Australian Government
Australian Taxation Office

Super contributions - too much can mean extra tax

- https://www.ato.gov.au/Individuals/Super/In-detail/Growing-your-super/Super-contributions---too-much-can-mean-extra-tax/
- Last modified: 29 Jan 2020
- QC 19749

Super contributions – too much can mean extra tax

There are caps on the amount you can contribute to your superannuation each financial year to be taxed at lower rates. If you contribute over these caps, you may have to pay extra tax. This could be as high as 94% in some cases.

The cap amount and how much extra tax you have to pay may depend on your age, which financial year your contributions relate to, and whether the contributions are:

- concessional (before tax)
- non-concessional (after tax)
- if you elect to have your excess contributions released from super after we send you a determination.

From 1 July 2017, your non-concessional contributions cap will be nil if you have a total super balance greater than or equal to $1.6 million at the end of 30 June of the previous financial year. If your non-concessional cap is nil, any non-concessional contributions you make plus any excess concessional contributions you elect or are unable to have released will be excess non-concessional contributions. You will pay excess contributions tax of 47% on these contributions.

To find out how much you contributed into your super fund to ensure you don't go over the caps, contact your super fund or phone us on 13 10 20.

Note: If you exceed your non-concessional contributions cap in a financial year, you must lodge a tax return for that year and you may have to pay extra tax.

Once we have your superannuation contribution data and tax return for the corresponding year, we will issue you a determination, seeking your preferred option in how to manage the tax owing.

System enhancements significantly delayed the automatic processing and issuing of some determinations. We have now rectified the issue and you may receive communication from us about this.

Find out about:

- Concessional contributions
- Non-concessional contributions
- Super for the self-employed
- Total superannuation balance
- If you go over the non-concessional contributions cap
- Temporary budget repair levy
- Situation for 2012–13 and earlier
- Administratively binding advice
- If the information used for excess contributions is wrong

Concessional contributions

- https://www.ato.gov.au/Individuals/Super/In-detail/Growing-your-super/Super-contributions---too-much-can-mean-extra-tax/?page=2
- Last modified: 29 Jan 2020
- QC 19749

Concessional contributions are made into your super fund before tax, and include:

- employer contributions, such as
  - compulsory employer contributions
  - any additional concessional contributions your employer makes
  - salary sacrifice payments made to your super fund
  - other amounts paid by your employer from your before-tax income to your super fund, such as administration fees and insurance premiums
- contributions you are allowed as an income tax deduction
- notional taxed contributions if you are a member of a defined benefit fund (including Constitutionally Protected Funds for 2017–18 onwards), which reflects the increase to your benefits for the year; it is the equivalent of an employer contribution (contributions made into defined benefit funds are not always linked to individual members)
- unfunded defined benefit contributions
- some amounts allocated from a fund reserve.

Once the concessional contributions are in your super fund, they are taxed at the 15% rate.

There are caps on the concessional contributions you can make each financial year. If you go over the cap, you may have to pay extra tax.

When working out your super contributions for the financial year, remember – contributions don't count when the payment is sent, they only count once the payment is received by your fund.

Make sure your fund receives all your contributions by 30 June.

Note: If you split your before-tax contributions and give some to your spouse, these contributions still count towards your concessional cap.

Your age may affect your concessional contributions cap, how the cap applies and what options you may have.

Table 1: concessional contributions caps made from 2013–14 onwards

Financial year	Your age	Your concessional contribution cap
2018–19	Any age	$25,000
2017–18	Any age	$25,000
2016–17	Less than 49 on 30 June 2016	$30,000
2016–17	49 or older on 30 June 2016	$35,000
2015–16	Less than 49 on 30 June 2015	$30,000
2015–16	49 or older on 30 June 2015	$35,000
2014–15	Less than 49 on 30 June 2014	$30,000
2014–15	49 or older on 30 June 2014	$35,000
2013–14	Less than 59 on 30 June 2013	$25,000
2013–14	59 or older on 30 June 2013	$35,000

Excess concessional contributions from 2013–14 onwards are included as taxable income, taxed at the marginal tax rate plus an excess concessional contributions charge.

The concessional contribution cap for 2012–13 was $25,000 for people of any age. Excess concessional contributions were taxed at 46.5% (15% levied in super fund, with an additional 31.5% payable).

Carry-forward concessional contributions

You are able to carry forward your unused concessional contributions cap space amounts from 1 July 2018. The first year in which you can increase your concessional contributions cap by the amount of unused cap is 2019–20, but only if you have a total superannuation balance of less than $500,000 at the end of 30 June in the previous year. Unused amounts are available for a maximum of five years, and will expire after this.

Example: Carry forward concessional contributions

During 2018–19 to 2021–22, Sam has minimal super contributions as he is working part-time while completing studies. His super balance is continuing to grow with earnings and a small amount of super contributions but in 2020–21 his account balance reduced due to negative returns in that year. Sam has unused cap amounts for each of the 2018–19 to 2021–22 financial years.

Sam's super contributions cap

Caps	2017–18	2018–19	2019–20	2020–21	2021–22
General contributions cap	$25,000	$25,000	$25,000	$25,000	$25,000
Cumulative available unused cap	na	nil	$22,000	nil	$69,000
Maximum cap available	$25,000	$25,000	$47,000	$25,000	$94,000
Super balance 30 June prior year	na	$480,000	$490,000	$505,000	$490,000
Concessional contributions	nil	$3,000	$3,000	nil	nil

Available unused cap for relevant financial year to be carried forward	nil	$22,000	$22,000	$25,000	$25,000

Sam would be entitled to use the unused concessional cap amounts in 2019–20 and 2021–22 as his total super balance at the end of 30 June in the year immediately preceding was less than $500,000.

Sam would not be able to use his unused concessional cap contributions in 2020–21 as his total super balance at the end of 30 June of the previous year was $505,000.

In 2021–22 Sam returns to work. For that year he has a maximum concessional cap amount available of $94,000 ($69,000 plus $25,000) for 2021–22 and is eligible to contribute this amount as this total super balance at the end of 30 June 2021 was now less than $500,000.

Division 293 tax

You may also pay Division 293 tax which is an additional tax on concessional contributions for individuals whose combined income and contributions are greater than the Division 293 threshold.

Division 293 tax is charged at 15% of an individual's taxable contributions.

See also:

- Additional tax on concessional contributions (Division 293) – information for individuals

Salary sacrifice

If your employer makes super contributions for you under a salary sacrifice agreement, your employer will pay the sacrificed amount into your fund and it is treated as an employer contribution.

Salary sacrificed amounts count towards your concessional contributions cap, in addition to your employer's other contributions (such as compulsory employer contributions).

From 1 January 2020, the sacrificed amount does not count towards your employer's compulsory super contribution obligations.

Prior to 1 January 2020, if your salary sacrificed super contribution is over the super guarantee amount your employer is required to pay (9.5% of your ordinary time earnings), your employer is not required under super guarantee legislation to pay an additional amount on top.

However, from 1 January 2020, your employer will be required to pay super guarantee contributions of 9.5% of your ordinary time earnings, to avoid the SG charge, in addition to your salary sacrificed amount.

When making planning decisions about your employer contributions, it is important to consider when these contributions are received by your super fund.

Contributions don't count when the payment is sent, only once the payment is received by your fund. Make sure your fund receives all your contributions by 30 June.

Timing of contributions

Your employer is entitled to make super guarantee contributions for the quarter ending on 30 June by 28 July (the next financial year).

It's up to you to keep track of contributions you, your employer, or others make on your behalf to your super account.

Keeping track of the amount of contributions and when they were received by your super fund is important – it can help you avoid going over contributions caps and paying extra tax.

Example: Fund receives cheque in next financial year

Suzette salary sacrifices $100 a fortnight. Her employer puts aside the amount each pay, then pays the amount, along with their super guarantee contributions, on the last day of the quarter by posting a cheque to the super fund.

It generally takes between one and two working days for the super fund to receive the cheque. As a result, although the amounts deducted from Suzette’s salary between 1 April and 30 June are sent on 30 June, the contribution is not received by the super fund until the next financial year.

This contribution will count towards Suzette's concessional contributions cap for the following year.

If you exceed the concessional contributions cap

If you have excess concessional contributions for the 2013–14 or later years we will issue you with an excess concessional contributions determination. The determination advises you that your excess concessional contribution amount has been included as assessable income in your tax return. It also advises what actions are required of you. The excess concessional contribution determination contains the:

- amount of the excess concessional contributions
- amount of the excess concessional contributions charge
- period of the excess concessional contributions charge
- rate of the excess concessional contributions charge.

With your determination, you will also receive a tax return Notice of assessment or Notice of amended assessment.

If the contribution information within the determination is incorrect, either:

- contact your super fund to have them re-report any incorrectly reported contributions
- amend your tax return if you did not claim the correct personal super contribution deduction in your tax return, or did not claim it at the correct label.

When you receive the determination you can choose to:

- do nothing and leave the excess concessional contributions in super
- elect to release your excess concessional contributions from your super fund.

Any excess concessional contributions you do not elect to have released will count towards your non-concessional contributions cap.

From 1 July 2017 you could be taxed at 94% if you have excess concessional contributions which you do not elect to release from super and these result in you exceeding your non-concessional contributions cap. This is if you do not or cannot elect to release after we send you an excess non-concessional determination.

Tips to avoid exceeding the concessional contributions cap

The following suggestions may help you keep your super contributions below your concessional contributions cap and prevent you having to pay additional tax.

- Be aware what your concessional contribution cap is.
- Keep track of the amount of contributions you, your employer or others make on your behalf.
- Check when your employer pays the contributions and when they were received by your super fund – contributions count towards a cap in the year your super fund receives them.
- If you have more than one job or pay money into more than one super fund, include all of them when working out your annual contributions. Compulsory employer contributions are included as part of your concessional contributions.
- Be aware of what your total super balance is.
- If you think you may go over your concessional contributions cap in the current financial year
  - stop or reduce any before-tax voluntary contributions to your super – however, your employer can't change
    - compulsory super guarantee amounts (unless you are eligible to apply for a super guarantee employer *shortfall exemption*

certificate), or
        - amounts paid under a contract or industrial agreement

    - delay making any personal super contributions you intend to claim as a deduction in your tax return.

- Check if your employer pays costs, such as super administration fees and insurance premiums on your behalf to your fund – these amounts count towards your concessional contributions cap.
- If you are eligible to claim an income tax deduction for your personal super contributions, only the amount we allow as a deduction will count towards your concessional contributions cap.

Non-concessional contributions

- https://www.ato.gov.au/Individuals/Super/In-detail/Growing-your-super/Super-contributions---too-much-can-mean-extra-tax/?page=3
- Last modified: 29 Jan 2020
- QC 19749

Non-concessional contributions are made into your super fund from after-tax income. These contributions are not taxed in your super fund.

There are caps on the non-concessional contributions you can make each financial year.

From 1 July 2017, the annual non-concessional (after tax) contribution cap will reduce from $180,000 to $100,000 per year. This will remain available to individuals between 65 and 74 years old if they meet the work test. The cap will be indexed in line with the concessional contributions caps.

If you exceed your non-concessional contributions cap in a financial year, you must lodge a tax return for that year, and you may have to pay extra tax.

Additionally, from 1 July 2017 your non-concessional cap will be nil for a financial year if you have a total superannuation balance greater than or equal to the general transfer balance cap ($1.6 million from 2017–18) at the end of 30 June of the previous financial year. In this case if you make non-concessional contributions in that year, you will have excess non-concessional contributions.

Contributions and defined benefit interests

Individuals with a defined benefit interest, who have a total super balance greater than or equal to $1.6 million at the end of the previous financial year, may still be required to make non-concessional contributions under an industrial or other workplace agreement. These will be excess non-concessional contributions and may not be able to be released depending on the rules of your fund.

Where the excess amounts cannot be released from any of your super interests you will be assessed for excess non-concessional contributions tax which you will need to pay from your own sources.

Example: Excess non-concessional contributions and defined benefit funds

Chris' total super balance at 30 June 2017 is $1.65 million, which reduces his non-concessional contribution cap for 2017–18 to nil.

Chris is a member of a defined benefit fund and must make mandatory non-concessional contributions to his super fund during 2017–18. As Chris has a nil non-concessional contribution cap, all of these mandatory contributions will be excess non-concessional contributions.

Chris' individual tax return and fund contribution reporting are received by us on 25 September 2018. Chris is issued an excess non-concessional contribution determination.

Chris makes an election to release the excess amount from his only fund. Chris' fund declines to release the amount as he is the member of a defined benefit fund.

Chris is notified that the excess could not be released and is issued an excess non-concessional contributions tax assessment. Chris has 21 days to pay this liability from his own sources.

Table 2: non-concessional contribution caps

Financial year	Non-concessional cap	Tax on amounts over cap
2018–19	$100,000	47%
2017–18	$100,000	47%
2016–17	$180,000	47% (plus 2% budget repair levy)
2015–16	$180,000	47% (plus 2% budget repair levy
2014–15	$180,000	47% (plus 2% budget repair levy)
2013–14	$150,000	46.5%

Types of non-concessional contributions include:

- contributions you make, or your employer makes on your behalf, from your

after-tax income
- contributions your spouse makes to your super fund (unless your spouse makes the contributions because they’re your employer)
- personal contributions not claimed as an income tax deduction
- excess concessional (before-tax) contributions you have not elected to release from your super fund
- contributions over your capital gains tax (CGT) cap amount
- retirement benefits you withdraw from your super fund and 're-contribute' to super
- most transfers from foreign super funds (including New Zealand KiwiSaver contributions), but excluding amounts included in your fund's assessable income.

Your age affects your non-concessional contributions cap, how the cap applies, and what options you may have.

From 1 July 2017, there is no limit on the amount of contributions your fund can accept for you; however, there are still limits on the type of contributions your fund can accept for you if you are 65 years or older.

Next step:

- To find out how much you contributed into your super fund to ensure you don’t exceed super contribution caps, contact us on 13 10 20.

Exclusions

Some personal contributions may be excluded from counting towards your non-concessional contributions cap for a financial year.

Exclusions include contributions:

- made from personal injury payments (also known as structured settlement payments)
- you chose to count towards your CGT cap that have not gone over your lifetime limit.
- you chose to make as downsizer contributions from the proceeds of selling your home.

These types of contributions are only excluded if you meet all the conditions.

You must specifically ask your fund to exclude them, by providing your fund with a relevant form before or when you make a contribution:

- Capital gains tax cap election (NAT 71161)
- Contributions for personal injury form (NAT 71162)
- Downsizer contribution into super form (NAT 75073).

Note: If you take money out of super and put it back later, it counts as a new non-concessional contribution.

When working out your super contributions for the financial year, remember:

contributions don't count when the payment is sent. They only count once the payment is received by your fund.

Make sure your fund receives all your contributions by 30 June.

Bring-forward arrangements

Individuals 64 years old or younger

If you are under 65, you may be able to make non-concessional contributions of up to three times the annual non-concessional contributions cap in a single year. If eligible, when you make contributions greater than the annual cap, you automatically gain access to future year caps. This is known as the bring forward arrangement.

From 1 July 2017, the non-concessional contributions cap amount that you can bring forward, and whether you have a two or three year bring forward period, depends on your total super balance. Your total super balance is determined at the end of 30 June of the previous financial year in which the contributions that triggered the bring forward, were made.

For 2017–18 onwards to access the non-concessional bring forward arrangement:

- you must be under 65 years of age for one day during the triggering year (the first year)
- you must contribute more than the annual cap ($100,000 from 2017–18)
- your total super balance at the end of 30 June of the previous financial year must be less than the general transfer balance cap ($1.6 million from 2017–18) with a capacity greater than the annual non-concessional contribution cap ($100,000 from 2017–18). Therefore, for 2018–19 you must have a total super balance as at the end of 30 June 2018 of less than $1.5 million to be able to access the bring-forward arrangement.

For 2017–18 onwards, the remaining cap amount for years two or three of a bring forward arrangement is reduced to nil for a financial year if your total super balance is greater than or equal to the general transfer balance cap at the end of 30 June of the previous financial year.

How the bring-forward arrangement works.

- If the difference between the general transfer balance cap and your total super balance is between one and two times the general non-concessional contributions cap for the first year – the amount is twice the general non-concessional contributions cap over a two year period.
- If the difference between the general transfer balance cap and your super balance is greater than two times the general non-concessional contributions cap for the first year – the amount is three times the general non-concessional contributions cap over a three year period.

Note: Unreleased excess concessional (before-tax) contributions count towards the non-concessional (after-tax) contributions cap.

From 1 July 2017 there are no limits on the amount of contributions your fund can accept for you.

For 2017–18 the following table represents the bring-forward arrangement for the first year.

2017–18 Bring forward period

Total super balance on 30 June 2017	Non-concessional contributions cap for the first year	Bring-forward period
Less than $1.4 million	$300,000	3 years
$1.4 million to less than $1.5 million	$200,000	2 years
$1.5 million to less than $1.6 million	$100,000	No bring forward period, general non-concessional contributions cap applies
$1.6 million or more	nil	na

Example: Excess non-concessional contributions

Sandra is 53 years old and contributes $160,000 non-concessional contributions to her super fund during 2013–14.

This triggers the bring-forward arrangement, as it exceeds the non-concessional contributions cap of $150,000.

Sandra can contribute up to $290,000 ($450,000 less $160,000) non-concessional contributions over the next two financial years without exceeding the non-concessional contributions cap.

Example: A single contribution

Alan is 60 years old and makes a single non-concessional contribution of $540,000 to his super fund in 2014–15. This triggers the bring-forward arrangement as it exceeds the non-concessional contribution cap of $180,000.

During the next two financial years, Alan can't make any more non-concessional contributions to his super funds without exceeding the non-concessional contributions cap as his remaining cap space is nil ($540,000 less $540,000).

Example: Effect on the following year

Austin is 42 years old and makes non-concessional contributions of $180,000 in 2014–15.

He forgot about $2,000 non-concessional contributions automatically direct debited into his fund from his bank account each year. As a result, Austin has $182,000 non-concessional contributions for 2014–15. This triggers the bring-forward arrangement.

In 2015–16, Austin contributes a further $540,000. Austin's non-concessional cap for 2015–16 is $358,000 ($540,000 less $182,000). As a result, he made excess contributions of $182,000 in 2015–16 ($540,000 less $358,000).

Example: Re-contribution strategy

John is 61 years old and makes a personal non-concessional contribution to his super fund of $200,000 in 2013–14. This triggers his bring-forward non-concessional cap of $450,000.

In 2014–15, John is dissatisfied with the return on his super investments and decides to withdraw $300,000 of his super benefits to reinvest in a fixed-term deposit.

In 2015–16, John decides to re-contribute the term deposit amount of $300,000 to his super fund.

Because this will be counted as a new non-concessional contribution, John will exceed his non-concessional cap by $50,000.

Once you trigger the bring-forward arrangement in a year, any change to the non-concessional contributions cap for the bring-forward period doesn't apply to you.

For example, in John's case, although the non-concessional contributions cap in the second and third year of his bring forward changed to $180,000, he couldn't contribute more than $250,000 without going over his cap

Note: View your remaining bring forward cap balance using ATO Online services via myGov.

Individuals 65 years old or older

If you are 65 years old or older on 1 July of the financial year you can't access the bring-forward provision. Your non-concessional cap is limited to $180,000 each year, or $100,000 from 2017–18.

Note: Unreleased excess concessional (before-tax) contributions count towards the non-concessional (after-tax) contributions cap.

Work test

If you are 65–74 years old, you need to satisfy a work test in each financial year that a voluntary super contribution is made to your fund.

The work test requires you to be gainfully employed. To satisfy the work test, you must work at least 40 hours during a consecutive 30-day period each financial year in which the contributions are made.

Note: Unpaid work does not meet the definition of 'gainfully employed'.

If you meet the work test, your fund can also accept:

- other types of employer contributions, such as
  - voluntary contributions your employer may make, such as salary sacrifice contributions
  - other amounts paid by your employer to your super fund, such as administration fees and insurance premiums

- other contributions made to your super fund, such as
  - personal contributions made by you
  - contributions made by someone other than you, such as your spouse.

Example: Not eligible for the bring forward provision

Bernard is 65 years old on 1 July 2018. His non-concessional contributions cap is $100,000 for 2018–19 and his total super balance on 30 June 2018 is $800,000.

He made the following non-concessional contributions to his super fund during the financial year, after his birthday:

- $75,000 in October 2018
- $75,000 in April 2019.

Bernard has made $150,000 non-concessional contributions in the financial year. Due to his age, Bernard is not eligible for the bring-forward arrangement.

Bernard has exceeded his non-concessional contributions cap by $50,000 ($150,000 less $100,000).

See also:

- If you're not sure whether you meet the work test rules for super non-concessional contributions, ask our Community for help.

Individuals 70 years old or older

If you are 70 years old or older, your fund is able to accept compulsory employer contributions made to your super.

If you are between 70 and 74 years old (inclusive) and meet a work test, your fund can accept certain other contributions.

The work test requires you to be gainfully employed. To satisfy the work test, you must work for at least 40 hours during a consecutive 30-day period each financial year in which the contributions are made.

Note: Unpaid work does not meet the definition of gainfully employed.

If you meet the work test and are between 70 and 74 years old (inclusive), your fund can accept:

- other types of employer contributions, such as
  - voluntary contributions your employer makes, such as salary sacrifice contributions
  - other amounts paid by your employer to your super fund, such as administration fees and insurance premiums

- personal contributions made only by you.

If you're 75 years old or older, your fund can only accept compulsory super contributions made for you by your employer.

Bring forward transitional period

If you have triggered the bring-forward arrangement in 2015–16 or 2016–17, but you did not fully use your remaining bring-forward balance before 1 July 2017, transitional arrangements apply. This means that the maximum amount of bring forward available will reflect the reduced annual contribution caps.

If the bring-forward arrangement was triggered in 2015–16, the transitional cap is $460,000 ($180,000 for 2015–16, $180,000 for 2016–17 and $100,000 for 2017–18). If the bring forward was triggered in 2016–17, the transitional cap is $380,000 ($180,000 for 2016–17 and $100,000 for 2017–18 and $100,000 for 2018–19).

Example 1: Bring forward transitional period

John contributes $540,000 non-concessional contributions in the 2016–17 triggering the bring-forward arrangement.

From 1 July 2017 the general non-concessional contributions cap reduces from $180,000 to $100,000. This will reduce John's three year bring-forward cap to $380,000 ($180,000 for 2016–17, $100,000 for 2017–18, $100,000 for 2018–19).

Although John's non-concessional contribution of $540,000 would exceed this new bring-forward cap, as his contribution was made prior to 1 July 2017, he would not be deemed to be in excess of his non-concessional bring-forward cap. However, John will not be able to contribute any further non-concessional contributions under the bring-forward arrangement in the 2017–18 and 2018–19.

Example 2: Bring forward transitional period

Barry contributes $200,000 non-concessional contributions in 2016–17 triggering the bring-forward arrangement.

From 1 July 2017 the general non-concessional contributions cap reduces from $180,000 to $100,000. This will reduce Barry's three-year total bring-forward cap to $380,000 ($180,000 for 2016–17, $100,000 for 2017–18, $100,000 for 2018–19).

Barry's remaining bring-forward cap balance is now $180,000 ($380,000 less $200,000).

The amount that Barry can contribute in 2017–18 and 2018–19 will now be dependent on his total super balance at the end of 30 June 2017 and 30 June 2018.

At the end of 30 June 2017, Barry's total super balance is $1.3 million. Therefore, he is still eligible to make non-concessional contributions in 2017–18.

On 10 November 2017, Barry makes non-concessional contributions of $150,000.

Barry's remaining bring-forward cap balance for 2018–19 would be $30,000, however, due to the growth in the fund, Barry's total super balance at the end of 30 June 2018 is now over $1.6 million. Therefore, Barry's non-concessional cap for 2018–19 is now nil (based on the general transfer balance cap for 2018–19 being $1.6 million).

Therefore, if Barry makes any non-concessional contributions in 2018–19 Barry will be in excess of his non-concessional contributions cap.

Example 3: Bring forward transitional period

In 2015–16 Elizabeth has the capacity to contribute non-concessional contributions of $540,000, however she only contributed $250,000 non-concessional contributions triggering the bring-forward arrangement.

From 1 July 2017, the general non-concessional contributions cap reduces from $180,000 to $100,000. This will reduce Elizabeth's three-year total bring-forward cap to $460,000 ($180,000 for 2015–16, $180,000 for 2016–17, $100,000 for 2017–18).

Elizabeth's remaining bring-forward cap balance is now $210,000 ($460,000 cap minus her non-concessional contributions of $250,000).

The amount that Elizabeth can contribute in 2017–18 and will now be dependent on her total super balance at the end of 30 June 2017 and the general transfer cap.

On 15 October 2017, Elizabeth makes non-concessional contributions of $100,000.

Elizabeth's remaining bring-forward cap balance for 2017–18 is $110,000.

At the end of 30 June 2017 Elizabeth's total super balance is $650,000. Therefore, she is still eligible to make non-concessional contributions in 2018–19.

On 30 April 2018, Elizabeth makes non-concessional contributions of $110,000.

Elizabeth has now used all her non-concessional remaining bring forward balance. If Elizabeth makes any further non-concessional contributions in 2017 18, Elizabeth would be in excess of her non-concessional contributions cap.

Table 3: yearly caps for the period 2014–15 to 2019–20

Yearly cap	2014–15	2015–16	2016–17	2017–18	2018–19	2019–20
Amount	$180,000	$180,000	$180,000	$100,000	$100,000	$100,000

Table 4: transitional contributions cap limits for the period 2014–15 to 2019–20

Three-year bring forward cap amounts	2014–15 to 2016–17	2015–16 to 2017–18	2016–17 to 2018–19	2017–18 to 2019–20
Range	0 to $540,000	0 to $460,000	0 to $380,000	0 to $300,000

Note: To make sure you don't accidentally trigger the bring-forward arrangement, you will need to take into account all your contributions made to all your super funds. Unreleased excess concessional (before-tax) contributions also count towards the non-concessional (after-tax) contributions cap.

Life insurance premiums and fund fees can count as contributions too. Consider these when planning your contributions.

Next steps:

- If you are unsure if you previously triggered the bring-forward provision, or you are considering making a large contribution, phone us on 13 10 20
- View your remaining bring forward cap balance using ATO online services via myGov

Super for the self-employed

- https://www.ato.gov.au/Individuals/Super/In-detail/Growing-your-super/Super-contributions---too-much-can-mean-extra-tax/?page=4
- Last modified: 29 Jan 2020
- QC 19749

If you're self-employed, you can put money into your super fund to save for retirement. These payments are called personal super contributions and you may be eligible to claim them as a tax deduction.

For the 2016–17 and earlier financial years if more than 10% of your income is salary or wages from an employer, you won't be eligible for a tax deduction.

If you're eligible to claim a tax deduction for your personal super contributions, only the amount we allow as a deduction will count towards your concessional contributions cap.

Next steps:

- If you're eligible and want to claim a tax deduction, you need to complete a notice of intent to claim a deduction form. You can get this from your super fund or our website.
- Once you complete the form, send it to your fund. Make sure you get an acknowledgment from them.
- You must do this before you lodge your tax return for the relevant year. Then you can claim a tax deduction for the payments you made as part of your tax return.

Note: Most self-employed people can claim a deduction for contributions they make until they are 75 years old.

Tips to help avoid exceeding the non-concessional cap

- Be aware of your non-concessional contributions cap.
- Keep track of the amount of contributions and when they were received by your super fund – contributions count towards a cap in the year your super fund actually receives the money.
- If you go over the concessional (before-tax) contributions cap, excess contributions count towards your non-concessional (after-tax) contributions cap if you choose not to release the excess concessional contributions from your super fund.
- Any amount you withdraw and re-contribute to your super fund is a personal (after tax) contribution.
- You're only eligible to bring forward the next two years of contributions if you are 64 years old or under on 1 July of the first financial year and from 1 July 2017 your total super balance is less than $1.4 million
  - if your total super balance is $1.4 million or above and below $1.5 million you can bring forward only one year of contributions.

- If someone else, such as a financial planner, accountant or employer, makes contributions on your behalf, check that they make the contributions in time to be received in your fund account by the end of the financial year.
- If you make contributions by BPAY®, internet transfer or similar means at the end of the financial year, check the terms and conditions of your financial institution and allow for any possible delays.
- Check if your contributions are held in another account or by another institution before they are received by your fund, as this can cause delays.

If you go over the concessional contributions cap

For 2013–14 onwards, excess concessional contributions are no longer subject to excess contributions tax. If your contributions exceed the cap, the amount is included in your assessable income and taxed at your marginal tax rate, rather than the excess concessional contributions tax rate of 31.5%.

To work out if you have gone over the concessional contributions cap, we look at your date of birth and assess the information:

- reported to us by your super fund
- you report in your tax return.

You have to pay the excess concessional contributions charge on the increase in your tax liability. This charge is applied to recognise the tax on excess concessional contributions is collected later than normal income tax.

To reduce your tax liability, we will apply a 15% tax offset to account for the contributions tax already been paid by your super fund.

You may elect to withdraw up to 85% of your excess concessional contributions from your super fund to help pay your income tax assessment when you have excess concessional contributions.

Any excess concessional contributions withdrawn from your fund no longer count towards your non-concessional contributions cap.

Including excess concessional contributions in your assessable income may impact your pay as you go (PAYG) instalments, or could lead to you entering the PAYG instalment system. For more information, refer to PAYG instalments.

If you have excess concessional contributions reported to us after you lodged your tax return, we will amend your tax return to include the excess concessional contributions. We will send you an income tax notice of amended assessment, an excess concessional contributions determination and a fact sheet.

If you wish to release an amount of your excess concessional contributions, you need to complete the excess concessional contributions election form and send it to us. We then issue your fund with a release authority.

Example: Excess concessional contributions

Mary is 51 years old. During 2013–14, Mary salary sacrificed money to super. Her total concessional contributions were $35,000.

Mary's concessional cap is $25,000, so her excess concessional contributions total is $10,000.

Mary lodges her tax return, and has taxable income of $70,000. We include the $10,000 of excess concessional contributions, which increases Mary's taxable income to $80,000. Mary is assessed at her effective marginal tax rate of 34% (including 1.5% Medicare levy).

The additional tax payable as a result of the excess concessional contributions is $3,400.

Mary is entitled to a tax offset equal to 15% of her excess concessional contributions, decreasing her tax liability by $1,500.

Including the excess concessional contributions, Mary's tax liability has increased by $1,900 ($3,400 less $1,500), and the excess concessional contributions charge is applied to this amount.

Mary doesn’t have to do anything – we will notify her by sending:

- an income tax notice of assessment
- an excess concessional contributions determination.

Mary has 21 days to pay her account. She decides to withdraw some of her excess concessional contributions from one of her super funds to help pay her tax debt.

Mary completes the excess concessional contributions election form and decides to release the full amount of $8,500.

She sends the election form to us and we issue a release authority to Mary's nominated fund to have the money released to us.

When we receive the money, we offset the amount against any debts Mary has, before refunding her the balance.

See also:

- Excess contributions tax and how funds report your contributions

Excess concessional contributions charge

From 1 July 2013, the excess concessional contributions charge is applied to the additional income tax liability arising from having excess concessional contributions included in your tax return.

The intent of the excess concessional contributions charge is to acknowledge the tax is collected later than normal income tax. The charge is payable for the year a person makes excess concessional contributions.

If you don't pay the excess concessional contributions charge by the due date, general interest charge (GIC) may apply.

The excess concessional contributions charge period is calculated from the start of the financial year the excess concessional contributions were made, and ends the day before the tax is due to be paid under your first assessment for the year that includes excess concessional contributions.

See also:

- Key superannuation rates and thresholds

Total superannuation balance

- https://www.ato.gov.au/Individuals/Super/In-detail/Growing-your-super/Super-contributions---too-much-can-mean-extra-tax/?page=5
- Last modified: 29 Jan 2020
- QC 19749

Your total super balance at a particular time is calculated by:

- adding together
  - the accumulation phase value of your super interests that are not in the retirement phase – this is the total amount of benefits that would become payable if you voluntarily ceased the interest at that time
  - the retirement phase value of your super interests – this is the balance of your transfer balance account, modified to reflect the value of account-

    based interests in the retirement phase at that time and disregarding certain debits
  - the amount of each roll-over super benefit not already reflected in the accumulation phase value or the retirement phase value (that is, rollovers in transit between super funds on 30 June)
  - in certain circumstances, the outstanding balance belonging to a limited recourse borrowing arrangement (LRBA) in an SMSF (or other regulated super fund with less than five members) you entered into from 1 July 2018, if either
    - the LRBA is with an associate of the fund
    - you have satisfied a condition of release with a nil cashing restriction

- subtracting any personal injury or structured settlement contributions that have been paid into your super funds.

Accumulation phase value

Your accumulation phase value (APV) is the total amount of super benefits that would be payable if you had voluntarily ceased a super interest at the time of calculation. Generally, this is the withdrawal value for an accumulation fund.

Alternatively, the superannuation regulations may specify a different method for determining the accumulation phase value if you have a defined benefit interest and you are not in retirement phase.

The accumulation phase value also includes:

- certain deferred super income streams
- transition-to-retirement income streams that are not in the retirement phase
- super income streams that have not complied with the pension or annuity standards or a commutation authority.

Self-managed super funds (SMSFs) need to provide an APV on a transfer balance account report (TBAR) for the 2016–17 financial year in certain circumstances. For example, if the SMSF member has 100% of their interest in the accumulation phase at 30 June 2017, then providing the APV is only required when the difference between the APV and the closing account balance of the SMSF member’s accumulation phase assets is not limited to the value of exit fees, administration fees and realisation costs. The difference will be the amount of the APV to be reported.

If not provided, the member's APV will be calculated as the difference between the closing account balance from the SMSF annual return and the value of the member's transfer balance account for the SMSF at 1 July 2017.

Retirement phase value

Your retirement phase value is worked out using your transfer balance account at the end of 30 June, with modifications if you either:

- have a certain account-based super income stream or streams
- have made structured settlement contributions to your super fund.

For account-based super income streams, the debits and credits in the transfer balance account are disregarded. Instead, your modified transfer balance includes the current value of the super interest that supports the account-based super income stream at the end of 30 June of the relevant financial year. The current value is the amount that would become payable if you were to voluntarily cease the interest.

If you only have account-based income streams, generally your retirement phase value will simply reflect the current value of those income streams.

All other super income streams keep the transfer balance account value, with modifications still required if you have made a structured settlement contribution to your super fund. In addition, certain transfer balance items are still taken into account (such as credits for excess transfer balance earnings and debits for non-commutable excess amounts).

Outstanding limited recourse borrowing arrangement amount

From 1 July 2018, SMSFs that start a limited recourse borrowing arrangement (LRBA) must include the outstanding limited borrowing arrangement amount at 30 June each income year when specific criteria are met.

This change doesn’t include the refinancing of an existing LRBA that was entered into before 1 July 2018 and is refinanced on or after 1 July, where the following apply:

- the new borrowing is secured by the same asset or assets as the old borrowing
- the refinanced amount is the same or less than the existing LRBA.

The outstanding balance of a relevant LRBA at 30 June will be reported in the member information section of the SMSF annual return and included in the member's total super balance (TSB).

Reporting of the outstanding balance of a relevant LRBA is required if either of the following applies:

- the LRBA is between the fund and an associate of the fund
- the member has met a condition of release with a nil cashing restriction.

If the fund has an impacted LRBA and a member has met either of the above criteria, the fund must report the outstanding LRBA amount in that member‘s section of the SMSF annual return.

Total super balance transitional period

There are transitional provisions for working out your retirement phase value of your total super balance at the end of 30 June 2017 because a transfer balance account does not commence until 1 July 2017. The transitional arrangements apply so that your transitional transfer balance at the end of 30 June 2017 is equal to:

- the sum of your transfer balance credits just after the start of 1 July 2017
- less any debits in relation to payment splits (if applicable).

This is subject to the transfer balance modifications for account-based income streams.

What's affected by your total super balance

Total superannuation balance is relevant when working out eligibility for the following.

- Carry forward concessional contributions – From 1 July 2019 if your total super balance is less than $500,000 at the end of 30 June of the previous financial year you may be able to increase your concessional contributions cap. To do so you must have unused concessional contributions cap space for one or more of the previous five year, starting from 2018–19. The first time you will be required to know your total super balance for the concessional contributions cap carry forward measure will be the 30 June 2019.
- Non-concessional contributions cap and the bring forward of your non-concessional contributions cap – From 1 July 2017 if on 30 June of the previous financial year your total super balance is below $1.6 million you may be eligible for a non-concessional contributions cap above zero. You may also be eligible to bring forward your non-concessional contributions cap of two or three times the annual non-concessional cap depending on your total super balance.
- Government co-contribution – From 1 July 2017 in addition to the existing eligibility requirements, you will be eligible for the government co-contribution in a financial year if
  - your non-concessional contributions do not exceed your non-concessional contributions cap for the relevant financial year
  - on 30 June of the previous financial year, your total super balance is less than the general transfer balance cap ($1.6 million from 2017–18) that financial year.

- Spouse tax offset – From 2017–18, there are additional eligibility requirements to meet to be entitled to the tax offset
  - your spouse receiving the contribution cannot contribute more than their annual non-concessional contributions cap for the relevant year
  - your spouse must have a total super balance less than the general transfer balance cap ($1.6 million from 2017–18) immediately before the start of the financial year in which the contribution was made, see Tax offset for super contributions on behalf of your spouse.

- Segregated asset method – From 2017–18, SMSFs and regulated super funds with fewer than five members (small-APRA funds), will not be able to use the segregated asset method to calculate exempt current pension income if at any time in the year, the fund has a retirement phase interest, and all of the

following apply
  - a person has a total super balance exceeding $1.6 million just before the start of that year
  - the same person has a super interest in the fund at any time during the year
  - the same person is the retirement phase recipient of a income stream just before the start of the year (from the super fund or another provider).

Example: Total super balance

Andy is 50 years old and earned $35,000 in 2018–19 and 2019–20.

Andy's employer made employer (before-tax) contributions to Andy's super fund of $3,500 per year.

Andy also made $10,000 in non-concessional (after-tax) contributions to super each financial year.

Andy received a structured settlement payment in June 2015 of $1,000,000 due to an accident at work Andy advised both funds and made a non-concessional contribution of $500,000 to each fund.

Andy has two accumulation super accounts with two different super funds. They have a balance of $700,000 each on 30 June 2020.

Andy does not have a transfer balance account.

On 30 June 2020 Andy's total super balance is $400,000: [$1,400,000 (total accumulation accounts) − $0 (transfer balance account) − $0 (rollovers) − $1,000,000 (structured settlement)].

On 30 June 2020, Andy's total super balance is $400,000, being:

- the value of his accumulation accounts ($1.4 million), minus
- his $1 million structured settlement contributions.

Andy is under 65 and his total super balance at the end of 30 June 2020 is less than $500,000. Therefore he:

- has contributed $7,000 in concessional contributions since 1 July 2018 and has $43,000 available in catch up concessional contributions along with his annual $25,000 concessional contributions cap available to use in 2020–21
- can make up to $300,000 in non-concessional contributions without exceeding his cap in 2020–21
- has an income of $35,000 and will be entitled to a Government Co-contributions payment if he makes non-concessional contributions again in 2020–21 of any amount less than $300,000 and his total super balance remains below $1.6 million.

The difference between $1.6 million transfer balance cap and $1.6 million total super balance

The transfer balance cap introduces a new limit on the amount you can transfer and hold in retirement phase to support an income stream over the course of your lifetime. You will be liable to pay excess transfer balance tax if your transfer balance account exceeds the cap limit.

The total super balance has been introduced as a way to value your super interests on a given date to determine your eligibility for various super measures.

The general transfer balance cap was set at $1.6 million from July 2017. This means that you will need to comply with two separate $1.6 million limits from 1 July 2017:

- the transfer balance cap limit on the value of the interests that support your retirement phase income streams
- your total super balance in order to determine your
  - non-concessional contributions cap
  - non-concessional contributions bring-forward arrangement
  - carry forward concessional contributions
  - government co-contribution eligibility.

The general transfer balance cap is subject to indexation in $100,000 increments on an annual basis in line with the consumer price index. The total super balance limit is equal to the general transfer balance cap.

Value of transfer balance account and total super balance

Your transfer balance account and total superannuation balance are calculated differently.

Your transfer balance account is calculated on amounts that you transfer into retirement phase to support a pension or annuity over the course of your lifetime.

The transfer balance account works in a similar way to a bank account. Amounts you transfer to, or are otherwise entitled to receive, from the retirement phase give rise to a credit (increase) in you transfer balance account.

Certain transfers out of the retirement phase give rise to a debit (decrease) in your transfer balance account. The total value of all of the credits and debits to your transfer balance account at the end of a financial year, will count towards the calculation of your total super balance, with modifications for account-based income streams and payment splits.

Example: Transfer balance account and total super balance

As of 1 April 2017, Fred is receiving an account-based pension valued at $2 million. On 28 June 2017, Fred commutes $500,000 from his pension and transfers it back into his super accumulation account.

On 18 August 2017, Fred makes $50,000 in voluntary non-concessional contributions to his fund.

Fred has a personal transfer balance cap of $1.6 million for 2017–18. Fred has a transfer balance account of $1.5 million, so is within his personal transfer balance cap.

Fred's total super balance as of 30 June 2017 was $2 million ($500,000 in the accumulation phase of his super fund and $1.5 million in his transfer balance account). As this exceeds the general transfer balance cap, his $50,000 contribution will be treated as excess non-concessional contributions.

Next step:

- You can check your total super balance using ATO online services through myGov.

See also:

- LCR 2016/12 *Superannuation reform: Total Superannuation balance*

If you go over the non-concessional contributions cap

Once we receive and assess your financial information, we let you know if you went over the caps by sending you a determination, which explains your options.

If you have exceeded your non-concessional contributions cap, you must lodge a tax return for that year. If you have not lodged your tax return within 28 or more days of your due date, we will issue you with your determination.

If you do not wish to receive your excess non-concessional superannuation contribution determination before you have lodged your tax return, either you or your tax professional will need to request a deferral of your lodgment before the due date.

If you go over the non-concessional cap, you can withdraw the excess non-concessional contributions, and any earnings. The earnings would then be included in your income tax assessment.

If you choose not to withdraw your excess contributions, they are taxed at the top marginal tax rate.

To work out if you have gone over the non-concessional contributions cap, we look at your date of birth and assess the information:

- reported to us by your super fund
- you report in your tax return.

You can choose how your excess non-concessional contributions are taxed

You can choose how your contributions in excess of the non-concessional cap are taxed. You can't change your decision once you make it.

From 2013–14 onwards

For most people it is easiest to do nothing. We will ask your super funds to release and send amounts to us. We will also amend your income tax assessment to include your associated earnings. You will pay tax on your associated earnings at your marginal tax rate.

We will use the money released to pay any tax or Australian Government debts and refund any remaining balance to you.

If you have no money in super, we will amend your income tax assessment to include your associated earnings amount. You will pay tax on your associated earnings at your marginal tax rate.

If your only super interest is held in a defined benefit fund or a non-commutable super income stream and the fund cannot or will not voluntarily release we will send you an excess non-concessional contributions tax assessment.

Alternatively you have 60 days from the date of your determination, to choose one of the following options:

- Option 1 – release the excess from your super funds
- Option 2 – leave your excess non-concessional contributions in your super funds

Option 1 – release the excess from your super funds

You can elect to release all your excess non-concessional contributions and 85% of your associated earnings from your super funds.

The full associated earnings amount stated in your determination will be included in your assessable income and taxed at your marginal rate of tax. A non-refundable tax offset equal to 15% of your associated earnings is applied to recognise any tax paid by your super fund.

We will issue a release authority to the super funds you nominate and they will pay this amount directly to us.

If you choose this option

You must nominate one or more super funds to release the amount from.

Details of the super funds must be provided on the election form.

When you complete the excess non-concessional contributions election form:

- We send a release authority to the super funds you nominate. They pay an amount to us in total equal to your excess non-concessional contributions amount and 85% of the associated earnings amount. Currently they have 21 days from the release authority being issued to make the payment. From 1 July 2018 super funds will have 10 working days to action a release authority.
- We amend your income tax assessment by including the full amount of the associated earnings as assessable income and providing a non-refundable tax offset equal to 15% of these associated earnings. We send you a notice of amended assessment, which may require you to pay an amount to us.
- When your fund(s) release the money they will send it us, we will use the money to offset any ATO or Commonwealth debts you may have and pay any remaining balance to you.

Option 2 – leave your excess non-concessional contributions in your super funds

If you choose not to release your excess non-concessional contributions from your super funds, you receive an excess non-concessional contributions tax assessment. The excess amount is taxed at the highest marginal tax rate. You must elect a fund to release your excess non-concessional contributions tax from.

You must select this option if your only fund is a defined benefit and the fund will not release amounts.

See also:

- Excess contributions tax and how funds report your contributions

Associated earnings

The associated earnings amount recognises your excess non-concessional contributions amount benefited from investment in your super fund.

How associated earnings are calculated

The associated earnings amount is calculated using three key elements.

1. The excess non-concessional amount – the non-concessional contributions amount above your cap.
2. The associated earnings rate – the rate used to calculate associated earnings is the average of the general interest charge rates for the four quarters of the relevant financial year the excess non-concessional contributions were made.
3. The associated earnings period – the period used to calculate associated earnings is from 1 July of the financial year the excess contributions were made and ends on the date of the original excess non-concessional contributions determination letter.

The associated earnings rate is applied on a daily compounding basis to the excess non-concessional amount for the length of the associated earnings period.

Impact of increasing assessable income

When the associated earnings amount is included in your assessable income, it may have flow-on consequences to other benefits and payments, such as:

- child support
- Centrelink benefits
- super co-contributions
- Medicare levy surcharge
- Division 293 tax
- eligibility for pay as you go instalments.

Example: Working out how your excess non-concessional contributions are taxed

In 2017–18, Reginald makes non-concessional contributions and exceeds his non-concessional contributions cap by $100,000.

He already received his notice of income tax assessment for 2017–18 with taxable income of $140,000.

We determine the associated earnings amount is $19,000 and give Reginald an excess non-concessional contributions determination stating:

- an excess contributions amount of $100,000
- an associated earnings amount of $19,000
- a total release amount of $116,150 ($100,000 plus 85% of the associated earnings amount of $19,000).

Reginald has 60 days from the determination letter issue date to make an election and give it to us.

If Reginald chooses option 1 – release amounts from super

Reginald decides to release $116,150 from his super and have the associated earnings included in his assessable income.

He logs onto his myGov account and completes the excess non-concessional contributions election form, choosing option 1 and nominating the super fund he wants the amount released from.

After receiving the valid election, we add Reginald's associated earnings amount of $19,000 to his assessable income. We send Reginald a notice of amended income tax assessment with:

- amended taxable income of $159,000 ($140,000 plus $19,000)
- a non-refundable tax-offset of $2,850 (15% of $19,000)
- an amount payable of $4,180.

We also send Reginald's nominated super fund a release authority requiring the fund to release $116,150 from his super.

The super fund pays us $116,150 in compliance with the release authority.

The released amount will be offset against any outstanding tax or other Australian Government debts before any remaining balance is refunded to the Reginald. The super fund notifies us and we notify Reginald of the payment of $116,150.

If Reginald chooses option 2 – pay excess non-concessional contributions tax

Reginald logs onto his myGov account and completes the excess non-concessional contributions election form, choosing option 2 to pay excess non-concessional contributions tax on $100,000.

He also advises us which fund he would like a release authority issued to in order to pay his tax liability.

We issue Reginald with an excess non-concessional contribution tax assessment for $47,000 (47% of $100,000).

We also send Reginald’s nominated super fund an excess non-concessional contributions tax release authority requiring the fund to release $47,000 from his super.

The super fund pays us $47,000 in compliance with the release authority. The released amount will be offset against Reginald's debt. The super fund notifies us and we notify Reginald of the payment of $47,000.

If Reginald does not choose any option

We don't receive a valid election form from Reginald within 60 days of the determination letter issue date. We will default him into option 1 and follow the process of releasing the excess non-concessional contributions from his super.

We add Reginald’s associated earnings amount of $19,000 to his assessable income. We send Reginald a notice of amended income tax assessment with:

- an amended taxable income of $159,000 ($140,000 plus $19,000)
- a non-refundable tax-offset of $2,850 (15% of $19,000)
- an amount payable of $4,180.

We also send a release authority to one of Reginald's fund's requiring the fund to release $116,150 from his super.

The super fund pays us $116,150 in compliance with the release authority. The released amount will be offset against any outstanding tax or other Australian Government debts before any remaining balance is refunded to the Reginald. The super fund notifies us and we notify Reginald of the payment of $116,150.

Example: Excess concessional and excess non-concessional contributions and defined benefit funds

Andrew is a member of a defined benefit fund and his employer is required to make contributions on his behalf. These contributions are normally non-concessional contributions. However, Andrew has arranged for these contributions to be salary sacrificed as concessional contributions.

Andrew's concessional contributions exceed his concessional contributions cap by $5,000 during 2017–18. After receiving an excess concessional contributions determination Andrew does nothing, leaving his excess concessional contributions in super.

Andrew is subject to the top marginal tax rate in 2017–18 and so his excess concessional contributions are taxed at 47% (including the Medicare levy). Andrew receives an offset of 15% for the concessional contributions tax.

Andrew's total super balance at 30 June 2017 is greater than $1.6 million. This reduces his non-concessional contribution cap for 2017–18 to nil. Consequently Andrew's excess concessional contributions are also excess non-concessional contributions.

Andrew can't release the excess non-concessional contributions amount because he is a member of a defined benefit fund. Therefore, Andrew has to pay excess non-concessional contributions tax of 47% (in addition to the 47% income tax paid on the same contributions when they were excess concessional contributions).

In this case, Andrew's decision to enter into a salary sacrifice arrangement for his compulsory employer contributions resulted in the contributions being taxed at 94%. If Andrew had not made this arrangement, the same contributions would have been taxed as excess non-concessional contributions only at 47%.

Temporary budget repair levy

Between 1 July 2014 and 30 June 2017, the government imposed a temporary budget repair levy.

If your taxable income was over $180,000 for the relevant income year, you pay a 2% levy on the part of your taxable income above $180,000.

The levy applied to 2014–15, 2015–16, and 2016–17.

Excess concessional contributions will be included in your taxable income and taxed at your marginal rate, including the rate of the new levy.

The levy also affected excess non-concessional contributions tax. The tax rate on any excess non-concessional contributions increased from 47% to 49% for the relevant income years.

Situation for 2012–13 and earlier

- https://www.ato.gov.au/Individuals/Super/In-detail/Growing-your-super/Super-contributions---too-much-can-mean-extra-tax/?page=6
- Last modified: 29 Jan 2020
- QC 19749

Your fund provides us with information each financial year about contributions made to your super, such as employer contributions, or personal contributions.

For 2012–13 and prior years, if we identify you have excess contributions before we issue you with an excess contributions tax assessment, we generally write to you so you can check our information. If this information is correct, you are assessed to pay excess contributions tax (ECT).

If you go over your non-concessional cap, when we send you an assessment notice we also send you a compulsory release authority, which you must use to authorise your fund to release the excess tax amount.

Paying the excess concessional contributions tax

If you go over your concessional contributions cap, when we send you an assessment notice we also send you a voluntary release authority which you can give to your fund to help you pay the amount of tax owing.

You can pay your excess concessional contributions tax in a number of ways.

You can:

- pay the tax yourself using your own money and not use the voluntary release authority
- pay the tax yourself and use the voluntary release authority to ask your super fund to release the money to you
- use the voluntary release authority to instruct your fund to pay the money to us on your behalf
- pay using a combination of these options.

You can use a voluntary release authority to withdraw excess contributions from multiple funds but the total amount withdrawn must not exceed the excess contributions tax amount. You need to send the voluntary release authority to your fund within 90 days of the issue date.

Paying the excess non-concessional contributions tax

If you go over your non-concessional cap, when we send you an assessment notice we also send you a compulsory release authority, which you must use to authorise your fund to release the excess tax amount.

You must use the compulsory release authority even if you:

- disagree with the assessment and want to object to it
- have paid the amount from your own money.

You can:

- pay the tax yourself and use the compulsory release authority to ask your super fund to release the money to you
- use the compulsory release authority to instruct your fund to pay the money to us on your behalf
- pay using a combination of these options.

Regardless of how you pay the tax, you must withdraw the full amount of your excess non-concessional contributions tax liability from your super.

You must give the compulsory release authority to your fund within 21 days to avoid being penalised.

Your fund can action a compulsory release authority given after 21 days if it receives it within 90 days after the compulsory release authority's issue date.

Generally, a fund can't release money to you unless a condition of release is satisfied. A release authority satisfies a condition of release.

Your fund must:

- release the correct amount
- release the amount within 30 days after receiving a valid release authority
- provide you and us with a statement within 30 days after paying the money from your super.

If you believe your fund has not acted correctly on a release authority, contact them. If you're still dissatisfied, phone us on 13 10 20.

If you don't withdraw money from your fund using a compulsory release authority

If we assess you have to pay excess non-concessional contributions tax, you must withdraw the excess tax liability amount from your super fund. If it isn't, you could be penalised up to $3,400.

If you release less than the amount of the excess non-concessional contributions tax from your super, we ask your fund to pay the outstanding amount to us.

We do this even if you've already paid the tax liability, because the excess non-concessional contributions tax liability amount must be taken out of your fund.

We request payment from your fund using a *Commissioner's authority to release excess contributions tax and statement*. Your fund will give you and us a statement within 30 days of paying the amount. We let you know by letter when your fund sends us any payment.

If you already paid the excess non-concessional contributions tax, we apply the payment from the fund against other tax debts you may have. We may also apply the payment against debts you may have with other government agencies.

If you already paid the excess contributions tax to us and you don't have a tax debt, you will be refunded the money.

Pay your excess non-concessional contributions tax on time

The excess non-concessional contributions tax is due and payable 21 days after you receive your notice of assessment.

If you don't pay the excess non-concessional contributions tax by the due date, general interest charge (GIC) may apply. However, you can request we return any GIC you incur.

Generally, if you give your release authority to your fund within the time allowed for payment, and your fund makes the payment within 30 days (or any delay in payment was not in your control), we may remit the GIC.

Paying from super

If you don’t have enough super in one fund

If you don’t have enough money in one super fund to pay your liability, you can photocopy the release authority and give it to more than one of your super funds. You must sign each copy with an original signature.

Ensure the total amount released is not more than your excess non-concessional contributions tax liability, otherwise you will be penalised. Any additional amount released is counted towards your assessable income (and will be taxable) for the year you received it.

If you have a defined benefit super account

You can't use a release authority to release an amount from a defined benefit fund.

You can use your release authority to obtain money from another super fund, even if you didn't make contributions to that fund during the year.

If your entire super is in a defined benefit fund, you can't use the release authority. You must pay the excess non-concessional contributions tax from your own money.

See also:

- Super contributions – for defined benefit funds and untaxed funds
- Excess contributions tax and how funds report your contributions

Offer to have excess concessional contributions refunded for 2011–12 and 2012–13 only

You may receive an offer to have the excess concessional contributions refunded and assessed at your marginal tax rate, rather than pay excess contributions tax.

This may occur if:

- you exceeded your concessional contributions cap for the first time in either

2011–12 or 2012–13
- the amount above the concessional cap is $10,000 or less
- you lodged a tax return for the relevant financial year within 12 months of the end of that year (or within a longer period, if the Commissioner of Taxation allows it).

This is a once-only offer – once you make your choice, it can't be reversed. If you receive an offer, you won't receive another offer in later years.

If you exceeded your concessional contributions cap by more than $10,000, you are not eligible for the refund offer and are subject to excess contributions tax.

If you're eligible for the refund offer, we send you a letter detailing the amount of your excess concessional contributions and your options.

You can choose to accept the refund offer or pay your excess contributions tax liability.

Before accepting the offer

Before you decide whether to accept the offer, consider the:

- income tax implications of accepting an offer
- refund you may be entitled to on accepting an offer could be used to pay any outstanding ATO or other Commonwealth agency debts (such as Child Support Agency or Centrelink)
- flow-on impacts of accepting an offer on a range of government income tests used for offsets, surcharges, benefits and payments.

See also:

- Income tests
- Super co-contribution

Administratively binding advice

- https://www.ato.gov.au/Individuals/Super/In-detail/Growing-your-super/Super-contributions---too-much-can-mean-extra-tax/?page=7
- Last modified: 29 Jan 2020
- QC 19749

When planning your contributions for current or future financial years, you can apply to us for administratively binding advice specific to your situation.

Administratively binding advice is available in relation to excess contributions tax or the excess non-concessional contributions on which the tax is calculated.

Issues include:

- rollovers
- re-contributions
- the exercise of the Commissioner’s discretion
- the bring-forward arrangement
- personal injury structured settlement contributions
- timing issues relating to contributions.

See also:

- Administratively binding advice

If the information used for excess contributions is wrong

- https://www.ato.gov.au/Individuals/Super/In-detail/Growing-your-super/Super-contributions---too-much-can-mean-extra-tax/?page=8
- Last modified: 29 Jan 2020
- QC 19749

The following advice will guide you if you think the information used for excess contributions is wrong.

Find out about:

- Correcting fund reporting mistakes
- Disagreeing with income tax assessment information
- If you disagree with your ECT assessment, ECC or ENCC determination
- Disregarding or reallocating your contributions
- Applying to have contributions disregarded or reallocated

Correcting fund reporting mistakes

If you receive a notice from us advising you have excess contributions and believe it is incorrect, contact your super fund to discuss the contributions you made and how a contribution cap was exceeded.

Funds can only re-report your contributions if they previously reported them incorrectly. They must report contributions on the basis of the facts, including the date contributions were received and the contributor's intention at the time the contribution was made.

A fund can't re-report contributions simply to help you avoid excess contributions.

If there has been a mistake, the fund is required to correct records with us.

Occasionally, complicated circumstances may lead the fund to believe it can't correct contributions records.

If your super fund tells you they can't correct a mistake in contributions records, call us on 13 10 20.

Example 1: Correcting fund reporting mistakes

Michael is nearing retirement age and for the last few years made regular personal contributions to the fund Perfect Super to increase his super balance.

Unknown to Michael, Perfect Super staff made errors processing his contributions. They reported these contributions as employer contributions rather than personal contributions.

This caused Michael to go over his concessional contributions cap, and we included the excess in Michael's assessable income.

Michael checked his records and contacted Perfect Super to ask for the error to be corrected.

Perfect Super accepted an error was made and they had an obligation to correct their records.

Perfect Super then reported the corrected details to us within 28 days of becoming aware of the error.

Disagreeing with income tax assessment information

Any personal contributions allowed as a deduction in your tax return are used to calculate your concessional and non-concessional contributions and in turn, any excess contributions.

If you want to claim a tax deduction for your personal super contributions, you must complete a notice of intent to claim deduction in the approved form and give it to your super fund.

The amount you're allowed as a personal super deduction in your tax return is counted towards your concessional (before-tax) contributions.

The amount you're not allowed to claim as a deduction is counted towards your non-concessional (after-tax) contributions cap.

If you do not claim the correct amount in your tax return, or do not claim it at the correct label, you can request an amendment. We may confirm this information with your fund before amending your income tax assessment.

You can object if you think the amount allowed or not allowed as a personal super deduction was incorrect.

If you amend your tax return, we use this amended information to recalculate your excess contributions. We may seek further information in some circumstances.

Next step:

- How to request an income tax amendment

See also:

- Claiming deductions for personal super contributions

If you disagree with your ECT assessment, ECC determination or ENCC determination

We make excess contributions tax (ECT) assessments and excess concessional contributions (ECC) or excess non-concessional contributions (ENCC) determinations based on information provided by your fund about your contributions, and by you in your tax return.

After we make an ECT assessment or ECC determination or ENCC determination, if your fund amends your contribution information or you amend your deduction for personal super contributions on your tax return, we may amend your assessment or determination.

It may take up to six weeks for you to receive an amended notice of assessment or determination.

We may also amend your ECT assessment or ECC determination or ENCC determination without a request from you when this information changes.

We can initiate an amendment to your ECT assessment or ECC determination or ENCC determination without your request for up to four years from the day we give you the assessment.

Disregarding or reallocating your contributions

If you believe your super contributions exceeded or will exceed a contributions cap due to special circumstances, you can apply for a determination so some or all of your contributions are disregarded or allocated to another year.

We can only disregard or allocate your contributions to another year if both the following apply:

- there are special circumstances
- the decision is in line with the object of Division 291 or Division 292 of the *Income Tax Assessment Act 1997*.

If we find you have special circumstances, and disregarding or allocating some or all of your contributions to another year would be in line with the object of the legislation, we also consider:

- whether the contributions would be more appropriately allocated to another financial year

- whether it was reasonably foreseeable you would have excess contributions when a contribution was made
- the extent to which you had control over the making of the contribution
- whether there are other relevant factors.

Special circumstances

Special circumstances are unusual or out of the ordinary factors that lead to an unjust, unreasonable or otherwise inappropriate outcome.

There is no strict formula or checklist to work out what special circumstances are – each case is considered on its own merits.

Situations not generally considered special circumstances include:

- financial hardship from having to pay excess contributions tax
- thinking the assessment or determination is unfair
- not meaning to exceed a cap
- not knowing about or misunderstanding the law or facts
- receiving incorrect or incomplete professional advice
- making a mistake.

Even if we think your circumstances are special, we can only disregard or reallocate excess contributions if it's consistent with the object of the relevant legislation to do so. This is to ensure contributions made to a person's super have been made gradually over time.

This is achieved by introducing a cap on the amount of contributions that can be made on your behalf each year, and imposing a tax and/or charge on contributions in excess of your cap.

Our decision must take into account all of your relevant circumstances. Any part of your circumstances could be relevant to our decision if it influenced the planning or making of your contributions.

Our common scenarios and examples are designed to help you understand how we consider whether you have special circumstances. They are a guide only. Each decision depends entirely on your specific circumstances.

See also:

- PS LA 2008/1 *The Commissioner's discretion to disregard or reallocate concessional and non-concessional contributions for a financial year* – For a more detailed explanation about what we consider when you make an application.
- TR 2010/1 *Income tax: superannuation contributions* – For more detailed information about when a contribution is made.

Applying to have contributions disregarded or reallocated

To apply for your contributions to be disregarded or allocated to another financial year, complete and send us the Application – excess contributions determination

(NAT 71333) form.

Note: you don't have to use our form, but your application must include all the information we request in our form. If it doesn't, we may not be able to consider your application.

After completing your application, either:

- fax it to 1300 669 846
- send it to us at

  Australian Taxation Office
  PO Box 3100
  PENRITH NSW 2740

You should not apply for the Commissioner's discretion if you believe we have:

- relied on incorrect information – you should attempt to get the information corrected
- applied the law incorrectly – you should object to the assessment, explaining where you think we applied the law incorrectly.

Time limits

If an ECT assessment, excess concessional contributions determination or excess non-concessional contributions determination has not been issued – you can apply for a determination at any time after all the contributions you want disregarded or reallocated have been made.

If an ECT assessment, excess concessional contributions determination or excess non-concessional contributions determination has issued – you must apply within 60 days of receiving the assessment or determination.

We may accept your application after 60 days if you can show you were unable to apply within the required time. It is important you include this explanation with your application.

To elect your excess concessional contributions refer to:

- Excess concessional contributions election form (NAT 74825)
- Excess non-concessional contributions election form (NAT 74824)

When a decision is made to disregard or reallocate your contributions

If we decide to disregard or reallocate your contributions, we write to you to let you know our decision.

We amend your ECT assessment, excess concessional contributions determination or excess non-concessional contributions determination to disregard or reallocate your contributions to another year.

Your super fund won't need to re-report your contributions if we decide to disregard or reallocate an amount.

Our decision won't alter your eligibility for a super co-contribution or to claim a deduction for personal contributions.

Any amount disregarded or reallocated is only for the purposes of excess contributions.

Disagreeing with an application decision

If your application is not successful and you disagree with our reasoning, you can lodge an objection to our decision by completing the relevant form.

You can object

If you receive an ECT assessment, an excess concessional contributions determination or excess non-concessional contributions determination from us, and you think we applied the law incorrectly, you should object to the assessment or determination by completing the relevant form.

Even if you object, you must still pay the liability.

To obtain an objection form and instructions on how to complete it, refer to:

- Objection form – for taxpayers (NAT 13471)
- Objection form – for tax professionals (NAT 13044).

If you haven't received an ECT assessment, an excess concessional contributions determination or excess non-concessional contributions determination, you can apply for a determination to have some or all of your contributions disregarded or allocated to another year if all the contributions have been made.

Next step:

- Application – excess contributions determination (NAT 71333) form

See also:

- Object to an ATO decision

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

Copyright notice