

Superannuation Update Excess Contributions Tax

Still the most favoured structure through which to plan and provide for your retirement, Self Managed Superannuation Funds (SMSFs) have much to offer the self employed, small business operators and those with a sense of responsibility and concern for their future well being. But how can you avoid paying excessive contributions tax?

Attendees at our April Breakfast Briefing were given some tips which we share with you here. Our presenter was Suzanne Luck from McLean Delmo's SMSF division.

For more information about Self Managed Superannuation Funds including advice on excess contributions tax, please contact Suzanne on 9018 4666 or email suzanne.luck@mcleandelmo.com.au.

What are the contribution caps / thresholds? (year ended 30 June 2010)

	Concessional contributions ("CC")	Non-concessional Contributions ("NCC")
	Pre-tax	Post-tax
Annual cap	2009: \$50,000 < 50 years old \$100,000 > 50 years old 2010: \$25,000 < 50 years old \$50,000 > 50 years old	2009: \$150,000 2010: \$150,000 If <65 yrs old: \$450,000 over three years (bring forward rule) If >65 yrs old: \$150,000 p.a And pass "work test"

How can excess contributions arise?

- Salary (and salary-sacrificing) arrangements which existed prior to 1 July 2009 not being adjusted to account for the reduction in contribution caps for the year ended 30 June 2010.
- Late payment of salary packaged contributions
- Employees who work for multiple employees. The Super guarantee contribution per employer will be capped at \$14,461 for the year ended 30 June 2010.
- Poor monitoring of re-contribution strategies
- Lack of / Poor communication between the client and the financial adviser/accountant.
- Contribution deductions not being included in the Member's personal tax return. These will be classified as Non-concessional contributions.
- The amount claimed as a deduction in the Member's personal income tax return is different to the amount on the s290-170 Notice.
- Client failing the 10% work test.

What are the consequences of excess concessional contributions?

When the concessional contributions cap has been exceeded, the excess contributions will be included as non-concessional contributions.

Therefore excess concessional contributions will also be counted towards the **non**-concessional contribution caps (or the \$450,000 cap bring forward rule for members who are less than 65 years old).

This means an individual with excess concessional contributions may also end up having excess non-concessional contributions for the same year – resulting in a total tax liability of 93%.

15.0%	Tax on concessional contributions
<u>31.5%</u>	Tax on excess concessional contributions
46.5%	
<u>46.5%</u>	Tax on excess non -concessional contributions
<u>93.0%</u>	Overall tax applied

Example 1

Facts

- Fletcher is 59 years old
- Fletcher's annual salary is \$140,000
- 2009fy: total employer contributions = \$80,000, total member NCC = \$450,000
- 2010fy: total employer contributions = \$80,000

Q. Was Fletcher liable for excess contributions tax for the 2009 financial year?

A. No. Employer contribution was within the \$100,000 transitional cap, and the \$450,000 was covered by the bring-forward rule.

Q. Will Fletcher have excess contributions tax liability for the 2010 financial year?

A. Yes.

Excess CC of \$30,000 (\$80,000 - \$50,000 cap) which then become;
Excess NCC of \$30,000 (\$30,000 - \$Nil cap)

Excess concessional contributions tax	31.5% x \$30,000	9,450
Excess non-concessional contributions tax	46.5% x \$30,000	13,950
		<u>\$23,400</u>

Example 2

Facts

- Dr Anthony is 48 years old and works for two hospitals
- His annual salary from each hospital is \$160,000
- Each hospital pays \$14,400 contributions into Dr Anthony's SMSF in the 2010fy
- Dr Anthony made no NCC contributions during the year

Q. Will Dr Anthony have excess contributions tax liability for the year ended 30 June 2010?

A. Yes.

Total employer contributions	28,800
Less: Concessional contributions cap	<u>-25,000</u>
Excess contributions	<u>\$3,800</u>

Total tax payable on employer contributions for the year ended 30 June 2010 is:

Employer contributions	15% x \$28,000	4,320
Excess contributions tax payable by member		<u>1,197</u>
		<u>\$5,517</u>