PERSONAL SUPER CONTRIBUTIONS

Tech Update

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CLAIMING A TAX DEDUCTION FOR PERSONAL SUPERANNUATION CONTRIBUTIONS

Background

In the past we have commented extensively on the conditions that need to be met in order for a person to claim a tax deduction for personal superannuation contributions.

This paper addresses, more specifically, the way in which tax deductions may be affected by a partial rollover of superannuation benefits before the 'Notice of Intention to Claim a Tax Deduction'[1] is lodged with a superannuation fund.

Income tax legislation sets out the circumstances in which a tax deduction may be claimed for personal superannuation contributions.

A number of conditions must be satisfied at the time the notice is given; in order for a notice to be valid.

Such conditions include:

a) The member is still a member of the fund to which the contribution was made.
b) The fund still holds the contribution (i.e. It hasn't been withdrawn or rolled over).
c) A pension hasn't been commenced with all (or a part) of the contribution.

One question that arises from time to time relates to the eligibility to claim a tax deduction where a partial rollover of benefits has occurred before the notice is lodged.

For example; a person may have an accumulated superannuation interest and they make personal contributions with the intention of claiming a personal tax deduction. The actual amount of the tax deduction may not be known until a later date. However – prior to lodging the notice the fund member decides to roll a portion of their benefit over to another superannuation fund (perhaps to pay the premiums for a 'stand-alone' life insurance policy owned through superannuation, or to commence a pension). In order to claim a tax deduction the individual leaves the contribution they wish to claim a tax deduction for in their original superannuation fund.

The Australian Taxation Office (ATO) has set out[2] the manner in which a tax deduction for personal contributions will be treated where a partial rollover occurs before the notice is lodged.

[1] *Section 290-170, Income Tax Assessment Act 1997.*
[2] *Income Tax Ruling 2010/1 (Example 10, paragraphs 92 to 99).*

When determining the maximum amount of tax deduction that may be claimed it is necessary to work through the following steps (the ‘corresponding superannuation balance’ will be set out below this table):

Step	Explanation	
Step 1	Determine the superannuation balance before the contribution is made.	A
Step 2	Identify the tax-free component of the amount in ‘A’.	B
Step 3	What is the amount of personal contribution being made?	C
Step 4	Determine the new tax-free component (B + C).	D
Step 5	Calculate the new total value of the superannuation balance (A + C).	E
Step 6	How much of the benefit is being rolled over?	F
Step 7	Establish the amount of the tax-free component included in the rollover: (F x D/E).	G
Step 8	What is the remaining tax-free component (D – G).	H
Step 9	Determine the maximum deductible contribution (H x C/D).	

Examples

Let’s consider two simple examples:

Example 1:

Lucy has an existing superannuation balance of $80,000 (A). She has no current tax-free component (B). Lucy intends on making a personal contribution of $5,000 (C); for which she will claim a personal tax deduction. She wishes to rollover $5,000 (F) to her ‘risk-only superannuation product’ (a stand-alone life policy held with another superannuation fund).

By following the process set out in the previous table – the maximum amount Lucy can included in her notice is **$4,706** (instead of $5,000).

While the impact on the amount of contribution that can be claimed as a tax deduction is minimal in this example, it does illustrate how the tax deduction may be reduced if the rollover occurs before the Notice is lodged with the superannuation fund.

This is of crucial importance to clients that are are funding life insurance by way of a rollover, and they also intend to be claiming a tax deduction for their personal superannuation contributions.

Appendix of amounts:

A = $80,000

B = $0

C = $5,000

D = $5,000

E = $85,000

F = $5,000

G = $5,000 x $5,000/$85,000 = $294

H = $4,706

Example 2:

Malcolm has accumulated superannuation savings of $500,000 (A) which includes a tax-free component of $75,000 (B). Malcolm makes a personal contribution of $35,000 (C) with the intention of claiming a tax deduction for the entire amount. He wishes to rollover his current accumulated benefit of $500,000 to commence a transition to retirement pension. He will leave the current contribution of $35,000 in his accumulation account. The maximum tax deduction he can include in his notice is **$32,710** (instead of $35,000).

Appendix of amounts:

A = $500,000

B = $75,000

C = $35,000

D = $110,000

E = $535,000

F = $500,000

G = $500,000 x $110,000/$535,000 = $102,803

H = $7,197

What is the outcome?

This is an issue to consider for anyone wishing to claim a tax deduction for personal superannuation contributions. The key lesson in order to ensure the maximum tax deduction is available is to avoid rolling over superannuation benefits to another fund, making a withdrawal (in full or in part), and/or commencing an account based pension until such time as a notice of intention to claim a tax deduction has been lodged (and accepted) by the client's superannuation fund.

Incidentally; it is also important to appreciate that the requirement to lodge a notice of intention to claim a tax deduction rests with the fund member making the contribution.

Even though many public offer superannuation funds will invite members of their fund to lodge a notice; this is not a mandated requirement on the part of the fund. In fact – where a rollover occurs under the SuperStream requirements – the fund to which the contribution was made may not be in a position to request the completion of the relevant notice before the rollover occurs.