SPOUSE CONTRIBUTIONS

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SUMMARY

Spouse contributions allow a taxpayer (the contributing spouse) to contribute directly into a superannuation account for the benefit of their spouse (the receiving spouse). Age restrictions apply to the receiving spouse.

Where the spouse is a low income earner, the taxpayer may be entitled to a non-refundable tax offset of up to $540 when making a minimum spouse contribution of $3,000. To be eligible for the maximum spouse contribution tax offset the receiving spouse's assessable income, reportable fringe benefits and reportable employer superannuation contributions must be less than $37,000 ($10,800 for 2016/17 & earlier years).

Spouse contributions build the superannuation savings of the receiving spouse.

What is a spouse contribution?

A spouse contribution is a contribution made by a taxpayer:

- into a complying super fund or Retirement Savings Account (RSA) for the benefit of their spouse; and
- the taxpayer is not eligible to claim a tax deduction for the contribution (i.e. they are not making the contributions in the capacity as employer of their spouse).

Check that the superannuation fund or RSA accepts spouse contributions.

Who is a spouse?

For spouse contribution purposes, a spouse includes a person the taxpayer:

- is legally married to; or
- is in a relationship that is registered under certain state or territory laws (including registered same-sex relationships); or
- lives with on a genuine domestic basis in a relationship as a couple (same or different sex).

Who can receive a spouse contribution?

To be eligible to receive a spouse contribution, the receiving spouse must be:

- less than age 65; or
- at least 65 but less than 70 and satisfy the superannuation contributions work test (gainfully employed at least 40 hours in a consecutive 30 day period within the financial year).

The age of the contributing spouse is irrelevant.

For additional information on the superannuation contributions work test refer to Technical Bulletin 29 – Superannuation: Meaning of gainful employment.

Spouse contributions cannot be made for a spouse who is at least age 70.

The impact on contribution caps?

Spouse contributions are classified as non-concessional contributions and will count towards the receiving spouse's non-concessional contributions cap.

Access to spouse contributions

Spouse contributions are preserved and can only be accessed upon the receiving spouse satisfying a condition of release.

Why make spouse contributions?

Benefits of making a spouse contribution may include:

- up to a $540 tax offset for the contributing spouse
- boost the superannuation savings of a spouse
- increasing the amount a couple can hold in super by managing their total superannuation balances
- increasing the amount a couple can hold in retirement income streams by managing their transfer balance caps.

Eligibility for the spouse contribution tax offset

A non-refundable tax offset of up to $540 may be available for the contributing spouse. To be eligible for the spouse contribution tax offset:

- a spouse contribution has been made within the relevant financial year;
- the contribution was not made to satisfy a family law obligation;

- both the contributing spouse and the receiving spouse were Australian tax residents at the time the contribution was made;
- the receiving spouse's assessable income, reportable fringe benefits and reportable employer super contributions* are less than $40,000 for the year ($13,800 for the 2016/17 & earlier years); and
- when the contribution is made, the couple are not living separately and apart on a permanent basis.

* If the receiving spouse has excess concessional contributions in the relevant year, reduce (but not below zero) reportable employer super contributions by the excess to avoid double counting (as the excess is included in assessable income).

Also, for contributions from 2018/19 a contributing spouse will not be eligible for tax offset if the receiving spouse:

- exceeds their non-concessional contributions cap for the relevant year; or
- has a total superannuation balance equal to or exceeding the general transfer balance cap ($1.6 million 2017/18) immediately before the start of the financial year in which the contribution was made.

The contributing spouse is not income tested.

To be eligible for a spouse contribution tax offset (or part thereof), the receiving spouse's assessable income, reportable fringe benefits and reportable employer super contributions must be less than $40,000 (from 2018/19).

The spouse contribution tax offset is a non-refundable tax offset. It cannot be used to reduce a taxpayer's Medicare Levy (including the surcharge) and cannot be refunded if there is no tax payable to offset.

Calculating the tax offset

The spouse contribution tax offset from 2017/18 is calculated in accordance with the following table:

Receiving spouse's income*	Spouse contribution tax offset (maximum $540)
$37,000 or less	Spouse contributions × 18%
Between $37,000 and $40,000	Lesser of: [$3,000 – (income* – $37,000)] × 18%; and Spouse contributions × 18%
At least $40,000	Nil

* Based on the receiving spouse's assessable income + reportable fringe benefits + reportable employer superannuation contributions (reduced, but not below zero, by excess concessional contributions in the relevant financial year).

To receive the maximum tax offset of $540 a minimum spouse contribution of $3,000 is required.

Example 1

Ernie and Niki are married. Niki contributes $2,800 to a complying super fund for Ernie on 20 July 2018. Ernie's income (assessable income, reportable fringe benefits and reportable employer superannuation contributions) for the financial year is $35,000.

As Ernie's income does not exceed $37,000, Niki is entitled to a spouse contribution tax offset of:

$2,800 × 18% = $504.

If Niki had made a spouse contribution of at least $3,000 for Ernie, she would have been entitled to the maximum $540 spouse contribution tax offset.

Example 2

Sam and Kelly are in a de facto relationship. Sam contributes $20,000 to a complying superannuation fund for Kelly on 1 August 2017. Kelly's income for the spouse contribution tax offset is $38,200.

As Kelly's income is between $37,000 and $40,000 Sam is entitled to the spouse contribution tax offset.

Sam's spouse contribution tax offset is the lesser of:

[$3,000 – ($38,200 – $37,000)] × 18% = $324

and

$20,000 × 18% = $3,600

Therefore, Sam is entitled to a spouse contribution tax offset of $324.

To receive the maximum spouse contribution tax offset of $324 based on Kelly's income, Sam had to make a spouse contribution of at least $1,800 [$3,000 – ($38,200 – $37,000)] – refer to the following section for additional information.

Contribution required to obtain maximum tax offset

To work out the minimum contribution required to obtain the maximum available spouse contribution tax offset from 2018/19, use the following table:

Receiving spouse's income*	Minimum contribution required to receive maximum spouse contribution tax offset
$37,000 or less	$3,000
Between $37,000 and $40,000	[$3,000 – (income* – $37,000)]

* Based on the receiving spouse's assessable income + reportable fringe benefits + reportable employer superannuation contributions (reduced, but not below zero, by excess concessional contributions in the relevant financial year).

Income definitions

Assessable income

Assessable income is a taxpayer's gross income before any deductions are allowed. Assessable income may include net capital gains, employment termination payments and other amounts that are not ordinarily classed as income.

Tax deductions cannot reduce assessable income.

Reportable fringe benefits

A fringe benefit is a benefit other than salary or wages received by an employee from their employer. Some fringe benefits may be reported on an employee's payment summary. These are known as reportable fringe benefits.

Reportable employer super contributions

Reportable employer superannuation contributions are contributions made to a superannuation fund by an employer for an individual, that the individual has or might reasonably be expected to have the capacity to influence the:

- size of the contribution and/or
- way the amount is contributed so that the individual's assessable income is reduced.

Reportable employer superannuation contributions are generally salary sacrifice contributions.

For the spouse contribution tax offset, reportable employer superannuation contributions are reduced (but not below zero) by excess concessional contributions made in the relevant financial year.

If the receiving spouse's assessable income plus reportable fringe benefits plus reportable employer super contributions exceed $40,000, the contributing spouse will not be entitled to claim the spouse contribution tax offset.

Making a spouse contribution

Source of funds

Money used to make a spouse contribution must come from a source, which is held in the name of the contributing spouse, or a source where the contributing spouse is a joint owner.

Example 1

A spouse contribution cannot be made from an account held only in the receiving spouse's name. The receiving spouse can draw a cheque from their account in favour of the contributing spouse. Ownership of the funds has then passed to the contributing spouse. The contributor then endorses the back of the cheque to the trustee of the superannuation fund to make the contribution.

Example 2

A husband wishes to make a spouse contribution for his wife by withdrawing part of his superannuation benefit. The cheque for the withdrawal is made payable to the husband. He then endorses the back of the cheque in favour of the superannuation fund receiving the spouse contribution. The husband clearly has control over the use of the funds and makes a legitimate spouse contribution.

The ability to make lump sum superannuation member benefit payments in favour of a third party and the acceptance of endorsed cheques may differ between superannuation funds.

Establishing a new account for the receiving spouse

If you need to establish a new superannuation account for the receiving spouse:

- Sections pertaining to the applicant's/member's details, tax file number (TFN) and eligibility to contribute relate to the receiving spouse.
- The contribution type should be identified as a spouse contribution.

Claiming the spouse contribution tax offset

The contributing spouse claims the spouse contribution tax offset when submitting their tax return.

The spouse contribution tax offset is contained within the tax offset questions (super contributions on behalf of your spouse) of the Tax return for individuals (supplementary section).

As the spouse contribution tax offset is based on the recipient spouse's assessable income, reportable fringe benefits and reportable employer superannuation contributions, these details must be entered in the 'Spouse details – married or de facto' section of the contributing spouse's tax return.