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Changing contribution amounts and the potential link to stage 3 tax cuts

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Disclaimer

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Prepared as of 8 October 2024

Today’s agenda

- How indexation impacts timing of contributions
- The interaction between Stage 3 tax cuts and contribution strategies
- Personal deductible contributions notice considerations
- How to maximise the use of contribution strategies, both concessional and non-concessional

Accepting contributions since 1 January 2023

Item	If a member…	The fund may accept contributions in respect of the member that are:
1	Is under 55	a) Employer contributions; or b) Member contributions
2	Is not under 55, but is under 75	a) Employer contributions; or b) Member contributions (incl. downsizer contributions)
3	Is not under 75	a) Mandated employer contributions; or b) Downsizer contributions

Non-mandated employer contributions and non-downsizer contributions may be made up to 28 days following the end of the month the member turns 75.

Gainful employment requirements are now removed from the SIS Regulations.

Important indexation reminder

Not all caps and thresholds within the tax and super laws are impacted by indexation – when they do, understand how indexation applies.

Impacted by indexation	Not impacted by indexation
✓ General Transfer Balance Cap (CPI)	✗ Disregarded Small Fund Assets
✓ Total Superannuation Balance (CPI)	✗ Unused carry forward concessional contribution catch-up threshold
✓ Concessional contribution cap (AWOTE)	✗ Work-test exemption threshold
✓ Non-concessional contribution cap (AWOTE) *(incl. bring-forward)*	✗ Downsizer contributions
✓ CGT cap amount (AWOTE)	✗ Small business retirement exemption lifetime limit *(incl. in CGT cap amount)*

Indexed contribution thresholds

Contributions	Threshold 2024-25
Concessional cap	$30,000
SG Rate	11.5% (increase 0.5%)
Maximum contribution base	$65,070 (24/25) income per quarter = $7,483 concessional **$260,280 income p.a.** • **$29,932 mandated contributions p.a.**
Non-concessional cap	$120,000
CGT Cap Amount	$1,780,000

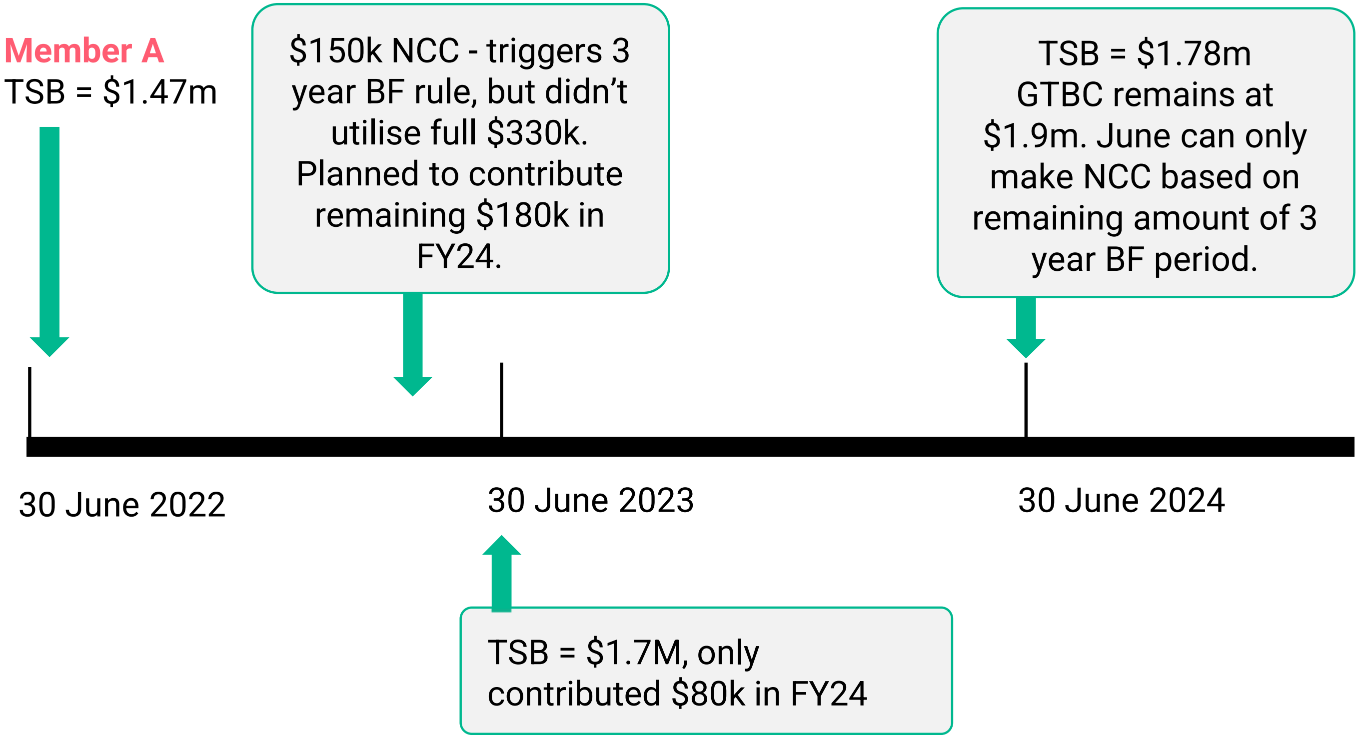
The impact of indexation on NCC

Non-concessional contribution strategies

TSB - previous 30 June	NCC cap for the first year	Bring forward period
Less than $1.66 million	$360,000	3 years
$1.66 million to less than $1.78 million	$240,000	2 years
$1.78 million to less than $1.9 million	$120,000	**No bring forward period**, general non-concessional contributions cap applies
$1.9 million or more	Nil	N/A

The impact of indexation on NCC

Indexation of the NCC cap from 1 July 2024 provides opportunities unless a member has triggered their bring-forward in the previous two years



Outcome

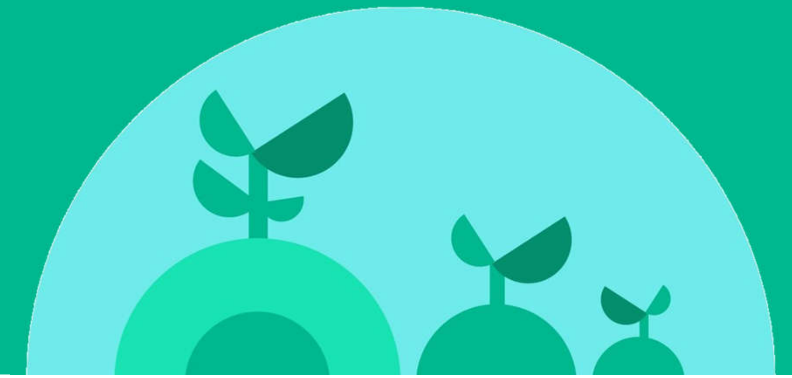
Member A allowed to make $100k NCC for 2024-25 (finishing off the bring forward period)

NB. Even though CC Cap indexed would not get 'uplift' from indexation of the NCC cap - until BF period reset.

Strategy consideration

Hold off NCC until 1 July 2024?

Contribution strategies



Contribution strategies

Non-concessional

- Recontribution
- Bring-forward
- Government Co-contributions

Concessional

- Super Guarantee
- Salary Sacrifice
- Personal deductible
- Carry forward unused concessional
- Low Income Superannuation Tax Offset

Spouse

- Low Income Spouse contribution Tax Offset
- Contribution Splitting

Non-standard strategies

- Reserve Allocations
- First Home Super Saver Scheme
- Downsizer contributions
- Small Business CGT cap amounts
- Personal injury contributions
- Contribution reserving
- Child contributions
- COVID release recontribution
- Foreign Transfers

Conditional contribution strategies

Non-concessional

- Recontribution
- Bring-forward
- Government Co-contributions

Concessional

- Super Guarantee*
- Salary Sacrifice
- Personal deductible*
- Carry forward unused concessional
- Low Income Superannuation Tax Offset

Spouse

- Low Income Spouse contribution Tax Offset
- Contribution Splitting*

Non-standard strategies

- Reserve Allocations
- First Home Super Saver Scheme*
- Downsizer contributions*
- Small Business CGT cap amounts*
- Personal injury contributions*
- Contribution reserving*
- Child contributions
- COVID release recontribution*
- Foreign Transfers*

** Requires notification to either the ATO or the Super Fund – i.e. election based.*

Longer timeframes for making contributions

Strategy pros

- Greater intertwining of making contributions, whilst drawing down benefits in retirement & transition to retirement phase (, attain preservation age, retired, over 65 years)
- Who does this help?

Further contributions

Individuals who want to get further monies into super later in life – need time to grow their member balance.

Estate planning

Individuals who want to recontribute to minimise tax for non-dependant (tax) beneficiaries (i.e. adult kids)

Rebalancing

Individuals who want to rebalance between spouses for transfer balance and potential tax savings purposes

Longer timeframes for making contributions

Strategy cons

- Consideration of interplay between Division 296 and personal marginal tax rate (or alternate investment vehicle)
- Who might it hinder (both inclusive and exclusive of Div 296)?

Broken relationship

Costly exercise if you contribution split / contribute to spouse and the relationship breaks down.

Poor estate plan

Blended families where previous dependants no longer meet the definition – or untimely death

Contribution matrix

Single – no dependants	Nuclear	DINKs	Blended
Personal deductible	Personal deductible	Personal deductible	Personal deductible
Carry forward concessional	Carry forward concessional	Carry forward concessional	Carry forward concessional
Contribution reserving	Contribution reserving	Contribution reserving	Contribution reserving
NCC	Contribution splitting	Contribution splitting	**Contribution splitting?**
Re-contribution?	Personal NCC	Personal NCC	Personal NCC
Downsizer	Spouse NCC	Spouse NCC	**Spouse NCC?**
	Personal re-contribution	**Personal re-contribution?**	Personal re-contribution
	Spouse re-contribution	Spouse re-contribution	**Spouse re-contribution?**
	Downsizer	Downsizer	Downsizer
	Child contribution		**Child contribution?**

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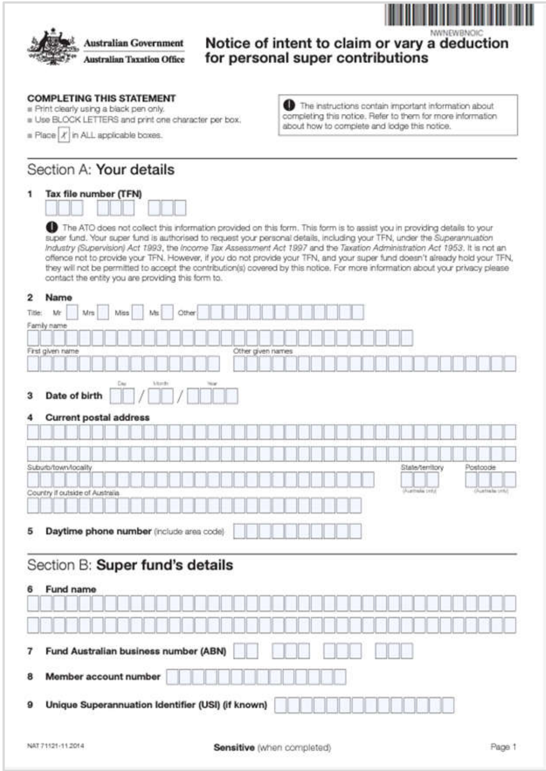
Personal deductible contributions

Notice of Intent – Member contributions

- Greater flexibility available for individuals to claim a personal tax deduction for super contributions to the CC cap ($30,000)
- Importance of validity with s.290-170 notice – **not valid** where one of these conditions is satisfied:
  - The notice is not in respect of the contribution;
  - The notice includes all or part of an amount covered by a previous notice
  - When the notice was provided:
    - Not a member of the fund;
    - The trustee no longer holds the contribution; or
    - The trustee has begun to pay a super income stream based in whole or part of the contribution



NWNEWBNOIC

Australian Government
Australian Taxation Office

Notice of intent to claim or vary a deduction for personal super contributions

COMPLETING THIS STATEMENT
- Print clearly using a black pen only.
- Use BLOCK LETTERS and print one character per box.
- Place X in ALL applicable boxes.

The instructions contain important information about completing this notice. Refer to them for more information about how to complete and lodge this notice.

Section A: **Your details**

1 Tax file number (TFN)

The ATO does not collect this information provided on this form. This form is to assist you in providing details to your super fund. Your super fund is authorised to request your personal details, including your TFN, under the *Superannuation Industry (Supervision) Act 1993*, the *Income Tax Assessment Act 1997* and the *Taxation Administration Act 1953*. It is not an offence not to provide your TFN. However, if you do not provide your TFN, and your super fund doesn't already hold your TFN, they will not be permitted to accept the contribution(s) covered by this notice. For more information about your privacy please contact the entity you are providing this form to.

2 Name

Title: Mr Mrs Miss Ms Other

Family name

First given name Other given names

3 Date of birth Day / Month / Year

4 Current postal address

Suburb/town/locality State/territory Postcode

Country if outside of Australia

5 Daytime phone number (include area code)

Section B: **Super fund's details**

6 Fund name

7 Fund Australian business number (ABN)

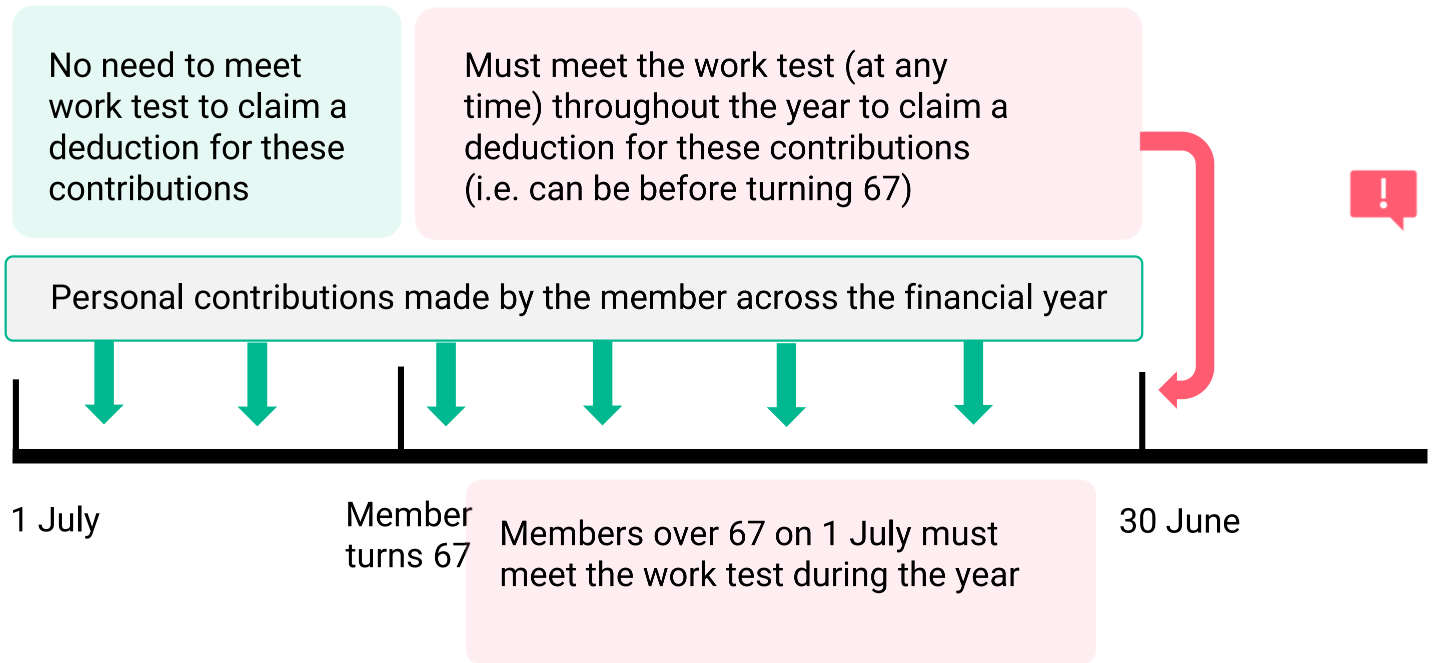
8 Member account number

9 Unique Superannuation Identifier (USI) (if known)

NAT 71121-11.2014 **Sensitive** (when completed) Page 1

Personal deductible contributions

- From 1 July 2022 for individual's 67 – 75 years of age



If the work test is not met, the fund will still accept the contribution as an NCC amount.

Work test needs to be met at some stage by 30 June in the year that the contribution is made

Personal deductible contributions

Make personal contributions expecting the be concessional contributions

Don't meet the work test – tax deduction is denied, therefore amounts are treated as NCCs

Eligible to make personal contributions (cannot be rejected by the trustee)

Important

ATO will be watching the work test much more closely – no longer an audit issue (SISR 7.04) – acceptance of contributions; impacts ability to claim a tax deduction.

- What if an excess is created?
  - Possibly ok – refunded to the ATO with associated earnings, tax paid on earning and net amount returned (in due course) to the individual
- Trigger a bring-forward at the wrong time?
  - Much more of a problem!
- Already converted to a pension?
  - Can't vary a s.290-170 notice

Important to get timing right between contribution/claim/pension commencement

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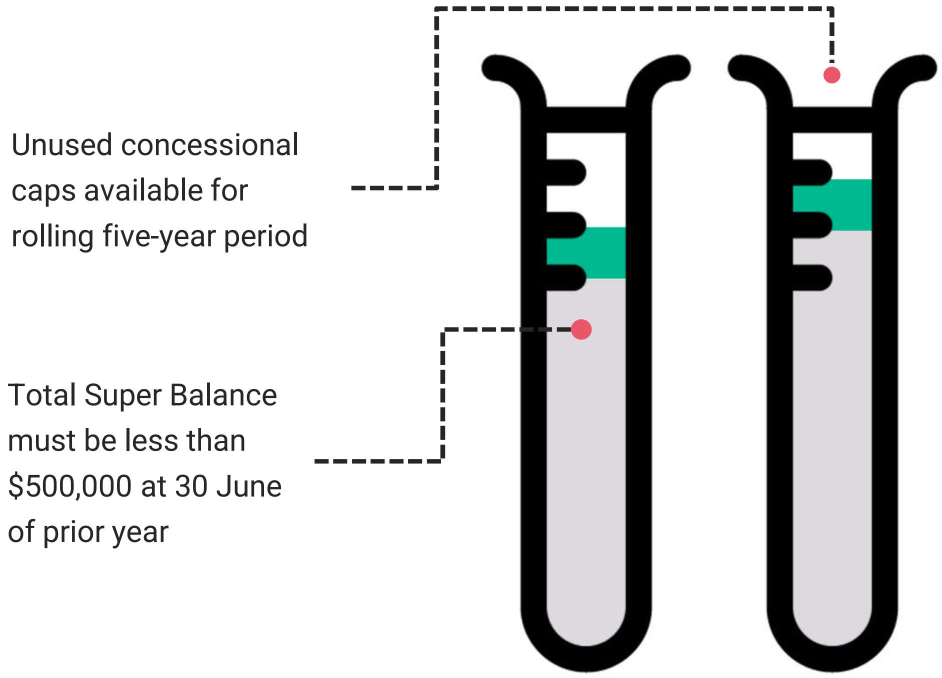
Carry forward unused concessional contributions

Unused concessional cap carry forward



- From 1 July 2018, where a member has not used their concessional contribution cap in a financial year, they can make 'carry-forward' concessional super contributions if they have a TSB < $500,000.
- Members can access their unused concessional contributions caps on a rolling basis for five years.
- Amounts carried forward that have not been used after five years will expire (FIFO basis).
- The first year in which a member was able to access unused concessional contributions was the 2019–20 financial year
- The 2018-19 concessional contributions ‘dropped-off’ after 30 June 2024.

Example - unused concessional carry forward

Helen earns $100,000 p.a. and receives employer SG contributions.

However, in 2024-25, Helen sells an investment property making a significant capital gain.

What is the level of unused concessional contributions that can be claimed?

Description	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
Concessional contribution cap	$25,000	$25,000	$27,500	$27,500	$27,500	$30,000
Total unused available cap space	$0	$15,500	$31,000	$48,500	$65,500	$82,000
Maximum cap space	$25,000	$25,000*	$58,500	$76,000	$93,000	$112,000
Total Super Balance at 30 June prior year	$460,000	$510,000	$465,000	$475,000	$485,000	$495,000
Concessional contributions made	$9,500	$9,500	$10,000	$10,500	$11,000	**$11,500 + ?**
Accrued unused concessional contributions	$15,500	$31,000	$48,500	$65,500	$82,000	

CC cap - $30,000
+
Unused - $82,000
-
SG - $11,500
=
Total - $100,500 PDC

Timing of SG currently creates strategic problems

** Unused carry forward amounts unavailable to use in 2020-21 due to TSB > $500k, however not lost where TSB reduced to less than $500k in subsequent income year.*

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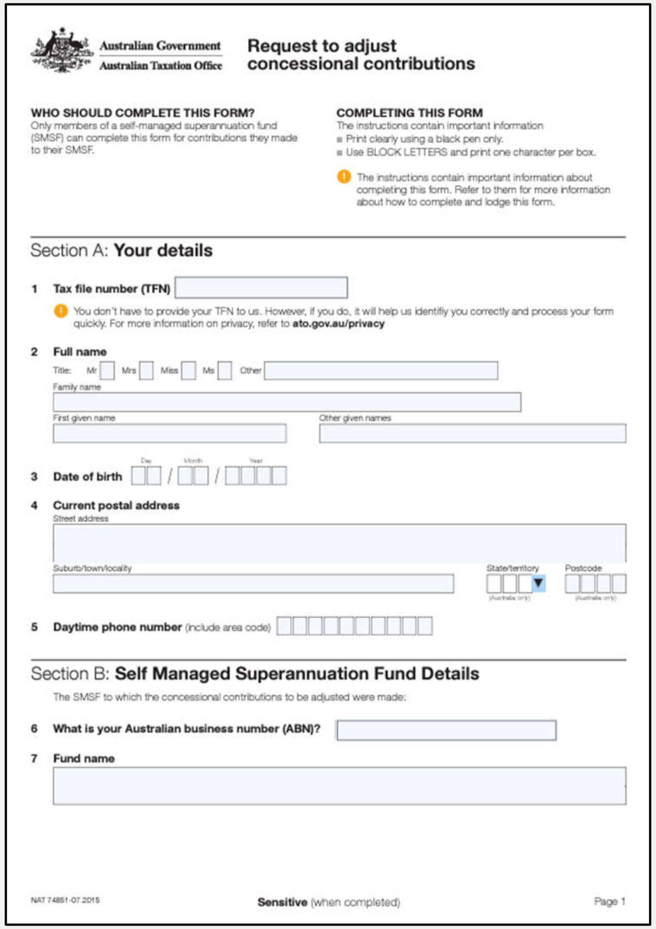
Contribution reserving

Contribution reserves

- Cap increase to **$30,000** for 2024-25 allows for <u>increase</u> in contribution reserve amount in future years.
- SMSFRB 2018/1 confirms contribution reserves are allowed
  - Contribution reserves are **<u>not</u>** reserves – short-term warehousing account (or suspense accounts); Feature is that they regularly go back to $0 due to time allocation requirements (TD 2013/22)
- Even where amount is held in 'short-term' contributions reserve to be allocated in following year, ATO administrative process is reporting contributions as being made and received in (same) earlier year
  - Allows for additional $30,000 in June 2025, followed by completion and lodgement of ATO 'request to adjust concessional contributions' form (NAT 74851)
- Reserving can be utilised in conjunction with unused carry forward concessional contributions (subject to TSB < $500k)



Australian Government
Australian Taxation Office

Request to adjust concessional contributions

WHO SHOULD COMPLETE THIS FORM?
Only members of a self-managed superannuation fund (SMSF) can complete this form for contributions they made to their SMSF.

COMPLETING THIS FORM
The instructions contain important information
- Print clearly using a black pen only.
- Use BLOCK LETTERS and print one character per box.

The instructions contain important information about completing this form. Refer to them for more information about how to complete and lodge this form.

Section A: **Your details**

1 **Tax file number (TFN)**

You don't have to provide your TFN to us. However, if you do, it will help us identify you correctly and process your form quickly. For more information on privacy, refer to **ato.gov.au/privacy**

2 **Full name**
Title: Mr Mrs Miss Ms Other
Family name
First given name
Other given names

3 **Date of birth** Day / Month / Year

4 **Current postal address**
Street address
Suburb/town/locality
State/territory
Postcode

5 **Daytime phone number** (include area code)

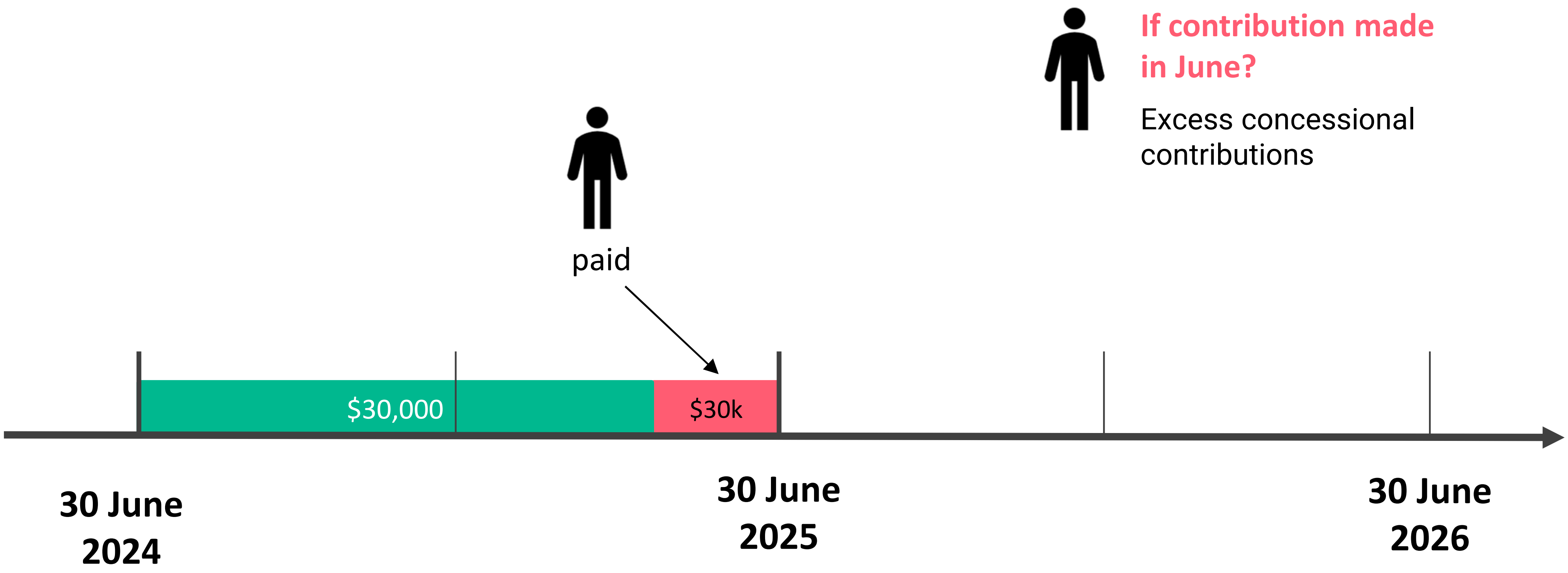
Section B: **Self Managed Superannuation Fund Details**
The SMSF to which the concessional contributions to be adjusted were made:

6 **What is your Australian business number (ABN)?**

7 **Fund name**

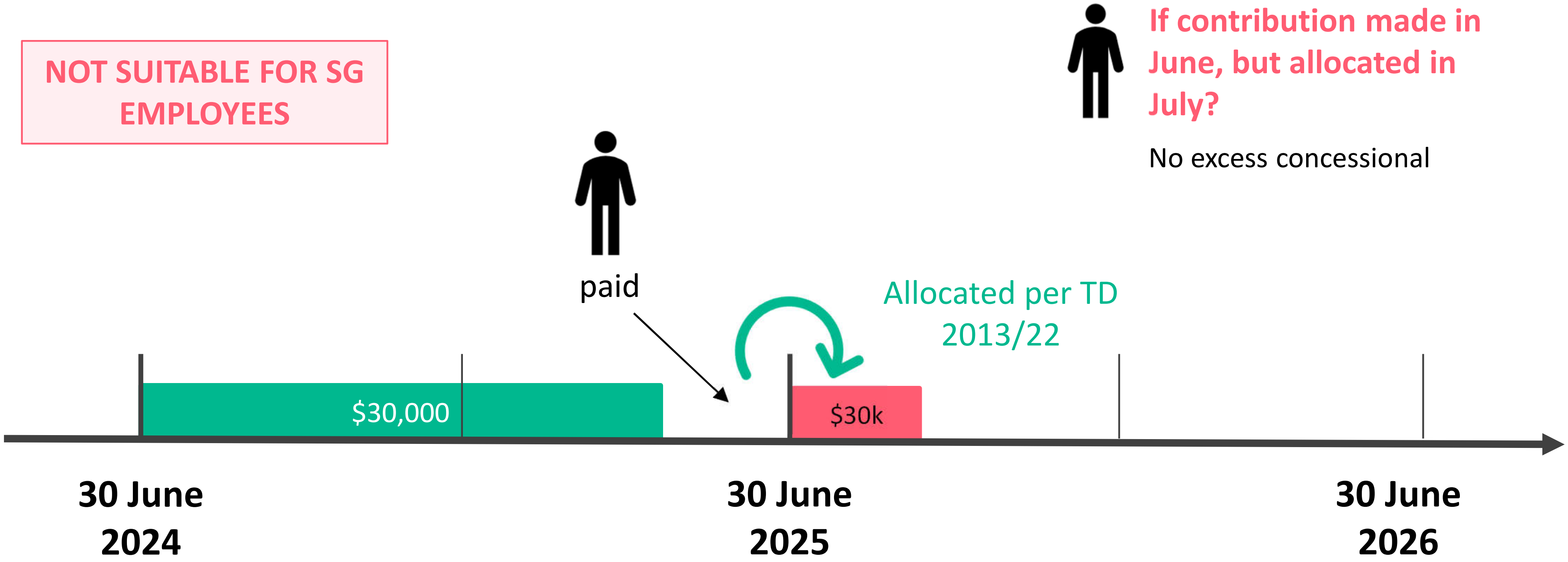
NAT 74851-07.2015
Sensitive (when completed)
Page 1

Contribution reserves



Contribution reserves

NOT SUITABLE FOR SG EMPLOYEES



Contribution reserving documents available on Smarter SMSF platform

Example - unused concessional + reserve

Helen earns $100,000 p.a. and receives employer SG contributions.

However, in 2024-25, Helen sells an investment property making a significant capital gain.

What is the level of unused concessional contributions that can be claimed if we bring-forward part of the 2024-25 cap?

Description	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
Concessional contribution cap	$25,000	$25,000	$27,500	$27,500	$27,500	$30,000
Total unused available cap space	$0	$15,500	$31,000	$48,500	$65,500	$82,000
Maximum cap space	$25,000	$25,000*	$58,500	$76,000	$93,000	$112,000
Total Super Balance at 30 June prior year	$460,000	$510,000	$465,000	$475,000	$485,000	$495,000
Concessional contributions made	$9,500	$9,500	$10,000	$10,500	$11,000	**$11,500 + ?**
Accrued unused concessional contributions	$15,500	$31,000	$48,500	$65,500	$82,000	

CC cap - $30,000
+
Unused - $82,000
-
SG - $11,500
+
Contributions Reserve - $18,000*
=
Total - $118,500 PDC

*** Reserve = $30,000 -$12,000 (SGC in 2025/26)**

** Unused carry forward amounts unavailable to use in 2019-20 due to TSB > $500k, however not lost where TSB reduced to less than $500k in subsequent income year.*

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Spouse Contribution Splitting

Splitting of contributions

- Highly useful strategy to help in the management of a member's total super balance (TSB) and/or age discrepancies between members
- Allows for splitting of up to 85% of any concessional contributions after the income tax year
- Requirements:
  - Member's spouse must be under preservation age at the time of the split request
  - Where member's spouse is at preservation, but less than 65, they can still receive splittable contribution on basis that they have not satisfied the retirement condition
  - Contributions cannot be split where the spouse is 65 years or older

Important to note that contribution splitting is required in the current year if commencing a super income stream pre-30 June

Carry forward interaction with contribution splitting

- The maximum amount of taxed splittable contributions that a member can split is the lessor of:
  - 85% of the concessional contributions for that financial year; and
  - the concessional contributions cap for that financial year.

How does this interact with catch-up unused concessional contributions?

- Laws allows for a higher amount to be split to a spouse where:
  - part of the CC cap has not been utilised by the member in previous FY; **and**
  - Member's TSB is less than $500,000 at 30 June of the prior year

Example - Contribution Splitting & unused concessional

- From 2019-20 to 2023-24, Helen's employer made SG contributions to her SMSF
- Helen's TSB at 30 June 2024 was $495,000 (< $500,000),
- She had an unused concessional contribution cap amount of $82,000 that can be carried for to the following year
- In 2024-25, Helen had a net capital gain of $100,000 from the sale of an investment property and made the following contributions for the financial year:

Contribution Type	Amount
Personal deductible contribution	$118,500*
Employer contributions	$11,500
Total concessional contributions	**$130,000**

** Inclusive of contribution via contribution reserve – mindful of enough space for following year SG*

Example - Contribution Splitting & carry forward concessional

- Helen wishes to split her 2024-25 contributions to her husband, Jack (45), who is self employed with $100,000 in superannuation
- Can split contributions after 30 June 2025 *(during 2025-26)*
- Helen completes splitting application indicating she wishes to split $110,500 of her taxed splittable contributions and declares that her:
    1. TSB immediately prior to that financial year was less than $500,000; and
    2. concessional contributions cap for the financial year is $112,000 (the general cap of $30,000 for FY25 **plus** the unused concessional contributions cap amount of $82,000 from 2019–20 to 2023-24 that was carried forward).

Example - Contribution Splitting & carry forward concessional

As a result, the SMSF can accept her application and determines that it is valid because $110,500 is the lesser of both:

- 85% of the $130,000 **($110,500)** concessional contributions made by her and her employer; and
- Helen’s concessional contributions cap ($112,000).

The trustees arrange for the transfer of $110,500 to Jack’s member account in after completion of the 2025 SMSF Annual Return.

Helen must lodge the following forms within the required timeframes:

- ‘Notice of intent to claim or vary a deduction for personal super contributions’ (NAT 71121) – for $118,500
- ‘Request to adjust concessional contributions’ (NAT 74851) – for $18,000
- ‘Superannuation contributions splitting application’ (NAT.15237) – for $110,500.

Provides opportunity for Helen to stay under $500,000 to make future unused catch-up concessional contributions to Jack (where relevant).

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Stage 3 Tax cuts & salary sacrifice

First things first

Preservation Age

- From 1 July retirement definition is simplified

Date of birth	Preservation Age
Before 1 July 1960	55
From 1 July 1960 to 30 June 1961	56
From 1 July 1961 to 30 June 1962	57
From 1 July 1962 to 30 June 1963	58
From 1 July 1963 to 30 June 1964	59
On or after 1 July 1964	**60**

Cease employment 60 – 64 years:

✓ Can rely upon **prior** ceasing gainful employment arrangement before age 60 with declaration of future intent; **OR**

✓ Cease a gainful employment arrangement after turning 60

Retirement condition has been met subject to meeting one or the other condition

Stage 3 tax cuts

Current tax rates		Post 1 July 2024 tax rates	
Income range	**Tax rate**	**Income range**	**Tax rate**
0 –18,200	Tax free	0 –18,200	Tax free
18,201 – 45,000	19%	18,201 – 45,000	16%
45,001 – 120,000	32.5%	45,001 – 135,000	30%
120,001 – 180,000	37%	135,001 – 190,000	37%
>180,001	45%	>190,001	45%

This lower MTR alters the discussion about assets inside vs. outside super (retirement phase)

Impact

- Salary sacrifice opportunities
- < $500,000 carry forward unused concessional
- Lower tax rate on income from investments outside super (retirees)
- **TRIS - 60 – 65 years**
- SAPTO – 67+ years
- Estate planning

Pre-retirement – tax optimisation strategies

Transition to Retirement Income Streams

- Fell out of favour from 1 July 2017
  - Assets no longer exempt from tax (0%)
  - Concessional cap reduced back to $25,000 (now$30k)

Catch-up concessional contributions

- Contribute unused CC amounts accrued from prior 5 years (rolling)
  - TSB < $500,000 at end of prior year
  - Started on 1 July 2018

Members turning 60 may have large effective concessional cap.

Example

Employer SG only ($11k) in 2023/24

Used CC cap after:

- 5 years?
- $420,000 in super

Pre-retirement – tax optimisation

2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
~~$9,500~~					
~~$15,500~~	$9,500				
~~$25,000~~	$15,500	$9,500			
$15,500	$25,000	$15,500	$10,000		
	$15,500	$40,500	$17,500	$10,500	
		$31,000	$58,500	$17,000	$11,000
			$48,500	$76,000	$16,500
				$65,500	$93,000
					$82,000

SG amounts | Unused CC | Effective CC | Cap space

Pre-retirement – tax optimisation (2024-25)

Member Aged 60	Without salary sacrifice and TRIS	With Salary Sacrifice and TRIS	Variance
Employment Income	$100,000	$45,000	
Personal Tax (ex. Medicare)	$20,788	$4,288	
Take home pay	**$79,212**	**$40,712**	
Concessional cap	$115,670	$115,670	
Super Guarantee	$11,500	$11,500	
Salary Sacrifice	$0	$55,000	
Tax on super	$1,725	$9,975	
Combined Tax	$22,513	**$14,263**	**Saved $8,250**
TRIS	$0	$42,000 (10%) NANE	
Take home pay with TRIS	**$79,212**	**$82,712**	**Increase $3,500**
Closing Super Balance *Balance + contributions – tax – TRIS*	**$429,775**	**$434,525**	**Increased $5,000**

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Other contribution considerations

Allocations from reserves

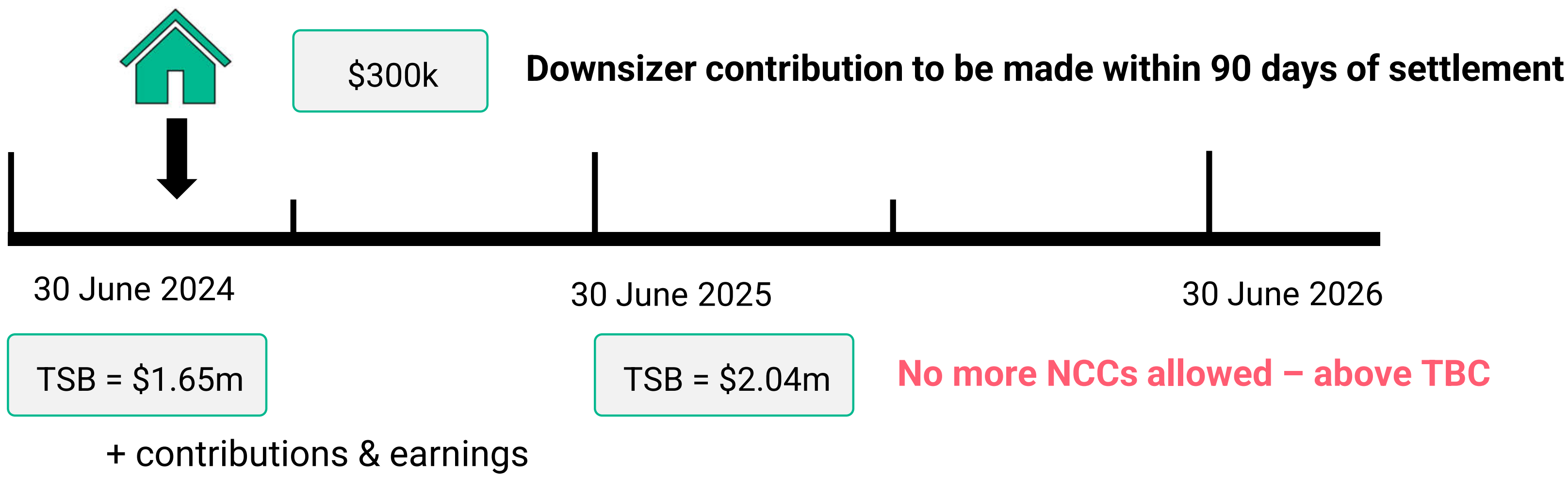
- Does the fund have any reserve transfer amounts for the financial year?
  - E.g. pension reserves, unwind of anti-detriment reserves or self-insurance, etc.
- Have the reserve transfers been made:
  - ‘fair and reasonably’ amongst all members of the fund or relevant class of members; and
  - Are less than 5% of the value of the member’s interests at the time of the allocation.
- If both items above in Reg 292.25.01 of the ITAR 1997 are not met, then the amount counts as a concessional contribution*

***Government have released draft regulations for legacy pensions and allocations from reserves – to be counted against NCC**

Downsizers earlier – clashing with NCCs

- Member A (63) is looking to sell his family home, which will qualify for him to make a downsizer contribution.
- He is also looking to sell an investment property in 2025-26, to consolidate wealth within super (as NCCs)

OPTION 1:



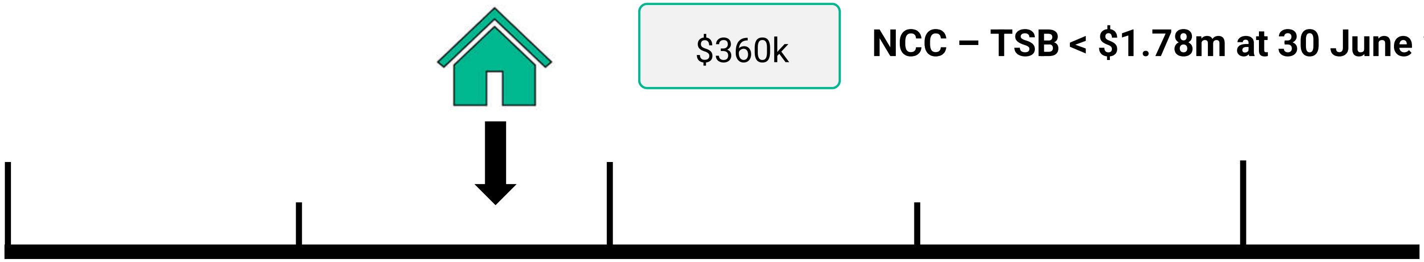
Downsizers earlier – clashing with NCCs

OPTION 2:

Delayed settlement to ensure that 90 days goes beyond 30 June 2025 (e.g. > 1 April 2025)

$300k **Downsizer contribution to be made within 90 days of settlement**

$360k **NCC – TSB < $1.78m at 30 June 2025 (assumes indexation of GTBC)**



30 June 2024

30 June 2025

30 June 2026

TSB = $1.65m

+ earnings

TSB = $1.72m

Still allows 3 year BF for NCCs in 2025-26

Downsizers earlier – clashing with NCCs

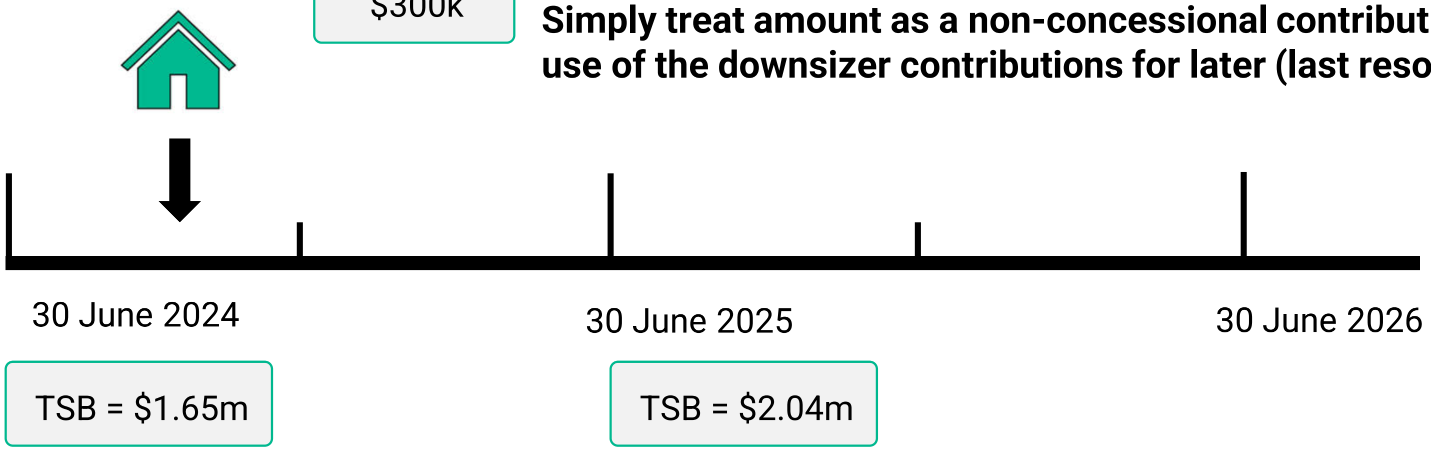
- What if Member A actually only wants to make a contribution of around $300k now?

OPTION 3:

$300k

Could be a downsizer, but why bother make that election at this time?

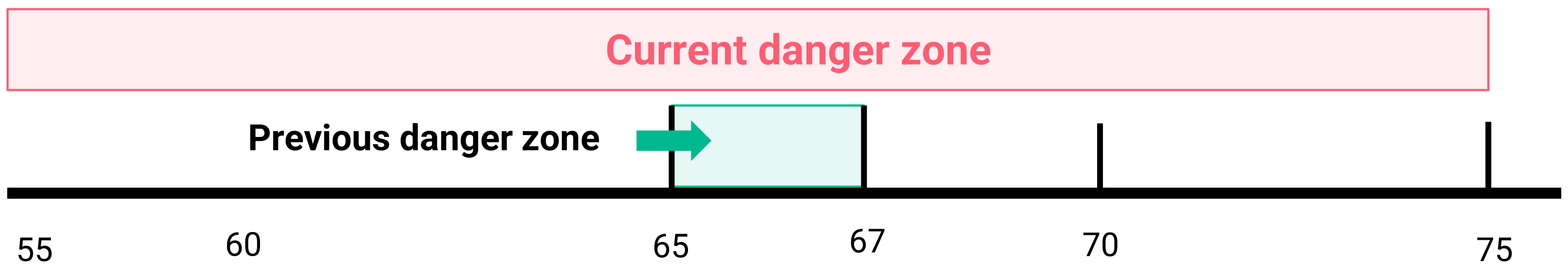
Simply treat amount as a non-concessional contribution, preserving the use of the downsizer contributions for later (last resort contribution).



+ contributions & earnings

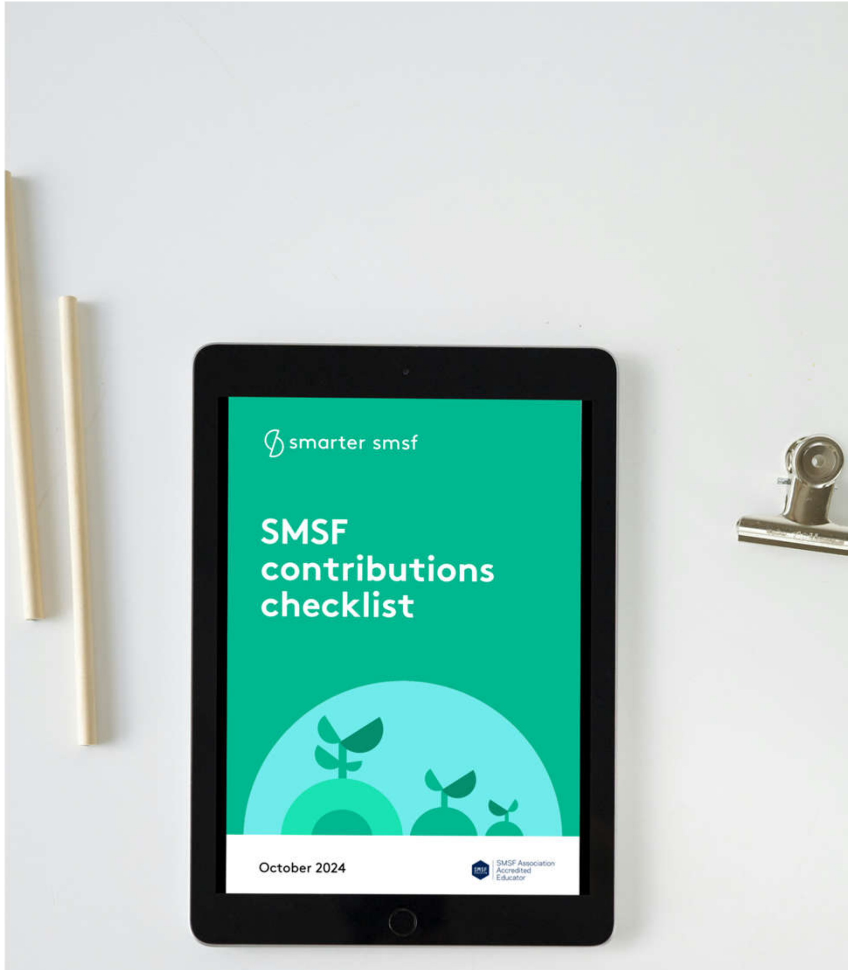
Downsizers earlier – a new challenge

- Failed downsizer (don't meet the qualifying conditions) – e.g. 10-year CGT main residence exemption
  - Reclassified as non-concessional contributions (NCC)
- Made at a time when NCCs are now accepted by the trustee can be a big problem!
  - Create large excess, or
  - Trigger bring-forward rule when you didn't mean/want to.



Other contribution considerations

- In-specie contributions
  - Allowable related party acquisitions (s.66, SISA)
  - Market valuation considerations (LCR 2021/2)
- What is a contribution (TR 2010/1)?
  - Paying an amount to a third party on behalf of the super fund (e.g. insurance premiums or fund expenses)
  - Forgiving debt owed by the fund (e.g. related party LRBA)
  - Increasing the value of, or shifting value to an asset owned by the super fund (e.g. property improvements undertaken by trustee/member)
- Other contributions – LISTO, Govt co-contribution, spouse contributions, etc.



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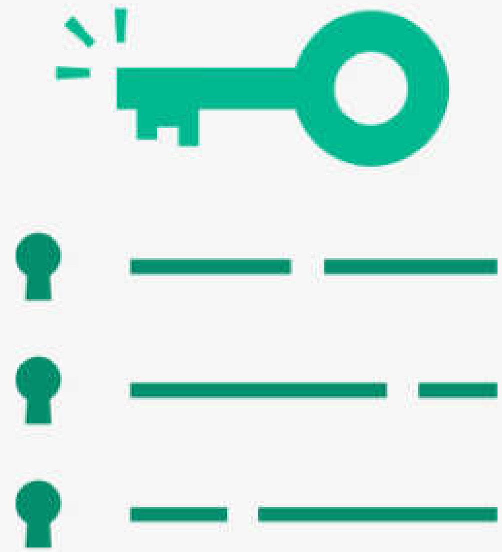
Key takeaways

- Significant contribution strategies now available up to and beyond age 75
  - How do various strategies interact?
  - Is rebalancing between spouses appropriate
- Shift in obligation from trustee to member
  - Failure to make appropriate elections
  - Failure to make timely elections
  - Limited capacity to refund contribution
- Future policy changes likely to impact future contribution rules



Thank you

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