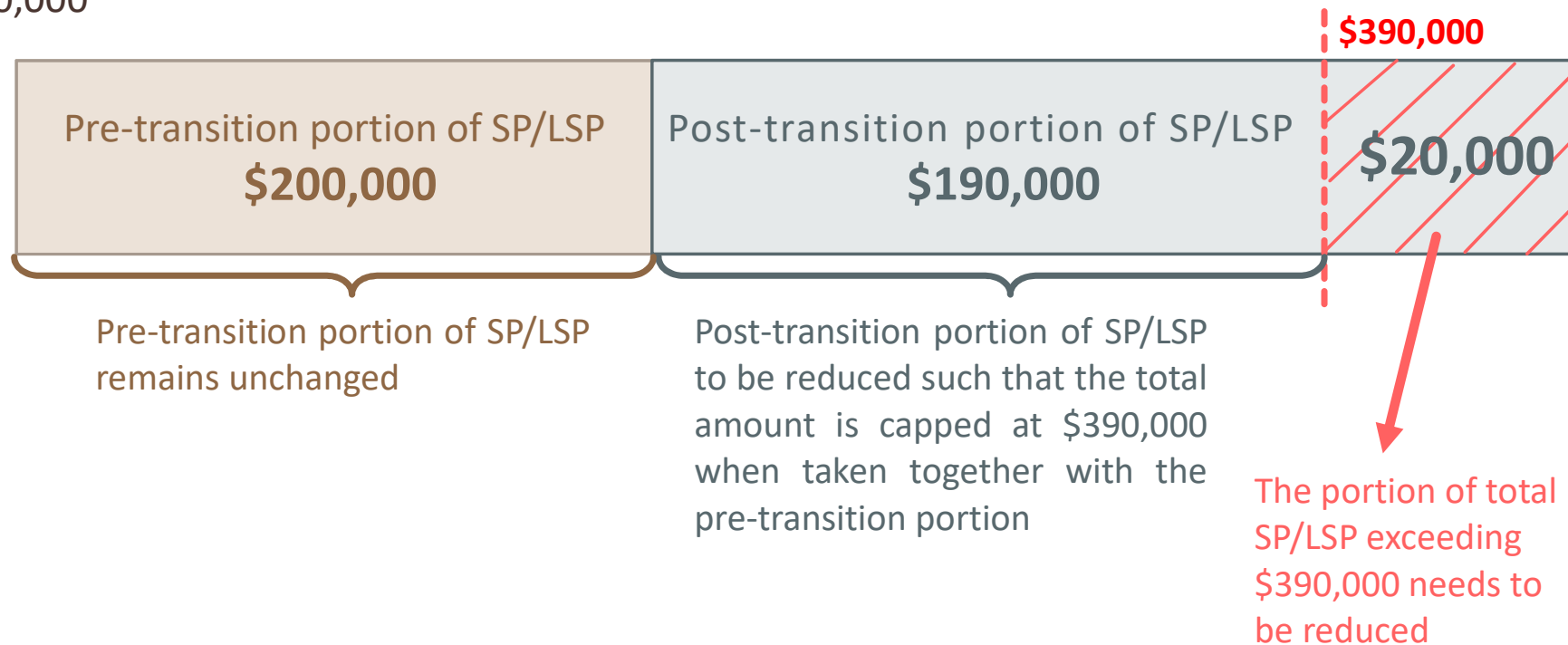
- ☐ ERMC can only be used to offset pre-transition portion of SP/LSP
- ☐ ERVC and gratuities can be used to offset pre- and/or post-transition portions of SP/LSP

CALCULATION OF SP/LSP FOR EMPLOYEE WHOSE EMPLOYMENT COMMENCES BEFORE THE TRANSITION DATE



IF THE AGGREGATE SUM OF THE PRE- AND POST-TRANSITION PORTIONS OF SP/LSP EXCEEDS THE MAXIMUM PAYMENT OF \$390,000

Assume : Pre-transition portion of SP/LSP \$200,000, and post-transition portion of SP/LSP \$210,000



CALCULATION OF SP/LSP FOR EMPLOYEE WHOSE EMPLOYMENT COMMENCES BEFORE THE TRANSITION DATE: ILLUSTRATIVE EXAMPLE

Pre-transition portion of SP/LSP -

Monthly wages
immediately preceding
transition date
\$15,000

$$\times \frac{2}{3} \times$$

Years of service
before transition date
4 years

=



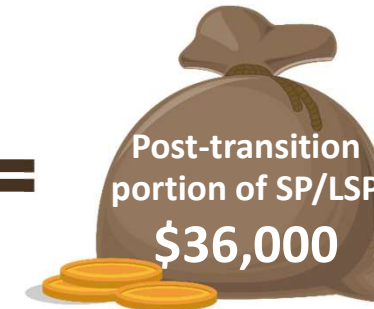
Post-transition portion of SP/LSP -

Last month's wages before
termination of employment
\$18,000

$$\times \frac{2}{3} \times$$

Years of service
after transition date
3 years

=



Employee's SP/LSP benefits



+



=

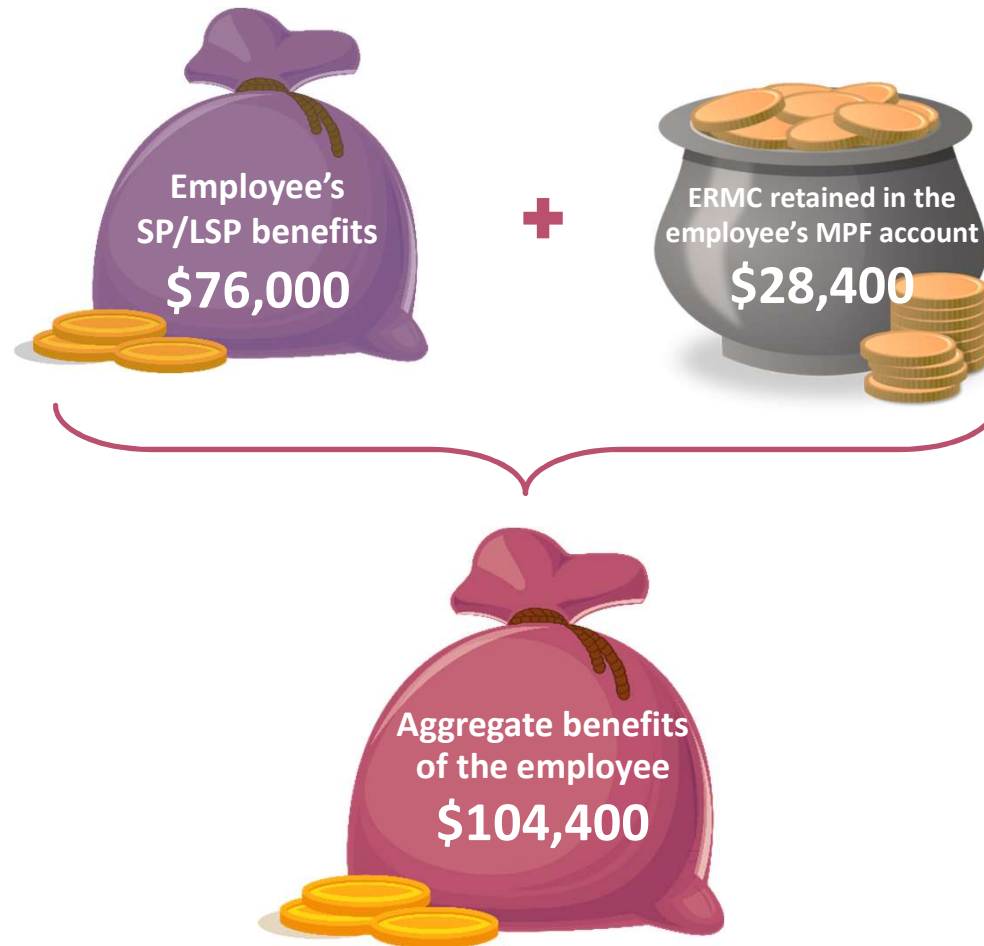


OFFSETTING ARRANGEMENT FOR EMPLOYEE WHOSE EMPLOYMENT COMMENCES BEFORE THE TRANSITION DATE: ILLUSTRATIVE EXAMPLE

The employer can use ERM to offset the pre-transition portion of SP/LSP



OFFSETTING ARRANGEMENT FOR EMPLOYEE WHOSE EMPLOYMENT COMMENCES BEFORE THE TRANSITION DATE : ILLUSTRATIVE EXAMPLE (CONT'D)



I am member of an occupational retirement scheme. Is the offsetting arrangement applicable to me?



THE ADAPTED ABOLITION ARRANGEMENTS

- The adapted abolition arrangements will be applicable to employees who are members of the following occupational retirement schemes (ORS) –

1

ORS under the Occupational Retirement Schemes Ordinance



2

The school provident funds under the Grant/Subsidized Schools Provident Fund Rules



3

Overseas ORS of employees from outside Hong Kong who are exempted from the MPF System



THE ADAPTED ABOLITION ARRANGEMENTS (CONT'D)

- Since the benefits under the above schemes are not differentiated into mandatory and voluntary portions, a portion of “non-offsettable” benefits will be carved out from the ORS benefits (akin to ERMCI).

Calculation of “non-offsettable” benefits

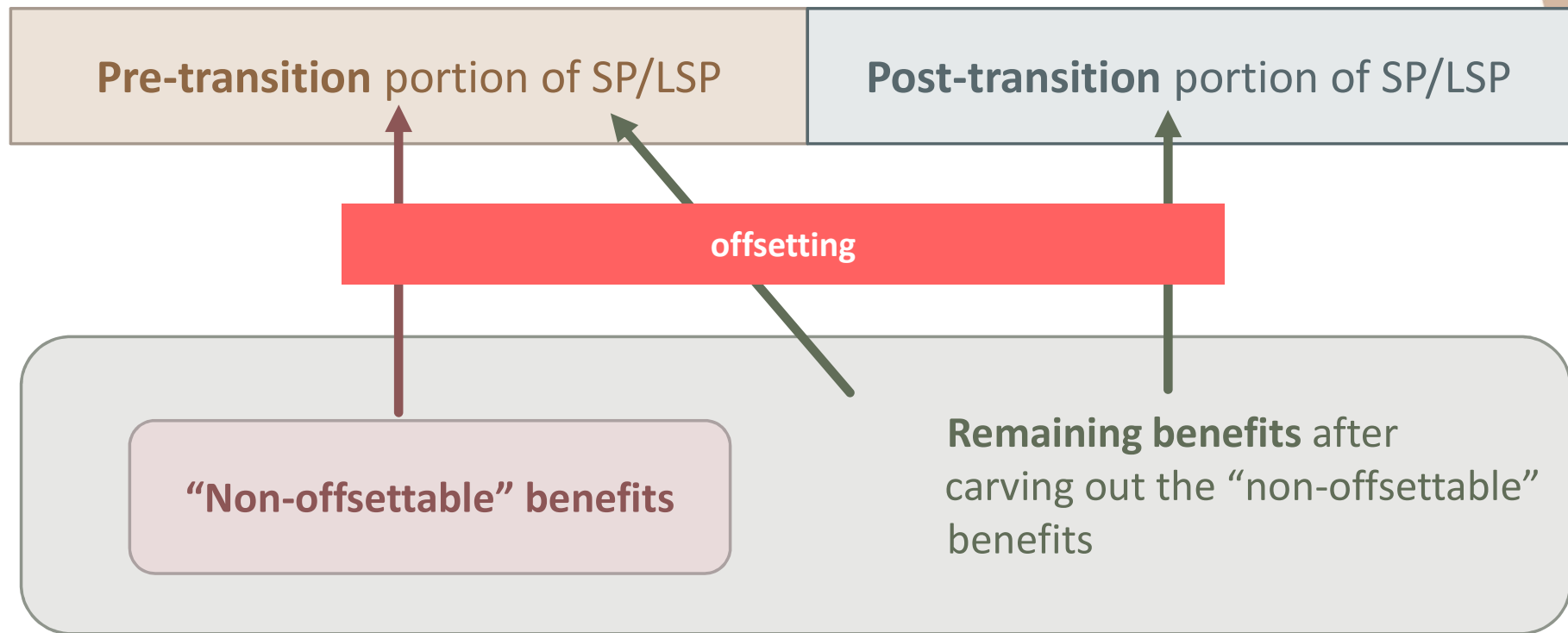
$$\text{Final average monthly relevant income} \times \text{Years of service with ORS benefits} \times 5\% \times 12$$

THE ADAPTED ABOLITION ARRANGEMENTS (CONT'D)

“Non-offsettable” benefits – akin to ERMC and can only be used to offset the pre-transition portion of SP/LSP

Remaining benefits after carving out the “non-offsettable” benefits – **akin to ERVC** and can offset the pre- and/or post-transition portions of SP/LSP

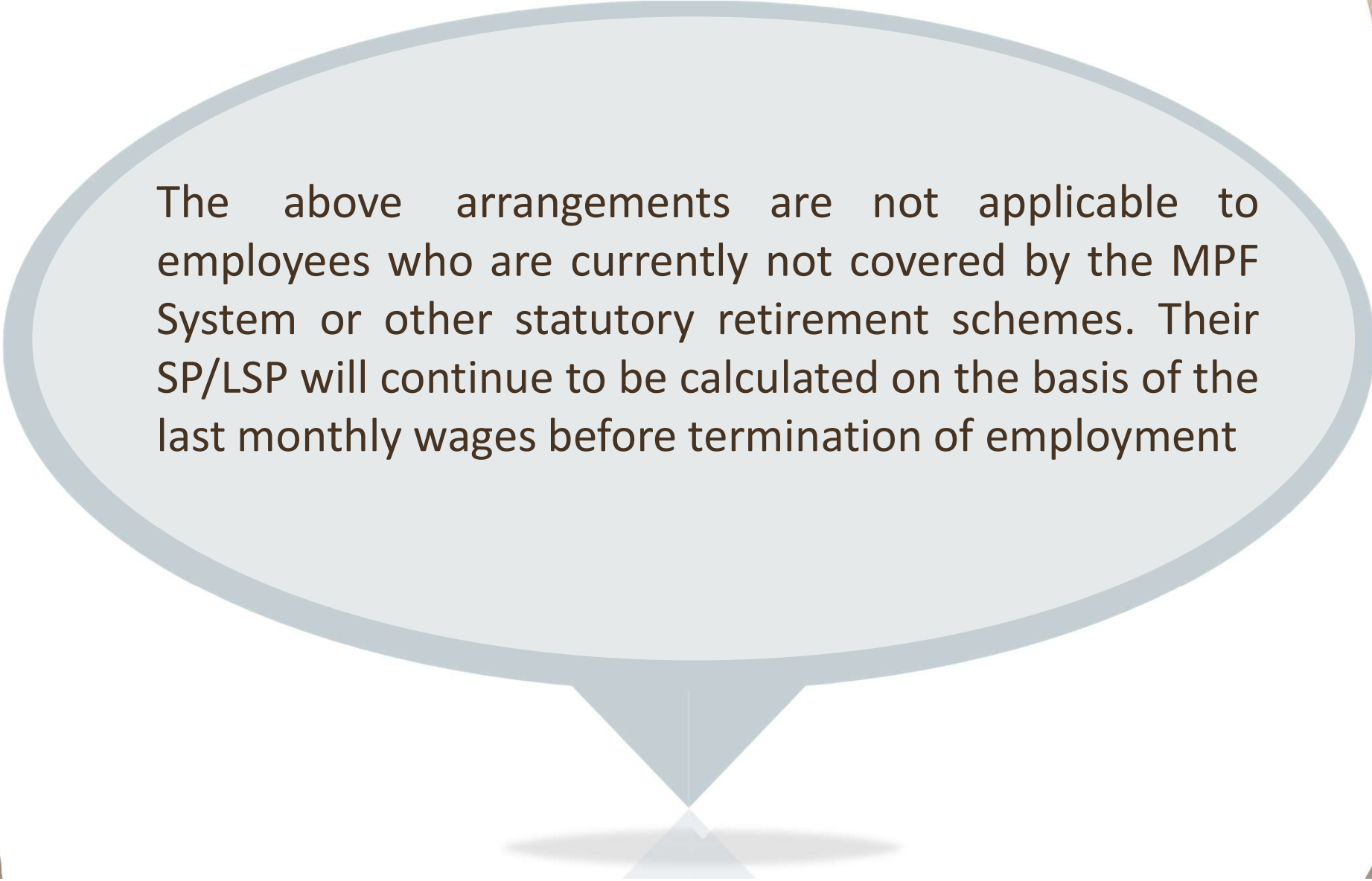
THE ADAPTED ABOLITION ARRANGEMENTS (CONT'D)



- ☐ **"Non-offsettable" benefits** can only be used to offset pre-transition portion of SP/LSP
- ☐ **Remaining benefits** can be used to offset pre- and/or post-transition portion of SP/LSP



**Is the abolition of the
offsetting arrangement
applicable to all employees?**



The above arrangements are not applicable to employees who are currently not covered by the MPF System or other statutory retirement schemes. Their SP/LSP will continue to be calculated on the basis of the last monthly wages before termination of employment

SUPPORTING MEARSURES



Government Subsidy Scheme :

The Government announced in October 2021 the refined Government subsidy scheme to provide targeted assistance to employers (especially micro, small and medium-sized enterprises) to adapt to the policy change



Designated Savings Accounts Scheme :

To consult stakeholders in the latter half of 2022

EMPLOYER'S SHARE UNDER THE REFINED SUBSIDY SCHEME FOR SP/LSP AFTER THE ABOLITION

Year after the abolition	Employer's share per employee (as % of SP/LSP payable)	
	<u>First \$500,000</u> of all SP/LSP paid by an employer in a year	Beyond the first \$500,000 of all SP/LSP paid by an employer in a year
1-3	50%, capped at \$3,000	50%
4	55%, capped at \$25,000	55%
5	60%, capped at \$25,000	60%
6	65%, capped at \$25,000	65%
7	70%, capped at \$50,000	70%
8	75%, capped at \$50,000	75%
9	80%, capped at \$50,000	80%

EMPLOYER'S SHARE UNDER THE REFINED SUBSIDY SCHEME FOR SP/LSP AFTER THE ABOLITION (CONT'D)

Year after the abolition	Employer's share per employee (as % of SP/LSP payable)	
	First \$500,000 of all SP/LSP paid by an employer in a year	Beyond the first \$500,000 of all SP/LSP paid by an employer in a year
10	80%	85%
11	80%	90%
12	85%	95%
13	85%	100%
14 - 19	90%	100%
20 - 25	95%	100%

Higher
subsidy

THANK YOU