



Tax Insights

\$500,000 lifetime non-concessional contribution cap **DUMPED, but...**

Snapshot

In the May 2016 Federal Budget a number of significant and far-reaching superannuation changes were announced.

The majority of the Budget announcements are due to be effective from 1 July 2017. However the major announcement in relation to a \$500,000 lifetime cap for non-concessional superannuation contributions (which was to apply from 3 May 2016 and count non-concessional contributions since 1 July 2007) has now been dumped and is to be replaced with an annual limit of \$100,000 but only where super balances do not exceed \$1,600,000.

An individual under 65 can continue to 'bring forward' 3 years of non-concessional contributions. However, an individual with a superannuation balance of more than \$1.6 million will no longer be eligible to make non-concessional contributions.

According to the Treasurer's announcement, it is expected all these change will commence from 1 July 2017.

To compensate for the additional cost to the budget, the following changes were also made to the May 2016 Budget proposals:

- The removal of the 'work test' requirement for a member between 65 and 75 will not proceed
- The proposed catch-up concessional contribution for a member with a superannuation balance less than \$500,000 will be deferred by 12 months to 1 July 2018

What does this mean for the year ending 30 June 2017?

For the current financial year, an individual's annual non-concessional contribution cap remains at \$180,000. For individuals aged 64 or under on 1 July 2016, they are able to bring forward 3 years of non-concessional contributions in the 2017 year, i.e up to \$540,000 (depending on whether the 3 year bring forward has been triggered in the preceding 2 years).

Timing of non-concessional contributions will be significant for someone who:

- is turning 65 in the 2017 financial year or shortly thereafter; or
- already has more than \$1.6 million in their superannuation balance, but still wishes and is eligible to contribute and build up their super balance; or
- wishes to maximize their non-concessional contributions in the 2017 year.

Where the maximum available contribution isn't made in the 2017 year, transitional provisions will be introduced that would have the effect of clawing back the maximum contribution for the 2018 and 2019 years to take into account the reduced annual contribution cap of \$100,000 applying to those years.

Unresolved matters

Proposed exceptions to lifetime cap

The Treasurer had previously issued a clarification in June 2016 on the scope of the \$500,000 lifetime limit on non-concessional contributions. In particular, there were 2 exceptions proposed relating to pre-existing contracts and existing borrowings.

It is unclear how the abandonment of the \$500,000 lifetime non-concessional contribution cap will impact on those proposed exceptions.

For pre-existing contracts or commitments as at 2 May 2016, it is unclear, where the completion of pre-existing contract is to occur post 1 July 2017, if an exception will apply to the \$100,000 non-concessional contribution cap and/or the ability to make further non-concessional contributions if the individual's superannuation benefit already exceeds \$1.6 million.

For SMSFs with existing borrowings, including Limited Recourse Borrowing Arrangements, it is unclear if the members are able to contribute further non-concessional contributions prior to 31 January 2017 (or 1 July 2017 perhaps) to comply with the Taxation Office's Practice Compliance Guideline 2016/5 for loans from related parties. For example, for a member who has already maximised their non-concessional contributions (contributed \$540,000 in 2015 or 2016 year), whether they are able to make further non-concessional contributions prior to 31 January 2017 to enable the SMSF to pay down the loans?

In addition, it is unclear if exceptions previously announced or mooted under the \$500,000 lifetime non-concessional contribution cap will be provided for under the new non-concessional contribution cap proposals, such as:

- Divorce
- Foreign superannuation fund transfers
- Fraud
- Personal injury settlements
- Small business CGT concession contributions

Contributions in accordance with previous lifetime limit announcement

Another unresolved matter is what is to happen if an individual has made contributions in accordance with the previously proposed \$500,000 lifetime non-concessional contribution cap post the May 2016 Budget but will (with the dumping of that cap) have excess contributions in the 2016 or 2017 years.

Will the individual be given the opportunity to retain the contributions in the fund without penalty or be required to withdraw the excess contribution under normal excess contribution arrangements?

* * *

The removal of the \$500,000 lifetime non-concessional contribution cap backdated to 1 July 2007 is a positive change and provides some greater certainty for individuals in planning their contributions.

At the time of writing, the Labor Party has not provided any formal statement as to its agreement with the policy change and whether or not it will support these changes through the legislative process.

Contacts



John Randall
Partner

Tel: + 61 2 9322 7550
Email: jrandall@deloitte.com.au



Meghan Speers
Partner

Tel: + 61 3 9671 7073
Email: mspeers@deloitte.com.au



Donna Murr
Director

Tel: + 61 2 9322 3757
Email: yamurr@deloitte.com.au

This publication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively the "Deloitte Network") is, by means of this publication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.

The AFSL Disclaimer

Deloitte Tax Services Pty Ltd (Deloitte), a registered tax agent, has provided this publication. Deloitte is not licensed under Chapter 7 of the Corporations Act 2001 (Cth) to provide financial product advice. Taxation issues, such as those covered by Deloitte tax advice, are only one of the matters you need to consider when making a decision about a financial product. You should consider taking advice from someone who holds an Australian Financial Services Licence before making such a decision.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/au/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte's approximately 195,000 professionals are committed to becoming the standard of excellence.

About Deloitte Australia

In Australia, the member firm is the Australian partnership of Deloitte Touche Tohmatsu. As one of Australia's leading professional services firms, Deloitte Touche Tohmatsu and its affiliates provide audit, tax, consulting, and financial advisory services through approximately 6,000 people across the country. Focused on the creation of value and growth, and known as an employer of choice for innovative human resources programs, we are dedicated to helping our clients and our people excel. For more information, please visit our web site at www.deloitte.com.au.

Liability limited by a scheme approved under Professional Standards Legislation.

Member of Deloitte Touche Tohmatsu Limited

© 2016 Deloitte Tax Services Pty Ltd.