

Excess concessional contributions

Superannuation contribution caps

There is a limit to the amount you can contribute to your super fund each financial year. This limit is referred to as the contribution cap. Any contribution over the cap amount is subject to an additional tax treatment. The cap amount and how much extra tax you pay once you exceed it will depend on whether the contributions are concessional or non-concessional.

Concessional contributions

These are contributions from before-tax income, or for which a tax deduction has been claimed. For example:

- compulsory employer contributions
- salary sacrifice contributions
- personal contributions that have been claimed as a tax deduction.

Non-concessional contributions

These are contributions from after-tax income. For example:

- personal contributions that have not been claimed as a tax deduction
- concessional contributions that exceeded your concessional contributions cap.

Excess concessional contributions

Contributions in excess of the concessional cap are included in your assessable income and assessed at your marginal rate of tax plus an excess concessional contributions charge.

We reduce any tax you had to pay by a non-refundable tax offset equal to 15% of your excess concessional contributions. This recognises the 15% tax already paid by your super fund.

Increasing your assessable income may have flow-on consequences to other benefits, payments and liabilities such as:

- Child support
- Centrelink benefits
- Super co-contributions
- Medicare levy surcharge
- Division 293 assessment

Your excess concessional contributions also count towards your non-concessional contributions cap.

Excess concessional contributions charge

An excess concessional contributions charge is applied to recognise that the tax on excess concessional contributions is collected later than normal income tax. The charge is payable on the increase in your tax liability for the year you have excess concessional contributions and is the same rate as the shortfall interest charge. The relevant period is calculated from the start of the income year in which the contributions were made and ends on the day before your tax is due to be paid under your first assessment for the year that includes your excess concessional contributions.

For more information about the charge and how it is calculated, go to www.ato.gov.au/supercaps – then select 'If you go over the concessional contributions cap'.

If the information used for the determination is wrong

If you disagree with the information your super fund provided to us or if you disagree with the income tax assessment information you can correct it. For information on how to do this go to www.ato.gov.au/supercaps – 'If you go over the concessional contributions cap' – then select 'If the information used for excess concessional contributions is wrong'.

If you have special circumstances

You can apply to the Commissioner for a determination to disregard or reallocate some or all of your contributions to another year. For information about what is considered special circumstances and how to apply, go to our website www.ato.gov.au/supercaps – 'If you disagree with your excess contributions tax assessment or determination' – then select 'Applying to have your contributions disregarded or reallocated'.

You can choose to release excess concessional contributions

You can now choose to have your super fund release up to 85% of your excess concessional contributions. Released amounts will not be counted as non-concessional contributions and therefore reduce any additional tax you may have to pay on any excess non-concessional amounts.

Even if you choose not to release the excess contributions from your fund you will still need to pay your individual income tax assessment liability by the due date.

If you choose to release the money from your super fund

You are able to choose one or more super funds to release your elected amounts from. Details must be provided on the election form.

When you complete the election form we will:

- ask your super fund to release the amount you nominated and send the money to us
- use the money to offset any tax or Australian government agency debts you may have
- credit any remaining balance to you
- exclude for non-concessional contributions purposes the original pre-tax amount (by dividing the released amount by 85%).

Situations where your money may not be released

Your super fund may not release the money if:

- your interest in your fund is a defined benefit interest
- the fund is a non-complying super fund
- the only interest you hold is a super income stream
- there is insufficient funds available

If you don't have a fund that can release your money

You will need to pay your tax through your own sources. You do not need to complete the election form.

Example

During the 2013–14 financial year, Mary (aged 51), salary-sacrificed money to super. Her total concessional contributions were \$35,000. As Mary's concessional contributions cap was \$25,000, Mary's excess concessional contributions are \$10,000.

Mary lodges her tax return and has taxable income of \$70,000. We then add the \$10,000 of excess concessional contributions, which increases Mary's taxable income to \$80,000. Mary will be assessed at her effective marginal tax rate of 34% (including the 1.5% Medicare levy). Income tax (not including any Medicare levy or MLS) on taxable income of \$80,000 is \$17,547.

Without the inclusion of the excess concessional contributions, the tax Mary would have paid on her income of \$70,000 is \$14,297.

Mary will receive a non-refundable tax offset equal to 15% of her excess concessional contributions (\$10,000 x 15%), decreasing her tax liability by \$1,500.

This means that, with the inclusion of the excess concessional contributions, Mary's tax liability has increased by \$1,750 (\$17,547 – \$1,500 – \$14,297), and the excess concessional contributions charge will be applied to this amount.

Mary doesn't have to do anything. We notify her of this by sending her an:

- Income tax notice of assessment
- Excess concessional contributions determination

Mary has 21 days to pay her account and decides to take up the option to release her excess concessional contributions from one of her super funds to help pay her tax debt.

Mary logs onto her myGov account that she previously created and completes the excess concessional contributions election form and decides to release the full amount possible, \$8,500 (85% of the \$10,000 in excess of the cap). We then issue a release authority to her nominated fund. Mary's fund is now required to release the \$8,500 to us. When they do, the fund deducts the \$8,500 from Mary's account with them and we credit \$8,500 to Mary's tax account. As Mary doesn't have tax or Australian government agency debts, the full \$8,500 is refunded to her.

To determine the amount of excess concessional contributions that is no longer included as non-concessional contributions the released amount is increased to its original pre-tax amount by dividing it by 85%. In Mary's case this is \$8,500 divided by 85% (= \$10,000), the total amount of her excess concessional contributions.