

CHANGES TO NON-CONCESSIONAL CONTRIBUTION CAPS

TECH UPDATE

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CHANGES TO NON-CONCESSIONAL CONTRIBUTIONS

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Introduction

One of the more controversial measures announced in the 2016/17 Federal Budget was a proposal to replace the current non-concessional contribution (NCC) cap with a single lifetime cap of \$500,000 per-person. To compound difficulties, all NCCs made since 1 July 2007 would be counted towards the lifetime cap.

This new measure was to apply from 3 May 2016.

On 15 September 2016, the government announced they would not be proceeding with the lifetime cap of \$500,000, however changes would be made to the annual NCC cap. This change will take effect from 1 July 2017, subject to legislation being passed.

This Update will explore the latest changes to NCCs.

Current position

NCCs are currently (2016/17 financial year) capped at a maximum of \$180,000 per person, per financial year. Where a person is aged under 65 at any time during a financial year, they may bring forward up to three years' contributions and contribute up to \$540,000.

The 3 year bring forward provision is triggered when NCCs exceed \$180,00 in a given financial year. The maximum that can then be contributed over the first and subsequent two financial years is \$540,000. This can be made as a single contribution of \$540,000, or a series of contributions totalling \$540,000.

Where NCCs exceed a person's NCC cap, the Australian Taxation Office will make an excess NCC determination. It is not the intent of this Update to consider the treatment of excess NCCs.

September 2016 announcement

On 15 September 2016 the Treasurer, and the Minister for Revenue and Financial Services, jointly announced that the proposed \$500,000 lifetime NCC cap would not be proceeding and would be replaced with a reduced annual NCC cap of \$100,000 (reduced from the current \$180,000). People under the age of 65 would be able to bring forward up to three years NCCs.

The announcement includes a restriction on people with large superannuation account balances from making NCCs.

The change is to take effect from 1 July 2017.

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Deconstructing the announcement

There are three elements to the proposed changes to the NCC cap. They include the cap itself, an eligibility threshold, and transitional arrangements applying to the bring forward provision. Let's examine each in turn:

1. The cap

The September 2016 announcement proposes an annual NCC cap of \$100,000. The NCC cap will be four times the concessional contribution cap, and will increase in line with the indexation of the concessional contribution cap.

People under the age of 65 able to access the 3 year bring forward provision. We expect that the 3 year bring forward will work on the same basis as currently applies. That is, as long as a person is under the age of 65 at any time in the financial year in which the NCC is made, they will be eligible to bring forward up to three years NCCs.

The ability to make NCCs will be restricted to people with less than \$1.6m in superannuation (referred to as the 'eligibility threshold').

2. Eligibility threshold

The eligibility threshold will be determined by reference to a person's superannuation balance as at the previous 30 June. For people with multiple superannuation accounts, we understand their balances will be aggregated for the purpose of applying the eligibility threshold.

Where a person has a superannuation balance that is approaching \$1.6m, they will be restricted by the amount of bring forward provision that can be applied.

The following table¹ sets out the maximum NCCs that may be made from 1 July 2017 for people with a superannuation account balance approaching \$1.6m.

Superannuation balance	Contribution & bring forward available
Less than \$1.3m	3 years (\$300,000)
\$1.3 - <\$1.4m	3 years (\$300,000)
\$1.4 - <\$1.5m	2 years (\$200,000)
\$1.5 - <\$1.6m	1 year (\$100,000)
\$1.6m and greater	Nil

¹ Superannuation Fact Sheet 04 | Australian Government, 20 September 2016

We expect that the proposed eligibility threshold may present difficulties for certain clients, particularly those with self-managed superannuation funds who wish to make an NCC. They will need to wait until the financial statements for the previous year have been finalised before they are able to determine their superannuation balance as at the previous 30 June, in order to identify the level of NCC they may be able to make.

For clients with a superannuation balance that marginally exceeds the threshold of \$1.4m, \$1.5m, or \$1.6m, there may be an opportunity to restrict their account exceeding the relevant threshold by using a number of strategies including an investment or contribution reserve, or perhaps pre-paying fund expenses, including insurance premiums, prior to allocating investment income to members' accounts. However, it would be prudent to await the draft legislation before implementing such strategies.

From our reading of the announcement it appears a member with \$1.500m will be limited to making a NCC of \$100,000, whereas a member with 1.499m will be able to contribute \$200,000.

3. Bring forward provision - transitional arrangements

This is perhaps the most complex element of the announcement made on 15 September 2016.

Importantly, this transitional arrangement will only apply to people you have triggered their 3-year bring forward provision before 1 July 2017 (i.e. in the 2015/16 or 2016/17 financial years) AND HAVE NOT FULLY UTILISED THEIR BRING FORWARD CAP (\$540,000).

Where the 3-year bring forward provision has been triggered in either 2015/16 or 2016/17, and the full \$540,000 has been contributed, no further NCCs can be made until after the expiry of the three-year period (i.e. from 1 July 2018 where the 3 year bring forward was triggered in 2015/16, and from 1 July 2019, where the 3 year bring forward was triggered in 2016/17).

However, where the 3 year bring forward provision was triggered in either 2015/16 or 2016/17 AND has not been fully utilised (i.e. total amount of NCCs made was greater than \$180,000 and less than \$540,000) transitional arrangements will apply. The transitional arrangements will influence the remaining amount of NCC that can be made from 1 July 2017, and within the original three-year period.

In simple terms, where the three year bring forward was triggered in 2015/16, the total cap available will reduce from \$540,000 to \$460,000. Where the 3 year bring forward was triggered in 2016/17, the total cap will be \$380,000.

When it comes to determining the amount of NCC that may still be made within the 3 year term, it will be a simply matter of taking the revised three-year cap, and deducting any NCCs previously made within the 3 year period.

The following tables have been reproduced from the Government's Superannuation Fact Sheet 04:

2015-16	2016-17	2017-18	2018-19	2019-20
More than \$460,000		Nil	End of transition period \$100,000 or 3 year bring forward	-
More than \$180,000 but less than \$460,000	Cannot exceed \$460,000 from 2016-17 to 2017-18		End of transition period \$100,000 or 3 year bring forward	-
	More than \$380,000	Nil	Nil	End of transition period \$100,000 or 3 year bring forward
	More than \$180,000 but less than \$380,000	Cannot exceed \$380,000 from 2016-17 to 2018-19		End of transition period \$100,000 or 3 year bring forward

Examples:

	2015-16	2016-17	2017-18	2018-19	2019-20
1		\$200,000	\$180,000	Nil	\$100,000
2		\$200,000	\$90,000	\$90,000	\$100,000
3	\$200,000	\$200,000	\$60,000	\$100,000	Nil

An important point to note is if the 3 year bring forward is triggered in either 2015-16 or 2016-17, and the full \$540,000 has been contributed before 1 July 2017, the transitional provisions do not apply.

However, where an unused portion of the bring forward amount is carried over into the 2017-18 financial year, care will need to be exercised to ensure that any further NCCs are made in accordance with the reduced caps of either \$380,000 or \$460,000.

Where to from here?

The announcement made on 15 September 2016 is an improvement on the measures originally contained in the 2016/17 Federal Budget.

However, the transitional arrangements may present a challenges when advising clients.

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More importantly – the relevant legislation will not be passed before the changes can come into effect. We understand that amending legislation will be tabled in the parliament before the end of December 2016.

Here at Centrepont Alliance; we will continue to monitor developments in relation to the changes to NCCs and the other measures contained in the 2016/17 Federal Budget.

Further information will be communicated as it comes to hand.

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