Understanding Superannuation

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Superannuation is a tax effective way to save for your retirement. Your superannuation money is invested by your superannuation fund, so it grows over time. Most superannuation funds offer a variety of investment options. These usually include pre-mixed options that will contain a mix of different asset classes, and single sector options such as cash, fixed interest, property and shares. Your investment returns will impact how quickly your superannuation grows so it's important to choose an investment option that is appropriate for your investment timeframe and investor risk profile.

If you have more than one superannuation fund you can combine them to make it easier to manage and keep track of your superannuation.

You, your spouse and your employer can make contributions to your superannuation fund (eligibility and limits may apply). You may also receive additional contributions from the Government. During your working life, these contributions add up or 'accumulate'.

The benefit of investing money for the longer-term in superannuation is that the earnings in the fund are taxed at a maximum of 15% which may allow savings to grow more quickly than if they were invested outside superannuation and taxed at personal marginal tax rates.

Generally, you can't access your superannuation until you retire, and after your preservation age (i.e. the age at which you're entitled to withdraw money from superannuation). When you retire, the money you have saved through superannuation can be taken as a lump sum, a regular income, or a combination of both.

Should you save extra into your superannuation?
Because we are living longer, our superannuation savings have to support us for longer. It's never too early to consider maximising your income in retirement.

Life expectancy for a 65 year old in 2018-2020 is 85.3 years for men and 88.00 years for women.
Source: Australian Institute of health and Welfare 2018-2020 Australian Life Tables. https://www.aihw.gov.au/reports/life-expectancy-death/deaths-in-australia/contents/life-expectancy (sited 08/07/2022)

Superannuation Guarantee
You are entitled to superannuation guarantee contributions (SG) from your employer if you are paid $450 or more (before tax) in a month (some exemptions do apply, please feel free to contact for more information).

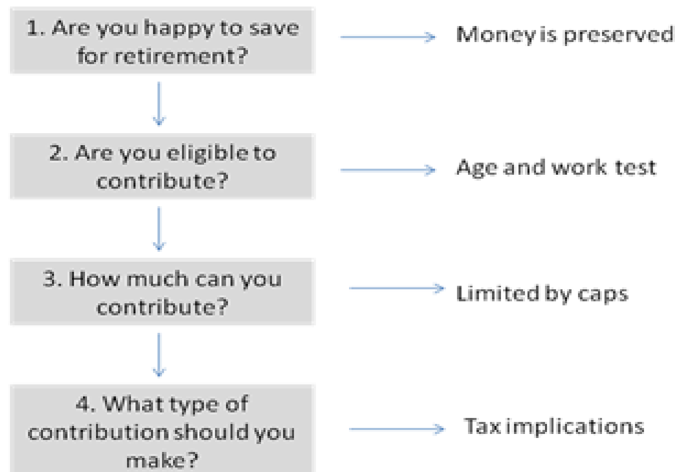
Under the super guarantee rules, an employer contributes 10.5% of each eligible employee's ordinary time earnings (OTE) to a complying super fund ((The maximum OTE of an employee on which an employer is obliged to make super guarantee contributions is $60,220 per quarter ($240,880 p.a.) for 2022/23.

The rate of super guarantee will remain at 10.5% until 30 June 2023. It will then increase by 0.5% per financial year until 1 July 2025. A 12% super guarantee rate will then apply for the 2025/26 and future financial years.

When can you access your Superannuation?
All contributions to superannuation are preserved. This means the money can't be withdrawn until a condition of release (as specified in superannuation laws) is met, such as reaching age 65 or retirement on or after reaching preservation age. This preservation age depends on the person's date of birth as shown in table below. This aims to ensure money is invested until retirement (some earlier access conditions may apply).

Date of Birth	Preservation Age
Before 1 July 1960	55
1 July 1960 to 30 June 1961	56
1 July 1961 to 30 June 1962	57
1 July 1962 to 30 June 1963	58
1 July 1963 to 30 June 1964	59
After 30 June 1964	60

Making Contributions to Superannuation
Before making a contribution to superannuation there are a number of steps to check:



Types of Contributions

When money is invested into a superannuation fund, it is referred to as a contribution. There are two types of contributions:

- **Non-concessional contributions** are made by an individual on their own behalf, or for their spouse, or children under 18 years of age.
- **Concessional contributions** include contributions made by an employer (including SG contributions), personal contributions subject to a personal tax deduction, salary sacrifice and any other contributions that are not a non-concessional contribution.

Taxation of Superannuation

Superannuation is concessionally taxed but is not necessarily tax free, except in certain situations.

- Non-concessional contributions are not taxed in the superannuation fund. However, contributions that exceed the cap, are taxable in the hands of the person for whom the contributions are made;
- Concessional contributions are taxed at 15%, however, contributions for a person with an adjusted taxable income of more than $250,000 p.a., are taxed at 30%;
- Superannuation fund earnings are generally taxed at a rate of 15%.
- Capital gains made by a superannuation fund, subject to meeting certain taxation conditions, are taxed as income to the fund (accumulation account interests) however they may be subject to a 33.33% discount;
- Lump sum benefits paid by a superannuation fund to a member are tax free from the tax-free component. The taxable component is tax free if paid after the member reaches age 60. If aged under 60, the tax-free component of a benefit payment will be taxed on a sliding scale, depending on the age of the member at the time of withdrawing their benefit.
- For members of older style public sector superannuation funds, and constitutionally protected funds taxation treatment may differ.

Contribution Caps
Contribution caps apply to concessional and non-concessional contributions.

The contributions caps that currently apply are:

Contribution Type	Age	2022/23
Concessional	All ages	$27,500
Non-Concessional	All ages	$110,000

The concessional contribution cap is currently $27,500 p.a. This applies to all concessional contributions made for or on behalf of a superannuation fund member. The concessional contribution cap is indexed in line with movements in Average Weekly Ordinary Time Earnings however indexation will only be made in $2,500 increments.

The non-concessional cap is four times the concessional contribution cap, currently $110,000 (some exemptions apply, please feel free to contact us for information). Non-concessional contributions can only be made by individuals with a total superannuation balance of less than $1.7m.

Where a person is aged 75 or younger at the beginning of the financial year in which they make non-concessional contributions, they may bring forward up to three year's non-concessional contributions, thereby being able to contribute up to $330,000. However, where this 'bring-forward' opportunity is triggered, the maximum amount that may be contributed in the following two financial years is:
- In year 2, $330,000 less the amount contributed in year 1;
- In year 3, $330,000, less the amounts contributed in years 1 and 2.

Individuals with a total superannuation balance of between $1.48m and $1.7m may not be able to utilise the full three year 'bring forward' opportunity.

People aged 65 or older at the beginning of the financial year in which non-concessional contributions are made are limited to a maximum of $110,000 per financial year. They do not have access to the bring-forward rule.

However, effective from 1 July 2020, the Government introduced that people aged under 67 (if they have met the work test and total super balance on 30 June 2021 was less than $300,000) at any time during a financial year will be eligible to trigger the non-concessional contributions cap bring-forward rule.

Tax penalties may apply if either the concessional or non-concessional contribution exceeds the caps.

Where the concessional contribution cap is exceeded, the excess contribution can be refundable by the superannuation fund and will be taxed at the tax payer's marginal tax rate. Excess concessional contributions, not withdrawn from superannuation are also counted against a person's non-concessional contributions cap.

Non-concessional contributions that exceed the non-concessional contribution cap can be refunded with earnings on those contributions taxed at the taxpayer's marginal tax rate. If the member fails to withdraw the excess non-concessional superannuation contributions from superannuation, they will be taxed at 47%.

From 1 July 2018 excess non-concessional contributions, plus 85% of an associated earnings amount, will be released from super where possible by the ATO as a default option, to prevent a taxpayer paying 47% tax on the excess non-concessional contributions.

Non-concessional Contributions

A non-concessional contribution can be made by a person under age 65 regardless of whether they work or not. Between age 67 and 74 a work test needs to be met if the person wants to claim a personal tax deduction on contributions to superannuation. This requires the person to have already worked at least 40 hours within a 30 consecutive day period in the current financial year.

Non-concessional contributions cannot be made by individuals that have a total superannuation balance of more than $1.7m as the 30 June prior to wishing to the contribution.
The non-concessional cap can also include other amounts such as excess concessional contributions and transfers from foreign superannuation funds. The government co-contribution is not included.

A tax deduction cannot be claimed for a non-concessional contribution which also means that the superannuation fund does not deduct any tax from the contribution. The full amount is invested.

Concessional Contributions

Concessional contributions generally include contributions made by an employer on behalf of an employee including Superannuation Guarantee, personal contributions where the person making the contribution is eligible to claim a personal tax deduction, salary sacrifice and contributions made to a superannuation fund that are not treated as a non-concessional contribution.

Contributions made for the benefit of another person, including contributions made for relatives (other than a spouse) and children over the age of 18, are treated as concessional contributions, whether or not the person making the contribution is eligible to claim a tax deduction for the contribution.

Eligibility to Contribute

Concessional contributions can be made for or on behalf of a person under age 65 regardless of whether they work or not. Between age 67 and 74 a work test needs to be met if the person wants to claim a personal tax deduction on contributions to superannuation. This requires the person to have already worked at least 40 hours within a 30 consecutive day period in the current financial year. No contributions can be made once the person reaches age 75. The cut-off date for contributions is the 28th day of the month following your 75th birthday. However, mandatory employer contributions may be accepted.

Please note: The Work Test Exemption allows a once in a lifetime exemption for eligible members aged between 67 to 74 years with a super balance of less than $300,000 and who have met the work test in the previous year to contribute to super and have not utilised the Work Test Exemption previously.

Personal Deductible Contributions

Individuals, including those who are employed and self-employed may be eligible to claim tax deductions for personal contributions to superannuation.

These contributions are treated as concessional contributions and 15% contributions tax applies. An additional 15% tax is payable on contributions made by a person with an adjustable taxable income of more than $250,000p.a.

Salary sacrifice

Salary sacrifice is the portion of pre-tax salary that an employee gives up in exchange for additional contributions being made to superannuation for the employee by the employer.

Salary sacrificed superannuation contributions are taxed at 15% on entry to the fund. This is generally a much lower rate than the individual's marginal tax rate. Through salary sacrifice you can therefore reduce your tax liability while building wealth for your retirement.

It is important to note that salary sacrifice contributions count towards the concessional contribution limit.

Contributions tax of 30% applies to individuals earning income greater than $250,000.

Government co-contributions

If you make a non-concessional superannuation contribution of $1,000, the government may contribute up to $500 (2021/22) into your superannuation account. You are eligible to receive the government co-contribution providing you:

- Have assessable income, reportable fringe benefit and reportable employer superannuation contributions (RESC) in the income year less than the upper income threshold (i.e $57,016 for 2022/23)
- Have a made a personal superannuation contribution
- Have earned at least 10% of your assessable income, reportable fringe benefits and RESC from employment or business income
- Are not the holder of an eligible temporary resident visa
- Are less than 71 years old at the end of the income year and
- Have lodged a tax return.

The government co-contribution is available to you if you are self-employed providing you earn 10% or more of your income from carrying on a business, eligible employment, or a combination of both.

Once eligible, the income test determines the amount of co-contribution you may receive. If your earnings (assessable income, reportable fringe benefits and reportable employer superannuation contributions) are less than $57,016 in the year you make a personal contribution, the government will contribute 50 cents for every $1 you contribute up to a maximum of $500. For earnings between $42,016 and $57,016, the $500 maximum is reduced by 0.03333 cents for every dollar earned over $42,016 until it cuts out altogether at $57,016. This means that for every $1 of personal contributions, the government will contribute up to 50 cents, up to the maximum contribution amount available for your income level. These figures are relevant for the 2022/23 financial year.

The person’s total non-concessional contributions for the income year is less than or equal to their non-concessional contributions cap for that year. At 30 June of the previous year, the person’s total superannuation balance is less than the general transfer balance cap – $1.7 million for 2022–23.

Government co-contributions are not tax-deductible and are not taxed when the superannuation fund receives them. You do not need to apply for the government co-contribution. The ATO automatically calculates whether you are entitled to it, using information from your superannuation fund and your tax return. The government co-contribution is paid as a non-concessional contribution and it is paid directly into the same superannuation fund to which you made your personal contribution. However, the government co-contribution does not count towards the non-concessional contribution limit.

Spouse contribution

A superannuation member may make non-concessional contributions into superannuation on behalf of his/her spouse. Spouse contributions cannot be made once the receiving spouse has reached age 75 (including 28 days after the end of the month in which they turn 75), have not exceeded their annual non-concessional contributions cap ($110,000 in 2022–23) in the financial year you make the contribution into their account have a Total Super Balance (TSB) of less than $1.7 million on 30 June in the financial year before the contribution was made.

Once spouse contributions are put into superannuation, they are “preserved”. This means they can't be withdrawn until the receiving spouse meets a condition of release (eg. Turning 65 or retiring between 55 and 65).

If you make a contribution to superannuation on behalf of your low income earning spouse, you may be eligible for a tax offset within certain limits. 'Low income earning' for purposes of the offset is where your spouse has assessable income, reportable fringe benefits and reportable employer superannuation contributions (RESC) of less than $40,000 per annum (note that the income threshold to qualify for the full tax offset is $37,000).

A spouse is defined as either a legal or a de facto husband or wife, although they need to be living together for the contributing spouse to claim the rebate.

The maximum rebate is 18% of the eligible spouse contributions, up to a maximum of $3,000 in contributions (i.e. the maximum rebate is $540). The maximum rebate applies where the recipient spouse has a total income of less than $37,000 per annum.

Further conditions for the rebate to apply are that both partners must be Australian residents at that time of contribution and the contributing spouse may not claim the contributions as a tax deduction.

Spouse contributions are treated as non-concessional contributions and are preserved.

Superannuation Death Benefits

The rules for who can receive a death benefit and how it can be paid are outlined in superannuation legislation as well as the trust deed rules of the particular fund. The trustee must take both sets of rules into consideration. Sometimes the rules of the particular fund can be more restrictive than the legislation.

Who can a Superannuation Death Benefit be paid to?

A superannuation death benefit may only be paid to dependents of the deceased (as defined by superannuation rules) or to the estate.

A dependent includes:

- The current spouse (including de facto and same-sex partners);
- Any child of the person (including adopted child or step-child of a current relationship);
- A person with whom the deceased had an interdependency relationship at the time of death;
- A person who was financially dependent on the deceased at the time of death.

Another person can only be paid if there are no superannuation dependents or estate.

A step-child who is a child of a former partner (following a relationship breakdown or death of the former partner) is no longer defined as a child of the person for the purposes of superannuation law and can't receive a death benefit unless he/she was a financial dependent or had an interdependency relationship.

Two people are regarded as having an interdependency relationship if:

- They have a close personal relationship, and
- They live together (unless the separation is due to disability), and
- One or each of them provides the other with financial support, and
- One or each of them provides the other with domestic support and personal care.

How can a Death Benefit be paid?

A death benefit may be paid as a lump sum or an income stream, depending on the rules of the superannuation fund and the status of the beneficiary.

If the death benefit is paid to a child, a pension can only be paid if the child is under age 18, or aged 18-25 and financially dependent upon the deceased, or meets disability rules (as described in subsection 8(1) of the Disability Services Act 1986). Unless the child meets the disability rules, the pension will need to stop and be converted into a lump sum when the child reaches age 25. This will be a tax-free lump sum.

Death Benefit Nominations

There are two ways to nominate who is to be the beneficiary of a death benefit from a superannuation fund (options available depend the superannuation fund). These are:

- Binding death benefit nomination, or
- Non-binding death benefit nomination.

The general rule of superannuation is that the trustee has discretion to decide who to pay a death benefit to, but a binding nomination can override this discretion. Provided the nomination is valid, the trustee will be bound to pay the benefit to the person(s) nominated.

For a binding death benefit nomination to be valid, certain conditions must be met including:
- The nomination must be made in writing, and the signature of the person must be witnessed by two witnesses over the age of 18, who are not beneficiaries;
- The nominated beneficiaries must meet the superannuation definition of an allowable dependent;
- The allocation of benefits to beneficiaries must be clear;
- The nomination must be current (many funds require the nominated to be reviewed at least every three years although some funds offer non-lapsing binding nominations);
- The rules for how a binding nomination are to be made for a self-managed fund may be different and will be governed by the rules in the fund's trust deed.

A non-binding death benefit nomination indicates the person's preference for how a death benefit should be paid but it is not binding on the trustee of the superannuation fund. The trustee may take the instructions into account but will ultimately exercise their own discretion in determining to whom, and in what form, a death benefit will be paid. In such cases it is usual for the trustee to undertake a 'claim staking' process to identify potential beneficiaries. If a binding nomination is invalid, it is treated in the same manner as a non-binding nomination.

Taxation of Superannuation Death Benefits
Superannuation death benefits paid as a lump sum are paid tax-free to a beneficiary who meets the tax dependency definition. This includes:
- The current or former spouse (including de facto and same-sex partners);
- A child under age 18 or 18-25 and in full-time education;
- A person with whom the deceased had an interdependency relationship at the time of death;
- A person who was financially dependent on the deceased at the time of death.

If paid to the estate, the taxation depends on who is the ultimate beneficiary from the estate.

Tax is payable at rates up to 30% (plus Medicare levy) if paid to a non-dependent beneficiary.

Where the death benefit is paid as an income stream the income payments are tax free if either the deceased or the beneficiary is over age 60. If both are under age 60, the taxable portion of the income is taxed at the beneficiary's marginal tax rate but a 15% tax offset applies. (Note: the tax rules may vary if the pension includes an element untaxed, e.g. as per some government superannuation funds.) The beneficiary can commute the pension to a lump sum, but tax may apply if the commutation occurs more than the latter of six months from date of death or three months from grant of probate.

Insurance through superannuation
Most Superannuation funds offer life cover, total and permanent disability cover and income protection.

Insurance through superannuation can sometimes be cheaper than similar cover outside of superannuation. If you would like further information on this, please contact us.

Things to be aware of

- You should maintain a record of your superannuation contributions as these records can help you avoid exceeding your cap. It is your responsibility to maintain these records;
- All contributions to superannuation are preserved. You will not have access until you satisfy a condition of release such as retiring after your preservation age. This means you need to be comfortable that you may not have access to your money for a period of time;
- Superannuation investment returns will fluctuate depending on economic and market conditions which means your account balance can increase or decrease in value;

- Tax penalties may apply if either the concessional or non-concessional contribution exceeds the relevant caps;
- Legislation could be changed in the future to affect the rules for superannuation including how contributions, account balances and benefit payments are taxed;
- Tax outcomes should be checked with your accountant or registered tax agent;
- If you have made superannuation contributions to your current superannuation fund, and intend to claim a personal tax deduction for all or part of those contributions, it is imperative that you provide your current superannuation fund with a "notice of intention to claim a tax deduction" (as required under section 290-170 of the Income Tax Assessment Act 1997) and that the notice be acknowledged. Failure to lodge this notice will result in the loss of a tax deduction. Should you roll-over your superannuation to another fund, the "notice of intention to claim a tax deduction" form should be submitted, and acknowledgement received, prior to the roll-over.