



SUPERANNUATION – CONCESSIONAL CONTRIBUTIONS CAP

From 1 July 2009, the concessional contribution cap has been reduced from \$50,000 to \$25,000 per person. Further, the transitional concessional contribution cap until 30 June 2012 for persons aged 50 or over has been reduced from \$100,000 to \$50,000.

This is likely to have an adverse impact on the ability of many Australians saving for their retirement.

Under the current taxation regime, concessional contributions are initially subject to 15% tax and non-concessional contributions 0% when received by a complying superannuation fund.

If the level of contributions exceeds either the concessional cap, the non-concessional cap or both, then the relevant fund member is subject to excess contributions tax as follows:

1. The amount of concessional contributions in excess of the concessional contributions cap is subject to penalty tax at the rate of 31.5%. This excess then also counts towards the non concessional contributions cap.
2. The amount of non-concessional contributions in excess of the non-concessional contributions cap is subject to penalty tax at the rate of 46.5%.

Areas of concern

The first area of concern is where a member is already close to both the concessional contributions cap and also the non-concessional contributions cap.

This could occur where the person has more than one position of employment and has salary sacrificed to the \$25,000 limit with one position and then is subject to compulsory superannuation guarantee contributions with one or more other positions.

The person may also have contributed close to the non-concessional cap amount (being currently \$150,000 p.a. or \$450,000 if the person is 65 years or younger and the three year average rule is utilised). This might be a result of contributing funds available from an inheritance or sale of a business or investment.

The additional superannuation guarantee amounts may be subject to a total tax of 93% (ie the initial 15% tax on contributions at the superannuation fund level, plus a personal excess concessional contributions tax of 31.5%, plus a personal excess non-concessional contributions tax of 46.5%).

The second area of concern is simply where the new concessional contributions cap of \$25,000 is inadvertently exceeded as a result of a person having employer contributions in excess of this amount.

This could occur if there are two or more unrelated employers meeting their respective superannuation guarantee responsibilities in respect of the person, pre existing salary sacrifice arrangements and/or fixed contribution arrangements to meet the cost of ancillary benefits such as death and permanent disablement insurance.

As a result the member might be subject to penalty tax of 31.5% as a result of matters largely outside their control.

TIP

Taxpayers should watch their super contributions so that they do not breach the caps and subject themselves to penalty tax rates – possibly as high as 93%!

If you would like further information or require assistance in relation to the above please do not hesitate in contacting our office on 02 9555 1309.

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