Superannuation

Spouse contributions

Making a contribution into your spouse's superannuation may help to increase your spouse's retirement savings and may provide you with an offset to reduce your tax payable.

How it works

Your spouse must be either:

- Under age 67
- Age 67 - 69 and have met the 'work test', or
- Age 67 – 69 and meet the requirements for the 'work test exemption'.

For a spouse contribution, the 'work test' requires that your spouse has worked at least 40 hours over a consecutive 30-day period in the financial year the contribution is made. The work test exemption provides a one-year relief from the work test for recent retirees. It is available if:

- Your spouse met the work test in the financial year immediately prior
- Your spouse's total superannuation balance is less than $300,000 as at the prior 30 June, and
- Your spouse has not previously utilised the exemption (i.e. the exemption can only be applied once in your lifetime).

Spouse contributions cannot be made once your spouse reaches age 70. Spouse contributions count towards your spouse's non-concessional contributions cap. As such, they are not taxed upon entry into the fund and form part of the tax-free component of your spouse's account.

Non-concessional contribution caps

There is a cap on how much your spouse (or you on your spouse's behalf) can contribute as a non-concessional contribution (NCC) each year. The annual non-concessional contribution cap for the 2020/21 financial year is $100,000. But if your spouse is under age 65 on 1st of July in a financial year, your spouse (or you on your spouse's behalf) may be able to trigger the 'bring-forward' rule to make larger contributions.

NOTE: The Government has proposed to allow individuals under age 67 on the 1st of July to trigger the bring-forward rule from 1 July 2020. Legislation will need to be passed by Parliament for the proposed change to become law. At the time of writing, this proposal has not yet been legislated.

The 'bring-forward' rule effectively allows your spouse to bring forward up to an additional two years' worth of non-concessional cap and add it to the current year's cap. If eligible, your spouse (or you on your spouse's behalf) may be able to contribute up to $300,000 over the three-year period. The total bring-forward amount you/your spouse is able to trigger will reduce if your spouse's total superannuation savings are at least equal to $1.4 million on the 30th of June prior to the financial year in which your spouse triggers the bring-forward rule.

The bring-forward rule is automatically triggered if your spouse is eligible and your spouse (or you on your spouse's behalf) makes non-concessional contributions in a financial year that exceed your spouse's annual non-concessional limit. Once triggered, your spouse's non-concessional contribution cap will not be indexed for the next two years. In addition, your spouse must have total superannuation savings of less than the general transfer balance cap ($1.6 million in 2020/21) as at the prior 30 June to be eligible to make any non-concessional contributions in the following year.

These rules are complex so it is important that you and your spouse get advice to help you both understand how these rules will apply.

If your spouse exceeds their NCC cap, the ATO will issue an excess non-concessional contribution determination. The excess contribution may then be withdrawn from superannuation, along with any associated earnings within 60 days of the excess being determined by the Australian Taxation Office (ATO). The associated earnings will be included in your spouse's assessable income and taxed at your spouse's marginal tax rate. If the excess contribution is not withdrawn, the excess contribution will be taxed at 47%.

Spouse Tax offset

To be eligible for the spouse tax offset, you and your spouse must both be Australian residents for tax purposes and your contribution must be made from after-tax income.

The maximum tax offset is $540 ($3,000 x 18%). Your eligibility is based on your spouse's income for the financial year in which the contribution is made. If your spouse's income for the financial year is less than $37,000, you will be entitled to a tax offset of up to 18% on the first $3,000 contributed. If your spouse's assessable income is more than $37,000, the 18% tax offset only applies to part of the contribution. The tax offset phases out completely if your spouse's income is $40,000 p.a. or more.

Income is the total of your spouse's assessable income, reportable fringe benefits and reportable employer superannuation contributions.

The tax offset will not apply if the spouse receiving the contribution has exceeded their non-concessional contributions cap or if their total superannuation balance at 30 June of the previous financial year is above the general transfer balance cap ($1.6 million for the 2020/21 financial year).

Benefits

- Investing into your spouse's superannuation helps boost your spouse's savings to help meet their retirement goals.
- The after-tax rate of return inside superannuation may be higher than investing outside superannuation. This is because earnings inside superannuation are taxed at a maximum rate of just 15%, whereas earnings from non-superannuation investments are generally taxed at your marginal tax rate (plus Medicare levy) which could be up to 47%. This may help your spouse's savings to grow faster.
- If you make a spouse contribution, you may be eligible for a tax offset to help reduce your tax payable.
- If your spouse is under Age Pension age (or age 60 if a veteran) his/her superannuation benefits are not assessable by Centrelink/Department of Veterans' Affairs when determining any social security entitlement to which either of you are eligible, so your entitlement may be higher.
- The additional contributions may help your spouse cover the cost of insurance premiums if they hold insurance inside superannuation.

Risks and Consequences

- The contribution into your spouse's superannuation will be preserved (i.e. cannot be accessed) until your spouse meets a condition of release, such as retirement after they have met preservation age. You need to be sure that you do not need access to the amount contributed until your spouse has met a condition of release.
- If your spouse exceeds his or her NCC cap, tax penalties can apply.
- If your spouse has a total super balance equal to or greater than the general transfer balance cap ($1.6million in the 2019/20 financial year) as at 30 June of the previous year, any spouse contribution you make for your spouse will be treated as excess NCC and you will not be able to claim the tax offset for these contributions. The total super balance includes your accumulation accounts, retirement income streams, in transit rollovers and may also include certain limited recourse borrowing arrangements in self-managed superannuation funds.

- The total amount of superannuation money used to start pensions will be capped at transfer balance cap ($1.6 million in the 2020/21 financial year). You can retain excess amounts in your accumulation accounts

where tax at up to 15% continues to apply.

- Fees may be charged for the spouse contributions. You should check the details in the fee section of your Statement of Advice and the Product Disclosure Statement (PDS) for your superannuation fund.
- The Government may change superannuation legislation in the future.
- The tax offset can be claimed when you lodge your tax return. You should consult with a Registered Tax Agent to see if you are eligible.

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