

Better Targeted (ie new tax) Super Concessions



What do we know?

- Proposed tax on high balance super fund members.
- Commencing after the next election
- First year impacted 2026 FY
- Has passed the lower house

Current details:

- Will affect members > \$3M Total Super Balance (TSB) (ex LRBA)
- First testing date is 30 June 2026
- An additional 15% tax will apply to “earnings” for a financial year
- Applies to earnings on both accumulation and pension accounts
- Not just taxable income, all earnings realised or unrealised
- Payment options similar to Div 293 tax
- \$3M cap is not subject to indexation

Calculation of earnings?

2026 earnings calculated as:

Earnings = TSB_{30 June 2026} *minus* TSB_{30 June 2025*} *plus* Withdrawals *minus* Net Contributions

**Adjusted to \$3M if less than \$3M*

What is included as a withdrawal and net contribution:

- Pension payments
- Spouse splitting
- Family Law splits
- CC, NCC, CGT contributions, Insurance Payouts
- Reversionary pension commencements.



EXAMPLE

Tom has a TSB at 30 June 2025 of \$3M.

During 2026FY, he makes concessional contributions of \$20K and also takes a \$10K lump sum.

His TSB at 30 June 2026 is \$3.5M

Earnings = \$3.5M - \$3M + \$10K - (\$20K x .85) = \$493K.

What if there is a loss?

- Can be carried forward to future years.



So how much of the earnings is taxed?

Answer:

Proportionate to the % of your TSB over \$3M.

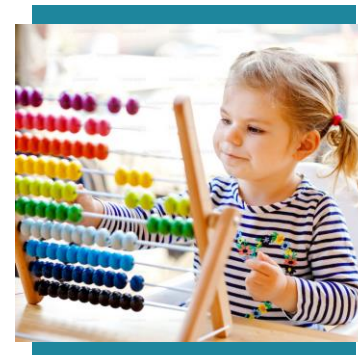
In our example:

$$\text{Proportion} = (\$3.5\text{M} - \$3\text{M}) / \$3.5\text{M} = 14.3\%$$

Tax payable?

$$\text{Tax liability} = 15\% \times \$493\text{K} \times 14.3\% = \$10,574.85$$

✓ Simple....



ISSUES?

- Asset Valuations
- Tax on unrealised gains on non-liquid assets
- Applies to assets supporting account-based pensions
- Should I move my excess above \$3M out of super environment?
- If yes, where to?
- This may assist to reduce tax on death benefit payments to non-dependents
- It may never happen... starts post next election.

The Good News...

- Who doesn't the measure apply to?
 - ✓ In the year you die
 - ✓ If you have ever contributed a personal injury payment
 - ✓ Child recipient of an income stream



THE TECHNICAL ISSUES



CONCESSIONAL CONTRIBUTIONS (CC)

Who can make CCs?

- No restriction at any age on mandated contributions

Personal and Salary Sacrifice CCs

Age	2023 FY onwards
Under 65	Yes
65-66	Yes
67-74	Work test *

* work test still required to be met to claim personal super contribution

One year once of exemption from work test available

- Total Super balance must be less than \$300,000 at start of year.
- Satisfied work test in prior financial year.

How much?

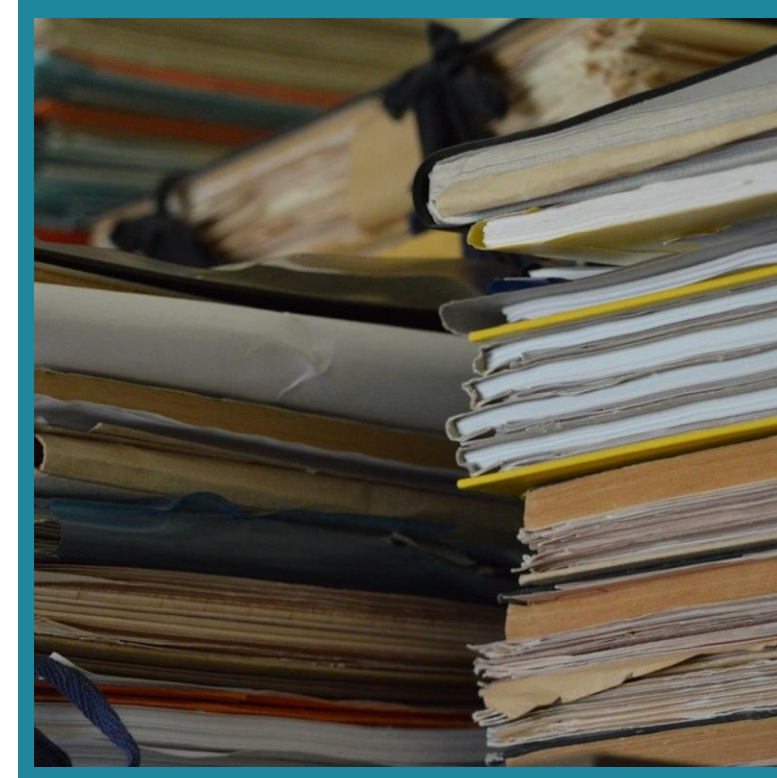
- 2025 FY onward \$30,500
- Reserving?
- Catch up CC's
- What if you go over?



Reserving Strategy

- How does it work?
- Paperwork, paperwork, Tax Determination 2013/22
- Discrete contributions only ?
- Caught by Div 293? – in the year allocated.
- How does a SMSF report?

<https://www.ato.gov.au/forms/request-to-adjust-concessional-contributions/>



Catch-up Concessional Contributions

- Total Super balance must be less than \$500,000 at end of prior year
- Caught by Div 293? - yes
- Could be used in conjunction with reserve strategy
- Can carry forward unused cap amounts for five years
- Check ATO portal for current position.

Age 75+

Can only contribute:

- **Mandated contributions**
 - Contributions made by an employer under a law or industrial agreement for the benefit of a fund member.
 - They include super guarantee contributions.
- **Downsizer**
- **Salary Sacrifice?**



Division 293



- Often a surprise
- Interaction with Catch-up Contributions
- Additional 15% on CC's in excess of \$250K threshold.
- Does not included excess CC's.
- How do you pay?

SCG Increase

	SGC %
2021/2022	10
2022/2023	10.5
2023/2024	11
2024/2025	11.5
2025/2026	12

- ATO increasing audit activity due to Single Touch Payroll
- Consequences of late payment:
 - Interest / penalties
 - Non-deductibility

NON-CONCESSIONAL CONTRIBUTIONS (NCC)

Who can make NCCs?

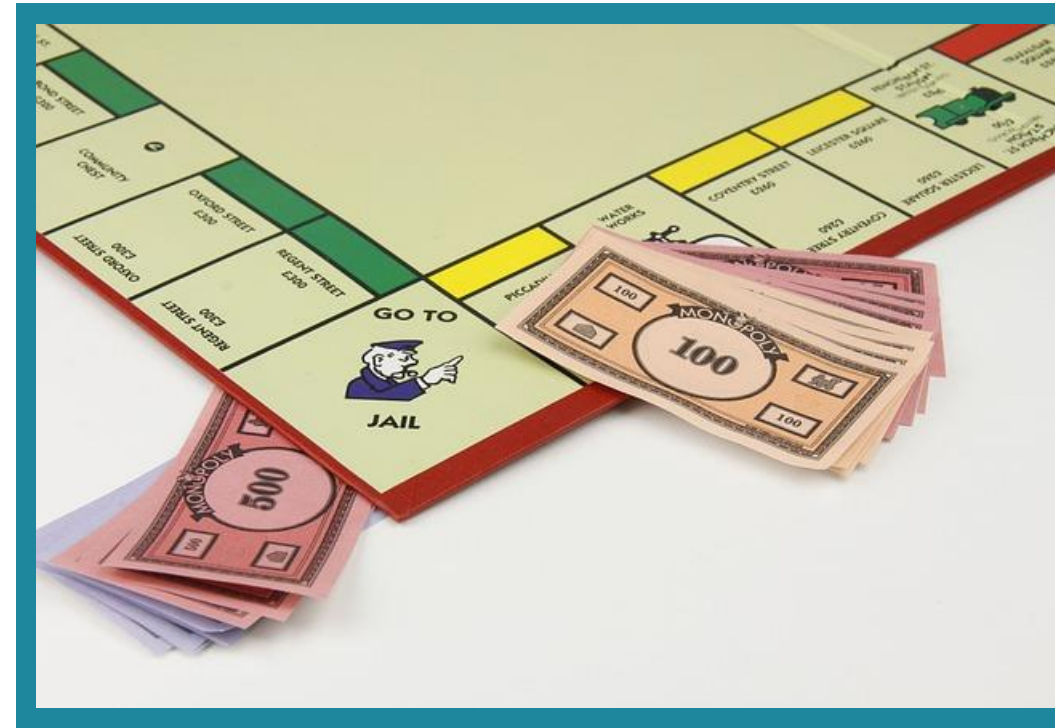
Age at 1 July	2022 FY	2023 FY onwards
Under 65	Yes	Yes
65-66	Yes	Yes
67-74	Work test +	Yes *
75 +	No	No

* work test not required from 2023 FY

+ note one year extension to work test above

How much?

- From 2025 FY NC yearly Cap \$120,000
- Nil if total super balance > \$1.9M at end of prior year.



Bring Forward Arrangements

- Maximum bring forward 3 year cap of \$330,000.
- 2023 FY ongoing – under 75 at 1 July 22
- Subject to Total Super Balance and age-based contribution rules.

TSB at end of prior year	NCC Cap for first year	Bring forward period
< \$1.66M	\$360,000	3 years
\$1.66M - \$1.78M	\$240,000	2 years
\$1.78M - \$1.9M	\$120,000	None, 1 year only
\$1.9M or more	nil	none



What is not a NCC?

- Downsizer
- CGT Election Amounts
- Personal Injury Payments

Downsizer Contributions

- Maximum contribution of \$300,000 per individual.
- The home must be in Australia, have been owned by you or your spouse for at least 10 years and the disposal must be exempt or partially exempt from capital gains tax (CGT).
- You have not previously made a downsizer contribution to your super from the sale of another home or from the part sale of your home.
- Contribution made with 90 days of receiving sale proceeds
- Age requirement reduced to 55 from 2023 FY onwards. No upper age limit.
- Not counted towards NCC Cap.

What is your Total Super Balance ?

- Check ATO Portal

- Add:
 - Accumulation and Retirement Phase Values
 - Rollovers in transit
 - Outstanding LRBA amounts??

- Less
 - Personal Injury Contributions

- Special rules for defined benefit interests.

Non Arms-Length Income (NALI)

SIS Issues – Section 109

- Has SMSF received less income or paid more in expenses when dealing with related parties?
- Lease income (direct / indirect)
- Interest
- Loan / lease agreements

Income Tax Issues

- SMSF can pay top marginal rate on net income from assets where income is more or expenses less when dealing with related parties than would apply at arms length.
- Review LCR 2021/2 and PCG 2020/5
- NALI Examples
 - Excessive dividends from private company/trust investments
 - Excess Property Lease Income

Income Tax Issues

- NALE Examples
 - Accountants Fees
 - Accountants preparing their own SMSF
 - Real estate agents not charging SMSF for agents' commissions.
- New Laws limit effect on general expense NALE to twice the amount of the general expense.

ALL THINGS PENSION

Reduced Minimum Payments

Age (as at 1 July or commencement date)	2024FY onwards
Under 65	4%
65-74	5%
75-79	6%
80-84	7%
85-89	9%
90-94	11%
95 +	14%

- What if there is a shortfall?
- Pension or Lump Sum Commutation?
- Under 60 – PAYG Summary
- 10% limit for TRIS's.

Indexed Transfer Balance Cap

- Pre 1 July 2021 – everyone had \$1.6M TBC
- Then we had individual TBC's somewhere between \$1.6M and \$1.7M
- 2024FY onward somewhere between \$1.6M and \$1.9M – easy isn't it..
- No automatic \$300K increase for those already in retirement phase.
- Increase based on highest ever personal TB as a ratio to their TBC on that day x index increase
- Tax Agent Portal will hopefully provide current TBC.

Transfer Balance Reporting

- From 1 July 2023, most events need to be reports 28 days after the end of a quarter
- Common events you need to report
 - Commencement/Ceasing of retirement phase income stream
 - Reversionary death benefit income streams
 - Lump sum commutations from income streams

Transfer Balance Reporting

- You don't report
 - Pension payments
 - Death of a member
 - An income stream ends as it has been exhausted
 - A transition to retirement income stream

Land Tax

- NSW - \$1.075M
 - QLD - \$350,000
 - VIC - \$50,000
-
- Don't forget to included indirect holdings in Fixed Trust (i.e have claimed threshold)

Q & A

*“I’ll take that
as a comment...”*



Feedback

Thank you



<https://trisuperauditors.com.au/insights/training>

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