Australian Government
Australian Taxation Office

Guidance note for super

GN 2017/9

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Change to personal super contributions deductions

Our commitment to providing you with reliable advice and guidance

We are committed to providing you with accurate, consistent and clear advice and guidance to help you understand your rights and entitlements, and your obligations.

If you follow our advice or guidance and it turns out to be incorrect, or you make a mistake because it was misleading, we will take this into account.

Our commitment to you

This Guidance note contains general information and examples. It may omit details that could be significant in your personal circumstances

Table of Contents **Paragraph**

This information is for people who:

- make personal super contributions from their income after tax (this does not include contributions made under a salary sacrifice arrangement and compulsory super paid by your employer), and
- want to claim a deduction for these contributions.

What has changed?

In 2016–17, an individual (mainly those who are self-employed) could claim a deduction for personal super contributions where they meet certain conditions. One of these conditions is that less than 10% of their income is from salary and wages. This is known as the 10% maximum earnings condition.

Effective 1 July 2017, the 10% maximum earnings condition was removed. This means most people under 75 years old can claim a tax deduction for personal super contributions (including those aged 65 to 74 who meet the work test).

This change improves the flexibility of the super system so that more Australians can use their concessional contributions cap.

If you are a member of a Commonwealth public sector superannuation scheme, an untaxed fund such as a constitutionally protected fund (CPF), or certain funds that offer defined benefit interests, you will not be eligible to claim a deduction for contributions made to these funds. If you're a member of one of these funds and wish to claim a deduction, you can choose to make a personal super contribution to another eligible super fund.

Eligibility rules

You can claim a deduction for personal super contributions made on or after 1 July 2017 if:

- you made the contribution to a complying super fund or a retirement savings account that is not a:
  - Commonwealth public sector superannuation scheme in which you have a defined benefit interest
  - CPF or other untaxed fund that would not include your contribution in its assessable income
  - super fund that notified the ATO before the start of the income year that they elected to treat all member contributions to
    - the super fund as non-deductible, or
    - the defined benefit interest within the fund as non-deductible
- you meet the age restrictions
- you notify your fund in writing of the amount you intend to claim as a deduction
- your fund acknowledges your notice of intent to claim a deduction in writing.

Age restrictions

If you are under 18 years old at the end of the income year in which you made the contribution, you can only claim a deduction for your personal super contributions if you earned income as an employee or a business operator.

If you are 75 years old or older, you can only claim a deduction for contributions you made on or before the 28th day of the month following the month in which you turned 75.

Work test

There are also age-related conditions under which your super fund can accept your contributions. If you are under 65 years old when you make a contribution, you don’t need to satisfy the work test in order for your fund to accept the contribution from you.

If you are 65–74 years old at the end of the income year in which you made the contribution, you still need to satisfy a work test in each financial year that you make a contribution to your fund and claim a deduction. To satisfy the work test, you must work at least 40 hours during a consecutive 30-day period each financial year for which you want to claim a deduction for a personal super contribution.

Notice of intent

If you are eligible and want to claim a tax deduction, you need to complete a *Notice of intent to claim a deduction* form and send it to your fund within the required timeframe. You can get this from your fund or from our website.

You will need to receive an acknowledgment from your fund before you lodge your tax return for the relevant year. Then you can claim a deduction in your tax return for the contributions you made.

A notice of intent is only valid if you are still a member of your fund, your fund still holds the contribution, and your fund has not started paying a super income stream using any of the contribution.

If you give your fund a notice of intent after you have rolled over your entire super interest to another fund (closed your account) or withdrawn your entire super interest (paid it out of super as a lump sum), your notice will not be valid. This means you will not be able to claim a deduction for the personal contributions you made before the rollover or withdrawal.

If you have partially rolled over or withdrawn your super interest (which included the contribution you made), your notice will not be valid for the entire contribution. You can only validly deduct a proportion of your contribution that remains in the fund.

Concessional contributions cap

The contributions that you claim as a deduction will count towards your concessional contributions cap. If you exceed your cap, you will have to pay extra tax and any excess concessional contributions will count towards your non-concessional contributions cap.

What you need to do

What you can do before 1 July 2017

Situation	Action
If you want to claim a tax deduction for personal super contributions	■ You must: – have made the contributions to a complying super fund or a retirement savings account – meet the age restrictions – notify your fund in writing of the amount you intend to claim as a deduction within the required timeframe. ■ Your fund must acknowledge your notice of intent to claim a deduction in writing. ■ No more than 10% of your income (including combined assessable income, reportable fringe benefits and reportable employer super contributions) can come from activities as an employee.

What you can do after 1 July 2017

Situation	Action
If you want to claim a tax deduction for personal	■ You must have made the contributions to a complying super fund or a retirement savings

super contributions	account that is not: – a Commonwealth public sector superannuation scheme in which you have a defined benefit interest – a CPF or other untaxed fund that would not include your contribution in its assessable income – a super fund that notified the ATO before the start of the income year that they elected to either treat all member contributions to o the super fund as non-deductible, or o the defined benefit interest within the fund as non-deductible. ▪ You must meet the age restrictions. ▪ You must notify your fund in writing of the amount you intend to claim as a deduction within the required timeframe. ▪ Your fund must acknowledge your notice of intent to claim a deduction in writing.

Examples

Main points	Example
▪ *Earns $60,000 from employment in 2016–17* ▪ *Earns $11,000 from small business* ▪ *Makes after-tax contributions of $3,000*	*Blaine works part-time in an accounting firm. During 2016–17, he earned $60,000 in salary and wages.* *Blaine is also a qualified swim coach and, in his spare time, runs a small learn-to-swim business at a local school. During the year he earned $11,000 before tax.* *Blaine made personal (after-tax) super contributions of $3,000.* *Blaine cannot claim a deduction for his personal super contributions in his 2016–17 tax return because the income from his employment with the accounting firm ($60,000) is more than 10% of his combined assessable income, reportable fringe benefits and reportable employer super contributions ($71,000 x 10% = $7,100).*
▪ *Earns $45,000 from employment in 2017–18* ▪ *Makes after-tax contributions of $3,000*	*Hannah is employed as a sales manager and, during 2017–18, earns $45,000 in salary and wages.* *Hannah made personal (after-tax) super contributions of $3,000, notified her fund in writing that she intended to claim this amount as a deduction, and received an acknowledgment of that notice.* *Hannah meets all the other eligibility criteria and can claim a deduction for her personal super contributions of $3,000 in her 2017–18 tax return.*
▪ *Earns $26,000 from part-time employment in 2017–18*	*Kumiko is 67 years old. During 2017–18 she works 20 hours per week for six months as a data analyst, and earns $26,000 in salary and wages.*

- *Makes after-tax contributions of $2,000*	*As Kumiko is over 65 years old, she must satisfy the work test for 2017–18 to be eligible to claim a deduction for her personal (after-tax) super contributions.* *Kumiko satisfies the work test because she was gainfully employed for at least 40 hours during a consecutive 30-day period in 2017–18.* *Kumiko notified her fund in writing that she intended to claim $2,000 as a deduction, and received an acknowledgement of that notice. She meets all the other eligibility criteria and can claim a deduction for her personal super contributions of $2,000 in her 2017–18 tax return.*
- *Self-employed, contracted by a state government* - *Member of a CPF* - *Earns $200,000 business income per annum* - *Contributes personal (after-tax) contributions of $100,000 to a CPF*	*During 2016–17, Marcelle makes a contribution of $100,000 to the CPF. Marcelle intended to claim a deduction for her contribution, notified her fund in writing that she intended to claim this amount as a deduction, and received an acknowledgment of that notice. She meets all the other eligibility criteria and can claim a deduction for her personal super contributions in her 2016–17 tax return.* *Marcelle's concessional contributions in 2016–17 are nil as the contribution made to the CPF is not included in her concessional contributions.* *During 2017–18, Marcelle chooses not to make any personal contributions to the CPF, as she is no longer entitled to claim a deduction for her personal super contributions made to a CPF.*

References

ATOlaw topic(s)	Superannuation ~~ Income tax - individuals (superannuation) ~~ Other
Legislative references	- LCR 2016/11 *Superannuation reform: concessional contributions - defined benefit interests and constitutionally protected funds*
Related Rulings/Determinations	
Case references	
Other references	
ATO references	
BSL	SPR