SuperNews April 2021

Transfer balance cap indexation from 1 July 2021 will add further complexity

From 1 July 2021, the general transfer balance cap (currently $1.6 million) will be indexed to $1.7 million. The transfer balance cap limits the amount of superannuation that an individual can transfer to retirement phase income streams such as account based pensions.

However, when this general transfer balance cap indexation commences there will not be a single cap that applies to all individuals.

Every individual will have their own personal transfer balance cap of between $1.6 and $1.7 million, depending on their own circumstances.

No retirement phase pensions since 1 July 2017

Where a person starts a retirement phase income stream such as an account based pension for the first time on or after 1 July 2021, then they will have a transfer balance cap of $1.7 million, receiving the full indexation of the general transfer cap.

Have paid retirement phase pensions since 1 July 2017

However, if a person was receiving a retirement phase pension at any time between 1 July 2017 and 30 June 2021 and had a transfer balance account between those dates, then their personal transfer balance cap will:

- remain at $1.6 million if the balance of their transfer balance account was ever $1.6 million or more; or
- in all other cases, be somewhere between $1.6 million and $1.7 million, with indexation only being applied to the amount of their transfer balance cap never used.

Examples

The table below shows example of the indexation where individuals have not, or have commenced retirement phase pensions at various levels since 1 July 2017. The table also shows examples of how the indexation is calculated.

Highest ever transfer balance	Unused cap (as a %)	Increase following indexation	Personal transfer balance cap after indexation
$0	$1,600,000 / $1,600,000 x 100 = 100%	$100,000	$1,700,000
$400,000	$1,200,000 / $1,600,000 x 100 = 75%	$75,000	$1,675,000
$800,000	$800,000 / $1,600,000 x 100 = 50%	$50,000	$1,650,000
$1,200,000	$400,000 / $1,600,000 x 100 = 25%	$25,000	$1,625,000
$1,600,000	$0 / $1,600,000 x 100 = 0%	$0	$1,600,000

Accessing transfer balance cap information

Using their MyGov account individuals will be able to view their transfer balance cap information online with the Australian Taxation Office.

Before 1 July 2021, they will be able to see their highest ever balance in their transfer balance account. They will also be able to see if their personal transfer balance cap will be proportionately indexed.

From July 2021, they will be able to see their personal transfer balance cap. This will be the only place they will be able to see their personal transfer balance cap if they had a transfer balance account before 1 July 2021.

The transfer balance cap rules are complicated and impact many things, including an individual's ability to make non concessional contributions and access the bring forward arrangements.

Indexation will add a further layer of complexity for individuals and their financial advisers.

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Legislation to allow six member SMSFs

Six member SMSFs are back on the Government's agenda with Treasury Laws Amendment (Self-Managed Superannuation Funds) Bill 2020 ('Bill') introduced into Parliament last year.

Once finalised as law this will increase the allowable number of members for an SMSF from four to six members.

This Bill has passed the House of Representatives and is now with the Senate. Once the Bill makes its way through both Houses, the amendments will apply from the start of the first quarter that commences after the Act receives Royal Assent. This means that even if passed in the near future this change would not be applicable until next financial year.

The Bill also amends the current requirement for signing off an SMSF's accounts and statements each financial year. The amendment provides that for a corporate trustee, where it has:

- One or two directors – each of the directors must sign; or
- otherwise – at least half of the directors must sign.

Where the fund has individual trustees:

- if there are only 2 trustees – both of the trustees must sign; or
- otherwise – at least half of the trustees must sign.

Control of funds with six members and succession planning may be important to members with large balances as generally decision-making in many SMSF deeds and company constitutions depends on a majority based head-count of directors. This may provide a member with a low account balance with an equal vote.

Members with large account balances generally prefer decision-making to reflect the members' respective account balances in the fund as a proportion of the total fund balance. If this approach is required changes to Trust Deeds and company constitutions would be required.

For example, where mum and dad between them may hold in excess of 85% of the fund balance and their four children may only hold 15% of the fund balance, if the voting was based on the number of members, the four children could outvote their parents. However, if the voting reflects account balances, mum and dad would have 85% of the vote and could not be outvoted by their children.

Currently around 7% of SMSF have more than two members, 70% have two members and 23% have single members. This means there may not be a large number of SMSFs that become five or six members.

For families contemplating increasing the membership of their SMSF advice may be required.

Contribution caps to increase from 1 July 2021

From 1 July 2021 the concessional and non-concessional contribution caps are set to increase due to indexation for the first time since July 2017.

The concessional contribution cap, originally set at $25,000 from 1 July 2017, is indexed by average weekly ordinary time earnings (AWOTE) in increments of $2,500.

With the announcement of the AWOTE figure for the December 2020 quarter, the concessional contribution cap is set to increase from $25,000 p.a. to $27,500 pa from 1 July 2021.

The non-concessional cap in 2021–22 will see the standard cap increased from $100,000 to $110,000 from this date.

The $1.6 million non-concessional cap threshold is changing due to the indexation of the general transfer balance cap on 1 July 2021 to $1.7million.

From 1 July 2021 a person's non-concessional cap will be nil if their total super balance on 30 June 2021is $1.7 million or more.

In addition, the maximum amount a member who was under 65 at the start of the year can contribute under the non-concessional contribution cap bring-forward rule is also set to increase from $300,000 to $330,000 from 1 July 2021.

In addition, the bring-forward period thresholds (based on a member's total superannuation balance) are also set to increase from 1 July 2021 due both to the increase in the standard non-concessional cap to $110,000 and the increase in general transfer balance cap to $1.7 million.

For clients who have already triggered the bring-forward rule, they will not be able to make extra non-concessional contributions due to the increased cap during their bring-forward period.

Currently only members who are aged under 65 at the beginning of the financial year will be eligible to trigger the bring-forward rule.

It is important to note that the proposal announced in the 2019 federal budget to extend access to the bring-forward rule to people under age 67 at the start of the first financial year at the time of writing is not yet law.

On the next page we have provided a summary of the current contribution limits for the 2020-21 Financial year.

Superannuation contributions limits 2020-21

For the 2020-21 Financial Year a concessional contribution cap of $25,000 continues to apply for everyone who is eligible to make these contributions. The annual non-concessional contribution cap also remains at $100,000. However, where an individual's total amount in superannuation on 30 June in the previous financial year was at least $1.6 million they will not be able to make any non-concessional contributions for that financial year.

The contribution eligibility rules are illustrated in the table below.

Age	Member's Employer	
	Superannuation Guarantee/mandated	***Voluntary/non-mandated***
Under Age 67	Allowable	Allowable
Age 67 - 74	Allowable	Only if prior to making the contribution you have worked at least 40 hours in not more than 30 consecutive days in the financial year[1]
Age 75 and over	Allowable	Not allowed[2]
	Member	
Under Age 67	Allowable	
Age 67 - 74	Only if prior to making the contribution you have worked at least 40 hours in not more than 30 consecutive days in the financial year[1]	
Age 75 and over	Not allowed[2]	
	Member's Spouse	
Under Age 67	Allowable	
Age 67 - 74	Only if prior to making the contribution you have worked at least 40 hours in not more than 30 consecutive days in the financial year[1]	
Age 75 and over	Not allowed	
Note 1	From 1 July 2020 those aged 67 – 74 are exempt from the work test in the financial year following the year they retire provided their total superannuation balance at the prior 30 June is less than $300,000.	
Note 2	Contributions that are otherwise eligible may be accepted up to 28 days after the end of the month in which the individual reaches age 75, provided the work test has been met in the financial year in which the contribution is made.	

The table below summarises the *main* types of concessional and non-concessional contributions and limits for 2020-21 year as well as the penalties for breaching the caps:

Type of Contribution	Consists of	Annual Limit 2020-21	Breach of Cap
Concessional Contributions (CCs)	Employer contributions (including Salary Sacrifice) Personal contributions where a tax deduction is claimed Certain amounts allocated from a fund reserve unless an exemption applies	$25,000 (indexed annually with average weekly ordinary time earnings (AWOTE) and rounded down to the nearest $2,500). An increased contributions tax can apply for high income earners (please see over page) **Unused Concessional Cap Amounts** See below for new rules for unused concessional cap amounts in earlier years.	*From 1 July 2013:* • All excess CCs will be included in the individual's assessable income and taxed at the individual's marginal tax rate plus an interest charge. A tax offset of 15% will also apply in the individual's income tax return to account for the 15% contributions tax already paid by the superannuation fund. • Individual has option to withdraw 85% of the excess amount from super (net of 15% contribution tax already paid) to assist in paying the income tax assessment arising from the excess contributions.
Non-concessional Contributions (NCCs)	Personal contributions not claimed as a tax deduction Spouse Contributions Contributions for a Child (apart from employer contributions) Amounts transferred from an overseas pension scheme that are not taxable in the fund Excess of the CCs cap (grossed up to include the 15% fund tax) excluding the amount of excess CCs which are withdrawn	$100,000 (subject to your total superannuation balance) Individuals with a total superannuation balance of more than $1.6 million will no longer be eligible to make NCCs. An individual's total superannuation balance includes all accounts held in any superannuation fund (based on their balances at 30 June of the previous financial year). **Bring Forward Arrangements** See below.	*From 1 July 2013:* Amounts in excess of cap, along with 85% of any associated earnings can be withdrawn from Super. Any associated earnings would be taxed at your marginal tax rate less a 15% tax offset. Excess NCCs not withdrawn from Super are taxed at 47% (2020/21)

Unused Concessional Cap Carry Forward (From CCs Annual Limit Above)
From 1 July 2018, individuals are able to carry forward their unused CC cap for up to five financial years for use in a future financial tear. The unused CC cap for a financial year is the amount by which the standard CC cap exceeds the actual CCs in the financial year. For the 2020–21 year individuals CC cap is increased if:

- Actual CCs are greater than the standard CC cap;
- Total superannuation balance is less than $500,000 at 30 June of the prior financial year;
- They have unused CC cap available from any or all of 5 prior financial years (occurring from the 2018-19 financial year onwards).

Bring Forward Arrangements (From NCCs Annual Limit above)
Members under age 65[3] (at any time in the financial year) may bring forward future annual NCC cap entitlements based on their total superannuation balance as at 30 June of the prior financial year as follows:

- Balance under $1.4 million – access to full $300,000 cap over 3 years;
- Balance between $1.4 million & $1.5 million – access to $200,000 cap over 2 years; or
- Balance over $1.5 million but under $1.6 million – no access to bring forward.

Bring forward applies from 1 July of first financial year where NCCs exceed $100,000.

Note 3 The 2019 Federal Budget contained a proposal to extend eligibility to the bring forward rule to those aged 65 and 66 from 1 July 2020. This is not yet law at time of writing.

Contributions tax for higher income Earners

An additional tax of 15% applies to certain concessional contributions for high income earners.

Increased Contributions tax for higher income earners	
Income Threshold	$250,000
Income assessed	The sum of an individual's: • Taxable income excluding any taxable component of a superannuation lump sum taxed as 0% (the amount within the low rate cap) • Reportable fringe benefits • Certain family trust distributions excluded from assessable income • Total net investment loss • Concessional contributions (CCs) excluding excess CCs
Concessional contributions treatment	• If income excluding CCs is less than $250,000, only CCs that bring income above $250,000 are taxed an additional 15% • CCs that exceed the CC cap of $25,000 will not be subject to the additional 15% tax. However, excess CCs cap tax arrangements will apply.

Other Contributions

Personal injury contributions may also be permitted.

In addition certain payments made into superannuation are also treated as contributions. These include:

- Contributions from either:
  - the capital proceeds of asset sales that meet the CGT small business 15 year exemption (or would have if a capital gain had arisen); or
  - a capital gain that meets the CGT small business retirement exemption.

  Choice is made using an ATO form no later than the time the contribution is made.

  A small business lifetime limit of $1,565,000 applies (indexed annually in increments of $5,000 with AWOTE).

- Downsizer contributions
  - A contribution limited to capital proceeds received from disposal of property located in Australia;
  - Individual or their spouse must have owned the property for at least 10 years and be eligible for a full or partial main residence CGT exemption;
  - Contract for sale must be entered into on or after 1 July 2018;
  - Individuals aged 65 or over at time of contribution (age limit and work test requirement does not apply to downsizer contributions);
  - Life-time limit of $300,000 per individual;
  - Choice must be made using the ATO form no later than the time the contribution is made;
  - Contribution must be made within 90 days of change of ownership (ie. generally settlement); and
  - Individual must not have previously made a downsizer contribution from the sale of another property.

- Foreign termination payments transferred from overseas funds after a person has taken up residence in Australia.

Please contact our office if you need information on these types of contributions.

Breach of Caps

Punitive taxation applies where the contribution caps are breached so care must be taken to ensure contributions to an SMSF are within the caps. We have seen a number of instances where the contribution caps have been breached in the funds we administer so we do caution clients to be careful.

We have set out in the table below historical contribution cap levels.

Financial Year	Concessional Contribution Cap			Non-concessional Contribution Cap
	Under 50	50 to 60	60 and over	
2014/15, 2015/16 and 2016/17	$30,000	$35,000	$35,000	$180,000 ($540,000 under 3 year bring forward arrangement)
2017/18, 2018/19, 2019/20 and 2020/21	$25,000	$25,000	$25,000	$100,000 ($300,000 under 3 year bring forward arrangement, restrictions may apply

About Bastion Superannuation Solutions

Bastion Superannuation Solutions specialises in the provision of administration and compliance services to self-managed superannuation fund trustees and advisers.

For further information on our range of services please see our web site. Our range of services include**:**

- Fund Administration including preparing financial accounts and maintaining member records
- Superannuation compliance and technical guidance
- Self-managed superannuation fund establishment
- Assistance with updating self-managed superannuation fund trust deeds

Bastion Superannuation Solutions Pty Ltd
AFSL 278 280 ABN 70 105 016 984
Level 3, 400 Queen Street, Brisbane
GPO Box 1859 Brisbane Qld 4001

Phone: (07) 3004 1100
Facsimile: (07) 3221 9811
Email: info @bastionsuper.com.au
Website: www.bastionsuper.com.au