Guide for notice of intent to claim a tax deduction for personal super contributions

Under section 290-170 of the *Income Tax Assessment Act 1997*

Need Help?

For more information about your eligibility to claim a tax deduction for personal contributions made to your superannuation account, either:

– Call the Australian Tax Office (ATO) on 131 020.
– Refer to the ATO's individual tax return instructions supplement 2017
– Refer to the information on **ato.gov.au**–search for 'claiming a tax deduction for personal super contributions'
– Speak to your accountant or tax adviser.
– Contact your financial adviser.

Who can claim a tax deduction?

Are you eligible to claim a tax deduction?

The information in this section refers to eligibility for the 2016/2017 financial year. The Government has removed the employment restrictions for eligibility to claim a tax deduction for personal contributions starting from the 2017/2018 financial year. Refer to the information at the end of this Guide for 2017/2018 details.

Up to and including 2016/2017, you're eligible to claim a tax deduction if you're self-employed, or you only get a small proportion of your income from work as an employee (see 10% test below) or you are not working at all.

You can claim a tax deduction if you earn less than 10% of the total of the following as an employee:

– your assessable income for the financial year
– your reportable fringe benefits for the financial year
– your reportable employer super contributions for the financial year.

What other requirements apply?

In addition, the following requirements must be satisfied:

– you have advised your super fund of your intention to claim a deduction—completing and returning the enclosed document to AMP satisfies this requirement
– you're still a member of the super fund when we receive the notice of intent to claim a tax deduction
– when you give the notice, your fund has not begun to pay an income stream (for example, a pension) based on part or all of the contributions for which you intend to claim a deduction
– you have not withdrawn or rolled out your benefit (except where there has been a successor fund transfer)
– you meet the age-related conditions—restrictions apply if you are age 75 or over, or less than 18
– you made one or more personal contributions to a complying super fund (AMP's super funds are complying)
– you made the contributions in order to obtain super benefits for yourself or for a beneficiary, in the event of your death
– your intention to claim the deduction was received by your super fund within the required timeframes—the strict deadlines are detailed below
– your super fund has acknowledged your intent to claim the deduction and has agreed to the amount you intend to claim as a deduction—AMP will send you confirmation of acknowledgement and agreement.

What you cannot claim as a tax deduction

Are there other contributions made to your super account?

You cannot claim a tax deduction for the following contributions:

– employer contributions (including salary sacrifice contributions)
– personal contributions made by you to your spouse's account
– personal contributions made by your spouse to your account
– rolled-over benefits, government contributions, Capital Gains Tax Exempt contributions, transfers from foreign super funds or Personal Injury contributions.

If you intend to claim a tax deduction

How do you claim a tax deduction?

A tax deduction for personal super contributions is only allowable if:

1. you have given a valid notice to the trustee of the super fund stating your intention to claim a tax deduction for all or part of the contributions you have made to that fund in a financial year
2. an acknowledgement of the notice has been provided back to you from the trustee.

The notice must be in a form approved by the Commissioner of Taxation—the enclosed **notice of intent to claim a tax deduction** form is an approved form. You must send the completed and signed form back to AMP (if you're intending to claim a tax deduction).

Why would you claim a tax deduction?

Any tax deduction reduces the amount of your assessable income for tax purposes. Speak to your accountant, financial adviser or tax adviser for further details.

When must you submit the notice?

There are strict deadlines when the notice must be received by the trustee of a super fund. In order to maximise the amount you can claim as a tax deduction, you must ensure the trustee receives the notice **before**:

- the end of the day you lodge your income tax return for the year the contributions were made
- the end of the financial year (30 June) after the financial year in which the contributions were made—for 2016/2017, by 30 June 2018 or for 2017/2018, by 30 June 2019
- you take a full or partial withdrawal from your super account (a partial withdrawal will reduce the amount you may be entitled to claim as a tax deduction, possibly to zero)
- you commence an income stream with all or part of the contributions on which you wish to claim a tax deduction
- you lodge an application with the trustee to split contributions with your spouse.

Important: If the notice is received after any of these dates or events, then the claim for tax deduction is not valid and cannot be accepted or acknowledged by the trustee—therefore, you'll not be entitled to claim a tax deduction for the contributions in your tax return.

How much can you claim?

You cannot claim a tax deduction that is in excess of your taxable income. However, provided you lodge a valid notice, the concessional contributions cap does not limit the amount you can claim as a tax deduction. If you like, you can claim a tax deduction for all your personal contributions made to your superannuation account in a financial year—however, you may incur additional tax on any amount you claim that exceeds the concessional contributions cap.

Note: any personal member contributions made to superannuation that are allowed as a tax deduction count towards your concessional contributions for that financial year.

What are the contribution caps?

The concessional contributions cap for the 2016/2017 financial year is $30,000 for members aged under 50 and $35,000 for members aged 49 or more as at 30 June 2016. The concessional contributions cap for 2017/2018 is $25,000 for members of all ages.

The non-concessional contributions cap for the 2016/2017 financial year is $180,000 per year. Members under age 65 can bring forward two years of contributions for a cap of $540,000 over a three year period.

The non-concessional contributions cap for the 2017/2018 financial year is $100,000 per year but no non-concessional contributions cap is available for a financial year if your total superannuation balance as at 30 June in the immediately preceding financial year is $1.6 million or more. Members under age 65 will be eligible to bring forward the next two years of non-concessional contributions and contribute up to $300,000 in total over a three year period, again subject to their total superannuation balance being less than $1.6 million. There will be restrictions on the ability to trigger bring-forward rules from 1 July 2017 for certain people with large total superannuation balances (more than $1.4 million as at 30 June 2017).

Transitional rules apply where a person has triggered a bring forward prior to 1 July 2017 but has not contributed the whole of the $540,000 bring forward amount by 30 June 2017.

Government co-contributions

What is the impact on government co-contributions?

Any contribution amount claimed as a tax deduction will not be matched by the ATO for co-contribution eligibility. If you wish to be considered for a co-contribution then a portion of your member contributions must remain as not claimed as a tax deduction. Do not include this amount on your notice.

What happens after we receive your notice of intent to claim a tax deduction?

What we will do when we receive your notice

After we receive and process your valid notice, we will send you a **super fund acknowledgment for receipt of member notice of intent form** to use in your personal income tax return—you should retain this form with your personal tax records. This acknowledgement confirms the amount you can claim as a tax deduction and is the amount that should be entered on your tax return.

Note: If there are errors on your notice or we need to confirm any details, we'll contact you before acknowledging your claim for tax deduction.

Can I change the amount I wish to claim as a tax deduction?

After you have lodged valid notice with us, you cannot withdraw it—however, you may vary it to a lesser amount.

If you wish to vary your tax deduction to a lesser amount, you can complete the **notice of variation** form enclosed with the **super fund acknowledgment for receipt of member notice of intent form** that we send to you.

Note: You will not be able to increase the amount with a variation request—you will need to complete and submit a separate notice for the additional amount.

The same deadlines apply to variations and additional notices as apply to the original notice (refer to the **When must you submit the notice?** section above). **Note:** However, there is no time limit for requesting a variation if the reason for doing so is because the ATO has subsequently disallowed or reduced the deduction that you claimed in your tax return.

Amount of tax deducted

How much tax will AMP withhold on contributions claimed?

Tax of 15% will generally be charged on personal contributions notified to us as intended to be claimed as a tax deduction. This is referred to as 'contributions tax' and is deducted from your superannuation account. These amounts will be shown on your next member statement. No 'contributions tax' is charged on the personal contributions that are not notified as an intended tax deduction.

If the amount you claim as a tax deduction exceeds your relevant concessional contributions cap the ATO will send you an excess concessional contributions determination to notify you. Any excess amount will be automatically included in your assessable income for the corresponding year and taxed at your marginal tax rate, less a tax offset of 15% of the excess amount. In addition, you will be liable for an excess concessional contribution interest charge calculated by the ATO.

Example 1:

Marion is aged 45 and has made personal contributions of $25,000 to her super fund in 2016/2017 and received no other contributions during the year. She intends to claim a tax deduction for the full $25,000. If she claims a tax deduction of $25,000 of her personal contributions in the 2016/2017 financial year, the ATO will assess her concessional contributions as $25,000—leaving $0 as a non-concessional contribution for the year.

The $25,000 personal contributions claimed as a tax deduction will be liable for 15% tax in the super fund.

Example 2:

Bob is aged 65 and made personal contributions to his super fund of $100,000 and received no other contributions during the year. If he claims a deduction for $50,000 of his personal contributions in the 2016/2017 financial year, the ATO will assess his concessional contributions as $50,000—leaving $50,000 as a non-concessional contribution for the year.

The $50,000 personal contribution claimed as a tax deduction will be liable for 15% tax in the super fund and there will be no tax deducted from the remaining $50,000.

Since the concessional contributions cap for individuals aged 50 and over is $35,000 in 2016/2017, Bob's excess concessional contributions total $15,000. Bob lodges his income tax return and has taxable income of $65,000. The excess concessional contributions of $15,000 will be included in Bob's assessable income, which increases his taxable income to $80,000. Bob's marginal tax rate is 32.5% plus Medicare levy of 2%.

The additional tax payable as a result of the excess concessional contributions is $5,175 (ie $15,000 x 0.345).

Bob is now entitled to a tax offset equal to 15% of his excess concessional contributions, decreasing his tax liability by $2,250 (ie $15,000 x 0.15).

With the inclusion of the excess concessional contributions, Bob's tax liability has increased by $2,925 ($5,175 - $2,250), and the excess concessional contributions interest charge will be applied to this amount.

For more information on excess contributions tax, refer to the information on **ato.gov.au**–search for 'Super contributions – too much can mean extra tax'.

What does AMP report to the ATO on contributions claimed as a tax deduction?

Super contribution reporting

AMP, like all other superannuation funds, is required to report all personal (member), employer and other contributions to the ATO. We do not advise the ATO of your intention to claim a tax deduction on personal contributions. The ATO is advised of your intention to claim a tax deduction from the information in your income tax return, supported by the acknowledgement that we have sent you.

We also do not advise the ATO of your total concessional and non-concessional contributions, only the total of each type of contribution that makes up these amounts.

The ATO classifies your contributions as 'concessional' and 'non-concessional' once they complete your individual contribution cap assessment based on the contribution reporting received from your superannuation funds, and the information contained in your income tax return. The total amount that counts towards your contributions caps is not determined by superannuation funds. We report your personal contributions as personal contributions. The ATO converts the claimed amount to 'concessional' based on the information in your income tax return once they have assessed and allowed the deduction.

Changes to eligibility from 2017/2018

Who is eligible to claim a tax deduction from 2017/2018?

From the 2017/2018 financial year the employment restrictions for eligibility for claiming tax deductions on personal contributions made to super accounts are being removed. This means that any individual who can make a personal member contribution to their super account may be eligible to claim a tax deduction for that amount.

Importantly, no other rules in relation to claiming a tax deduction are currently changing.

The requirement for a valid notice to be submitted within the strict timeframes also still applies.

Individuals should seek financial advice to assess if claiming a tax deduction on personal member contributions is the best strategy for their circumstances.