

Factsheet

June 2010

Be aware of contribution caps

Making superannuation contributions is a very tax-effective way of saving for your retirement. But the Federal Government has imposed lower caps on the amount of contributions that can be made and if those caps are exceeded, penalties apply.

Australian Tax Office assesses whether caps are exceeded

Superannuation funds must report to the Australian Tax Office ('ATO') the contributions that are made to members' super accounts each financial year. The ATO uses this information and members' tax returns to assess whether a contribution cap has been exceeded. The ATO issued around 40,000 excess contribution tax assessments for 2007/08 and estimates the same number will be issued in 2008/09.

Other considerations

Activity in a First Home Savers Account (FHSA) can be relevant as well. If the FHSA has been closed and the balance contributed to a super fund, the FHSA provider must report the transfer to the ATO and that can become part of the assessment as to whether caps have been exceeded.

If the member's spouse or ex-spouse contributes an amount to the member's super from their FHSA because of a family law obligation, those transfers must be reported to the Tax Office as well.

Contribution caps

There are two categories of contribution caps to be aware of – a concessional contribution cap, and a non-concessional contribution cap. If the ATO finds that the member has exceeded a cap, an Excess Contribution Tax assessment will be issued. The cap amount, and how much extra tax you pay once you exceed it, depends on the type of contribution. There are two types of contribution.

Concessional contributions are generally made to a super fund in a financial year and are included in the assessable income of the super fund. Super guarantee, salary sacrificed amounts and any amount the member is allowed as a personal super deduction in their income tax return are examples of concessional contributions.

Non-concessional contributions are generally made to a super fund in a financial year and are not included in the super fund's assessable income. Personal contributions made from after-tax income are one example of non-concessional contributions.

To illustrate how the cap works, a person aged 47 for the 2009/10 financial year has a concessional cap of \$25,000. If this person has put in a place a salary sacrifice arrangement whereby they pay \$3,000 a month (or \$36,000 a year), their contributions would exceed the cap by \$11,000. \$3,465 of penalty tax would be incurred (31.5% of \$11,000) and that is on top of the normal 15% contribution tax.

And it could get even worse. Any excess contribution counts toward non-concessional contributions. If you go over that limit another round of penalty tax of 46.5% of excess contributions could apply. This means all up you could face penalty tax of up to 93%!

ATO website

More information about contributions caps and all tax matters related to superannuation at www.ato.gov.au/super

For example the ATO site provides the following summary of contributions caps:

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TAX YEAR	CONCESSIONAL CAP*	TRANSITIONAL CONCESSIONAL CAP**	NON-CONCESSIONAL CAP
2009-10 financial year	\$25,000	\$50,000	\$150,000
2008-09 and 2007-08 financial year	\$50,000	\$100,000	\$150,000
Tax on amounts over the cap	31.5% (in addition to the 15% paid by the super fund)	31.5% (in addition to the 15% paid by the super fund)	46.5%
Other information	Any concessional contributions in excess of the cap will also count towards your non-concessional contribution cap.	Any concessional contributions in excess of the cap will also count towards your non-concessional contribution cap.	If you are under 65 years old at any time during the financial year, you may be able to bring forward the next two years of contributions, but certain conditions apply. This effectively allows you to contribute up to three times the cap at once, or at any time during the three financial years.

* The \$25,000 concessional cap will be indexed annually from 2010-11 onwards to average weekly ordinary time earnings (AWOTE) and rounded down to the nearest multiple of \$5,000.

** The transitional concessional contribution cap is for those who are 50 years old or older on 30 June in a financial year and is available until 30 June 2012 and is not indexed.

Important note:

This information is of a general nature and does not take into account your specific needs. You should consider your own financial position, objectives and requirements before making any financial decisions. You should also obtain and read the legalsuper Product Disclosure Statement (PDS) before making your investment decision. Past performance is not a reliable indicator of future performance.

