

Simplified Superannuation

Fact Sheet — Contribution Rules — Non-concessional (Post-Tax) Contributions

The removal of benefits tax and RBLs will increase the concessions provided to superannuation. These changes, in conjunction with the current tax exempt status of superannuation pension assets, will make superannuation an attractive vehicle in which to retain assets to avoid paying tax. There will also be an incentive for high-wealth individuals to transfer large amounts of assets currently held outside superannuation to the concessional taxed superannuation system.

To ensure the concessions are targeted appropriately, from 1 July 2007, a cap of \$150,000 per year on the amount of non-concessional superannuation contributions a person can accrue will apply. The non-concessional contributions cap will remain at three times the level of the concessional contributions cap and will increase as the concessional cap moves with indexation).

To accommodate larger contributions, people under age 65 will be allowed to bring forward two years of contributions. For example, a person under age 65 will be able to make up to \$450,000 of contributions in the 2007-08 financial year but will then be unable to make further non-concessional contributions until the 2010-11 financial year.

Once a person turns age 65 they will be able to make \$150,000 of non-concessional contributions each financial year, provided they satisfy the work test. This will ensure that people do not inadvertently breach the cap by not meeting the work test in the future two years. To simplify the operation of the non-concessional cap, people aged 63 and 64 who contribute \$450,000 will not be required to meet the existing work test in the two years after they make the contribution. The current rules prohibiting contributions by people aged 75 and over will remain.

Contributions in excess of the cap will be taxed at the top marginal tax rate (plus Medicare levy). The tax liability will be levied on the individual who will nominate a superannuation fund to release monies to pay the liability. The balance of the excess contribution will be able to remain in the fund.

To limit breaches of the cap, superannuation funds will be prohibited from accepting contributions in excess of the maximum allowable non-concessional contributions in a year. If a person makes a genuine mistake, the ATO will be able to reduce the amount of the excess subject to the tax.

People who have made contributions in excess of the transitional limits outlined below before 7 December 2006 will be able to apply to withdraw these amounts without penalty prior to 30 June 2007. Contributions in excess of the transitional limits made on or after 7 December 2006 will be subject to the tax on the excess unless it is a genuine inadvertent breach.

Are there any exemptions from the cap?

There are two ongoing exemptions to the non-concessional cap.

- The proceeds from the disposal of eligible small business assets are exempt up to a lifetime limit of \$1 million (indexed). The \$1 million exemption may include up to \$500,000 of capital gains that are disregarded under the capital gains tax (CGT) retirement exemption and proceeds from the disposal of assets that qualify for the CGT 15-year exemption. The latter includes pre-CGT assets, assets on which there is no capital gain or loss, and assets disposed of after the permanent disablement of the owner.
- The proceeds from a settlement for an injury resulting in permanent disablement are also exempt.

What transitional arrangements are there?

There will be a transitional non-concessional cap of \$1 million for non-concessional contributions made between 10 May 2006 and 30 June 2007. This will be available to all individuals eligible to contribute to superannuation in the relevant year and will include any contributions already made during that period.

In addition, a person who was aged 64 at any time between 10 May and 5 September 2006 will be able to make superannuation contributions up to 30 June 2007 without having to satisfy the work test. A person aged 74 at any time between those dates will be able to make superannuation contributions if they had satisfied the work test for the relevant financial year. These transitional arrangements ensure that people who may have inadvertently been impacted by the timing of the Government's announcements can still take advantage of the higher contribution limits.

Transitional arrangements are in place to enable people to claim exemptions from the non-concessional cap. These arrangements apply to contributions related to personal injury payments and CGT events where the contribution satisfies the conditions other than being made within the specified time limit. An extension for making such contributions is provided until 30 June 2007.

What is included in the cap?

The cap will apply to all non-concessional contributions made on behalf of an individual. For example, contributions made by one spouse for the benefit of the other spouse will be counted against the receiving spouse's cap.

The Government co-contribution will not be included in the cap.

Contributions above the concessional cap will also count towards the non-concessional contributions cap. This will ensure people cannot circumvent the non-concessional cap by making excessive concessional contributions.

Contributions above the age-based limits will count towards the transitional \$1 million cap on non-concessional contributions with effect from 10 May 2006.

Can I still split contributions with my spouse?

Non-concessional contributions will not be able to be split with a spouse. This is a measure to ensure the integrity of the system. Splitting of concessional contributions will still be allowed.