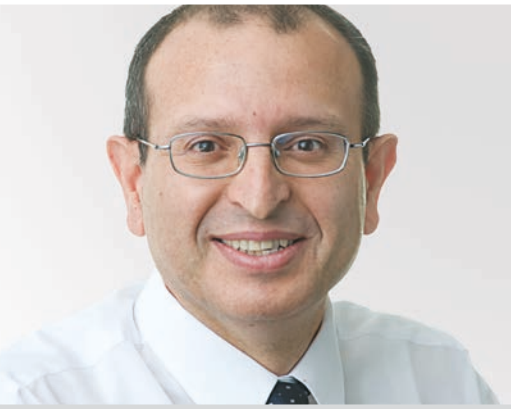
EOFY: SUPER PLANNING CONSIDERATIONS



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This article is worth
0.5 CPD HOURS

FPA Dimension
Capability

ASIC Knowledge Area
Superannuation

INCLUDES:

- Concessional contributions
- Pension drawdown
- Transition to retirement
- SMSFs and transitional CGT relief

With the end of the financial year fast approaching, it's timely to review the financial plans and strategies in place for clients. It gives financial advisers a good opportunity to identify and factor in any changes in client circumstances, and continue to assist clients build and protect their wealth.

This is particularly important this financial year due to several significant superannuation changes that have applied for the first time in 2017-18, and some others that are starting on 1 July 2018. Accordingly, this article will primarily focus on reviewing superannuation aspects relevant to clients' financial goals and plans.

1 MAKE THE MOST OF SUPER: CONCESSIONAL CONTRIBUTIONS

Super typically remains a tax-effective structure through which to hold investments to accumulate retirement savings. However, current contribution caps and rules mean that planning ahead over the longer term is the best way to maximise the benefits.

Particularly worth noting are the following changes:

1. This financial year is the first where the concessional contributions (CCs) cap of $25,000 applies to everyone eligible to contribute, regardless of their age and existing super.
2. 2017-18 is also the first financial year where the less than 10 per cent employment income rule **no longer applies** when looking to claim a tax deduction for personal superannuation contributions.
3. Eligible people can make voluntary contributions from 1 July 2017 that can qualify for release under the First Home Saver Super Scheme.
4. Eligible people can make 'downsizer' contributions from 1 July 2018.
5. Beginning in 2018-19, a person can commence to accrue unused amounts of their CCs cap and 'carry-forward' these unused amounts. The first year a person can make additional CCs from their accrued unused amounts is in 2019-20, provided their prior 30 June total superannuation balance (TSB) was under $500,000.

Personal deductible super contributions

Before 1 July 2017, clients who derived income from employment during the financial year were only eligible to claim a tax deduction for personal super contributions if, in broad terms, that employment income was less than 10 per cent of their total income from all sources.

From 1 July 2017, this condition no longer applies.

Broadly, this means any individual who is eligible to contribute to super will be able to claim a tax deduction for their personal super contributions. Note, if the person is under 18, some employment/self-employment income must also be derived and personal contributions to untaxed funds and certain defined benefit funds are not deductible.

As a result, from 1 July 2017, putting prospective salary sacrifice arrangements in place is no longer a necessity for employee clients.

That is, an employee client's surplus income, bonus or other windfalls (such as a capital gain or inheritance), can now be contributed at any time in the financial year, with the client

Table 1

Total super balance as at 30 June	Available NCC cap	Bring-forward period
< $1.4 million	$300,000	3 years
$1.4 - < $1.5 million	$200,000	2 years
$1.5 - < $1.6 million	$100,000	General NCC cap only
≥ $1.6 million	nil	n/a

eligible to claim a personal tax deduction for the contribution.

However, despite this increased flexibility, many clients may prefer the disciplined approach of regular savings into super via salary sacrifice and may continue to do so.

Clients wishing to make deductible personal super contributions will have to be disciplined savers. For some clients, it may be difficult to save the after-tax salary amount needed to get the same effective tax deduction that is provided by salary sacrifice.

The removal of the less than 10 per cent employment income rule will also be particularly welcomed by employed persons whose employers:

1. do not offer salary sacrifice arrangements; or
2. who may be otherwise disadvantaged from entering into a salary sacrifice arrangement, such as where the employer uses salary sacrifice contributions to reduce or eliminate their SG obligation. (Note, at the time of writing, the Government is proposing to ban such arrangements.)

Importantly, the 'paperwork' requirements to qualify for a deduction for a personal superannuation contribution have not changed. That is, the member must complete a valid 'Notice of Intention' (NOI) to claim a tax deduction, lodge this with their super fund, **and** receive an acknowledgment from the fund within prescribed time frames.

> *Commencing in the 2017-18 financial year, lump sum commutations from the pension account no longer count towards the minimum required pension income payments.*

Planning points

- Personal, tax-deductible super contributions will count towards an individual's CCs cap. If employer super contributions are also received, clients will need to ensure these are taken into account when determining how much to claim as a personal tax deduction.
- The amount of personal contributions that can be claimed as a tax deduction is limited to the member's taxable income, i.e. taxable income cannot be reduced below zero.
- Also requiring consideration is the member's tax-free threshold, potentially $20,542 in 2017-18 including the Low Income Tax Offset (LITO), or higher for those eligible for the Seniors and Pensioners' Tax Offset (SAPTO).

Non-concessional contributions (NCCs)

The new rules from 1 July 2017 limit the ability to bring-forward contributions and the amount as the client's prior 30 June TSB gets closer to $1.6 million.

In addition, from 1 July 2017, a client will basically not be eligible to make NCCs when their TSB prior to 30 June is $1.6 million or more. This is shown in the Table 1.

Planning points

- TSB is measured **every** 30 June. For example, a client's TSB may exceed $1.6 million in one year, leaving them with no NCCs cap in the following year. However, if a subsequent 30 June TSB is below $1.6 million, perhaps due to withdrawals or investment performance, the client will have a NCCs cap in the following year.
- Where a client intends to make NCCs in the following financial year but is concerned about the level of their TSB, it may be possible to reduce their TSB by making a withdrawal or taking more income from pension accounts.
- Making a withdrawal from the spouse with a higher super balance where possible and contributing in the name of the spouse with a lower super balance, can assist in keeping the TSB of each spouse under $1.6 million.
- If a client triggered the NCC bring-forward in 2016-17 (or previously in 2015-16) but had not fully utilised the bring-forward amount prior to 1 July 2017,

Continued overleaf

a reduced transitional bring-forward cap will apply for the balance of the bring-forward period.

- Qualifying amounts from small business capital gains tax (CGT) concessions may be contributed, irrespective of the client's 30 June TSB. However, once contributed, they will count towards future TSB calculations.
- Contributions are counted against the relevant caps in the year in which they are received and credited to the client's super fund. Don't leave contributions to the last minute!

Spouse contributions

In 2017-18, a tax offset of up to $540 is available for spouse contributions of $3,000 where the receiving spouse's total income[1] does not exceed $37,000.

The offset reduces once the receiving spouse's total income exceeds $37,000, cutting out at $40,000.

Contribution splitting

Members who hold an accumulation interest in a super fund are able to split part of the prior year's CCs (including personal deductible, employer SG and salary sacrifice contributions) with their spouse, provided the fund offers this facility.

Only certain contributions may be split with a spouse and other qualifying conditions must be met. The amount that can be split is the lesser of 85 per cent of the CCs or the member's CCs cap.

The main reasons for considering a contribution splitting strategy are to:

- help equalise the super balances of each person - this may, for example, assist with keeping each partner's TSB under $1.6 million;
- shelter assets against the Centrelink means tests by splitting contributions to a younger spouse (who is under their Age Pension age);
- access tax-free benefits earlier by splitting contributions with an older spouse;
- access two low-rate thresholds for any super withdrawals made between preservation age and age 59; and
- fund term life and total and permanent disability (TPD) insurance premiums for a low income or non-employed spouse through their super fund.

Planning points

- To split contributions made in 2016-17, a request must be made to the relevant fund by 30 June 2018. Once the member has made this application, they cannot make another one for the same contribution period.

2 PENSION DRAWDOWN

Where a fund member is in pension phase it is important, especially for SMSF members, to ensure that the required annual minimum pension payment is met, otherwise the fund risks losing the pension tax exemption for that financial year.

Advisers should contact their SMSF clients before 1 July 2018 to ensure the minimum required pension payment for 2017-18 has been met and to ensure all clients review their income needs for the next 12 months.

It's worth noting that a pension account that fails to make the minimum required payment in a year is taken to have ceased, effective from the start of that financial year, and will require a new application to re-start. In addition to the tax implications, this is also likely to lead to the loss of grandfathering provisions for the income test in respect of Centrelink or DVA income support payments or the Commonwealth Seniors Health Card.

Planning points

- If a pension is first commenced from 1 June, no pension drawdown is required for that financial year.
- Commencing in the 2017-18 financial year, lump sum commutations from the pension account no longer count towards the minimum required pension income payments.
- Clients who require more income than the minimum payment are encouraged to consider taking the extra amount as a lump sum commutation. This creates 'debits' in their pension transfer account and may allow greater flexibility for future pension commencement, including accommodating a greater amount of death benefit pension from a deceased spouse.

3 REVIEW EXISTING TTR CLIENTS

The tax exemption on earnings derived by investments supporting a transition to retirement (TTR) income stream ceased to apply from 1 July 2017. This means that earnings on fund assets supporting a TTR are subject to the same maximum 15 per cent tax rate applicable to an accumulation fund. This applies to all existing and new TTR income streams - there is no grandfathering of pre-existing TTR income streams.

Planning points

- Advisers with clients who have TTR pensions should contact their clients to review the level of pension being drawn down and the level of any associated salary sacrifice contributions.

4 SMSFS AND TRANSITIONAL CGT RELIEF

There were two super reform measures that potentially impacted the level of tax exemption on investment earnings derived by 'pension phase' assets. These were:

- The removal of the tax exemption on TTR income streams earnings; and
- The introduction of a $1.6 million (Pension) Transfer Balance Cap.

Both these measures may have resulted in some assets held by an SMSF in the 'pension phase' effectively being returned to the accumulation phase. The obvious outcome of this is that these assets no longer enjoy tax-free earnings status from 1 July 2017.

It also means that the disposal of impacted assets at any time from 1 July 2017 may result in a CGT liability being triggered where the asset would not previously have been subject to CGT (to the extent that it was recognised as an exempt pension asset).

In recognition of this, the super reform measures included **optional** CGT relief provisions to help mitigate this potential CGT impact.

In order for an SMSF to be eligible to apply this transitional CGT relief, certain transactions and/or decisions needed to have been taken prior to 1 July 2017. That is, it is now too late for an SMSF to meet the necessary eligibility criteria.

However, SMSF trustees who have met the eligibility criteria will need to choose which, if any, of the eligible assets the CGT relief will be applied to. This choice will essentially be made via an irrevocable election to the ATO through the SMSF Annual Return and will need to be made on or before the day the trustee is required to lodge the fund's 2016-17 income tax return – irrespective of the day the fund actually lodges its 2016-17 return.

Note: The ATO has recently made an announcement effectively extending the due date for SMSFs to lodge their 2016-17 returns to 2 July 2018.

Due to a deemed disposal occurring where CGT relief is applied to a particular asset, a CGT liability may arise where the chosen asset(s) have unrealised gains. As a result, it is important that appropriate tax advice is sought prior to such decisions being made. Such advice should consider:

- Whether CGT relief should be applied for; and
- If so, which assets could/should be selected for the relief.

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FOOTNOTE

1. *Assessable income plus Reportable Fringe Benefits (RFB) and Reportable Employer Super Contributions (RESC).*

QUESTIONS

To answer the following questions, go to the CPD tab at moneyandlife.com.au/professionals

1 Which of the following statements is incorrect for the 2017-18 income year?

a. The CCs cap is $25,000 for all people eligible to contribute to super.

b. CCs cap is nil where the person's TSB is $1.6 million or greater.

c. The less than 10 per cent employment income rule no longer applies when looking to claim a tax deduction for personal super contributions.

d. The NOI 'paperwork' requirements to qualify for a deduction for a personal super contribution have not changed.

2 Which of the following is incorrect regarding spouse contributions in 2017-18?

a. A tax offset of $540 per annum is available for spouse contributions of $3,000 where the receiving spouse's assessable income plus RESC plus RFB does not exceed $37,000.

b. The spouse contributions tax offset reduces once the receiving spouse's total income for this offset exceeds $37,000, cutting out at $40,000.

c. A tax offset of $540 per annum is available for spouse contributions of $3,000 where the contributing spouse's assessable income plus RESC plus RFB does not exceed $37,000.

d. All of the above are correct.

3 Splitting super contributions to a spouse is useful for which of the following?

a. Moving assets from an older person to a younger person for Centrelink sheltering of assets.

b. Moving assets from a younger person to an older person for earlier access to tax-free benefits.

c. Equalising or keeping both spouses' TSBs under $1.6 million.

d. All of the above.

4 Beginning in 2018-19, a person can commence to accrue unused amounts of CCs cap and 'carry-forward' these unused amounts for potential use in a subsequent year.

a. True.

b. False.

5 Which of the following statements is correct when dealing with clients who are in the pension drawdown phase?

a. A minimum pension payment is not required for 2017-18, if a client commences a pension on or after 1 June 2018.

b. Taking a partial lump sum commutation will result in a credit under the Transfer Balance Cap rules.

c. Failure to meet the minimum pension requirements will result in the pension being taken to have ceased effective from the start of that financial year.

d. All of the above.

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