NON-CONCESSIONAL CAP

MORE PROPOSED CHANGES

FirstTech Strategic Update – Tim Sanderson, Senior Technical Manager

The Government has announced it won't proceed with the lifetime non-concessional contributions cap proposed in the 2016–17 Federal Budget, which would have applied from Budget night and included eligible contributions made since 1 July 2007.

Instead, current non-concessional cap rules will remain for the 2016-17 financial year. From 1 July 2017, the $180,000 cap will reduce to $100,000 and certain clients with high super balances will be prevented from making additional non-concessional contributions.

The new annual non-concessional contributions rules

From **1 July 2017**, the Government has proposed:

- lowering the annual non-concessional contributions cap from $180,000 to $100,000
- preventing clients from making further non-concessional contributions where their super balance has reached $1.6 million.

The non-concessional cap will not be indexed by itself, but will be set at four times the concessional cap proposed to apply from 1 July 2017. This means, for example, that if the proposed concessional cap increases to $30,000 due to indexation, the proposed non-concessional cap would increase to $120,000.

The Government has also released a **fact sheet** on these changes. It is important to note that this change is proposed only at this stage and has not been legislated.

Contributions during this financial year

The Government's announcement means there is now no proposal to change the non-concessional contributions cap from current rules during this financial year or earlier.

This means that the current legislated cap of $180,000, or $540,000 under the bring forward rule, continues to apply.

Bring forward rule still applies from 1 July 2017

Under the proposed changes, the bring forward rule which allows clients aged under 65 at the start of a financial year to use three years' worth of non-concessional contributions cap at one time (or throughout a three-year period), will still be available.

From 1 July 2017, eligible clients will therefore be able to contribute up to $300,000 at one time using this rule.

Transitional rules

Where a client has triggered the bring forward rule in either 2015–16 or 2016–17, they will be in the middle of a bring forward period at 1 July 2017 and may have some of their $540,000 cap remaining.

In these situations, transitional rules will reduce a client's bring forward amount to reflect the non-concessional cap that applies in the three years of their bring forward period. The adjusted bring forward amount depends on when the client triggered the bring forward period, as displayed in the following table:

2014–15	2015–16	2016–17	2017–18	2018–19	2019–20
$180,000	$180,000	$180,000			
	$540,000				
	$180,000	$180,000	$100,000		
		$460,000			
		$180,000	$100,000	$100,000	
			$380,000		
			$100,000	$100,000	$100,000
				$300,000	

Example 1

Joanne (age 50) triggered the bring forward rule in 2015–16 by making a $300,000 non-concessional contribution. She makes no non-concessional contributions in 2016–17.

On 1 July 2017, her new bring forward cap is recalculated to be $460,000 (to take into account the reduced cap of $100,000 for the 2017–18 financial year).

As Joanne has already contributed $300,000, she can contribute further non-concessional contributions of $160,000 during 2017–18.

Example 2

Albert (age 50) triggered the bring forward rule in 2016–17 by making a $300,000 non-concessional contribution.

On 1 July 2017, his new bring forward cap is calculated to be $380,000 (to take into account the reduced cap of $100,000 for the 2017–18 and 2018–19 financial years).

As Albert has already contributed $300,000, he can contribute further non-concessional contributions of $80,000 during 2017–18 and 2018–19 combined.

Where a client has already used more than their reassessed bring forward cap by 1 July 2017, they will not be penalised or required to withdraw the excess. Therefore, clients should consider where possible using up their entire $540,000 bring forward cap during this financial year, so that the transitional rules don't reduce the level of contributions they can make.

Example 3

Penelope (age 50) triggered the bring forward rule in 2016–17 by making a $540,000 non-concessional contribution.

While her new bring forward cap would have been reassessed as $380,000 under the transitional rules from 1 July 2017, she will not breach her non-concessional cap as the contribution was made prior to 1 July 2017 when a $540,000 bring forward cap was available to her.

No more non-concessional contributions if super balance exceeds $1.6 million

Where a client's total super balance at 30 June prior to a financial year is greater than $1.6 million (this figure will be indexed in $100,000 increments), they will not be eligible to make further non-concessional contributions during the financial year.

There are no 'partial financial year caps', so a client will either have access to the $100,000 non-concessional cap or not, based on whether their balance at 30 June prior to the financial year is less than $1.6 million.

Example 4

Darren's total super balance at 30 June 2017 is $1.65 million. He is therefore not eligible to make non-concessional contributions in the 2017–18 financial year.

Example 5

Fran's total super balance at 30 June 2017 is $1.55 million. She is therefore able to make $100,000 of non-concessional contributions in the 2017–18 financial year.

The $1.6 million cap and the bring forward rule

Where a client is eligible for the bring forward rule and has a super balance at 30 June close to $1.6 million, the amount they can contribute is limited to the amount that takes them past a $1.6 million balance (up to a maximum of three years), as follows:

Super balance at 30 June prior to financial year	Contribution and bring forward available
Less than $1.3 million	3 years ($300,000)
At least $1.3 million but less than $1.4 million	3 years ($300,000)
At least $1.4 million but less than $1.5 million	2 years ($200,000)
At least $1.5 million but less than $1.6 million	1 year ($100,000)
At least $1.6 million	Nil

Example 6

Karen's total super balance at 30 June 2017 is $1.45 million. She is eligible to use the bring forward rule. However, due to her super balance, she is only able to access two years of her bring forward period. She is therefore able to make $200,000 of non-concessional contributions in the 2017–18 and 2018–19 financial years.

In this situation, Karen's balance would again be measured on 30 June 2019 to determine whether she is eligible to make non-concessional contributions in the 2019–20 financial year.

Example 7

Jim's total super balance at 30 June 2017 is $1.59 million. He is otherwise eligible for the bring forward rule, but as his super balance is less than $100,000 short of $1.6 million, he is only able to make $100,000 of non-concessional contributions in the 2017–18 financial year.

Jim's balance would again be measured on 30 June 2018 to determine whether he is eligible to make non-concessional contributions in the 2018–19 financial year.

What is included in a client's total super balance for the $1.6 million cap?

A client's total superannuation balance is likely to include all accumulation and account based pension balances (including TAPS).

However, at this stage the following uncertainties remain:

- Will previous withdrawals or transfers (including spouse contribution splitting) count?
- How will the value of existing non-account based income streams such as lifetime superannuation annuities be determined and counted?

- Will defined benefit income streams and / or accruing defined benefits be counted and if so, how will their value be determined?

It is therefore prudent for impacted clients in danger of exceeding their $1.6 million cap to wait until further detail is available before finalising their contribution plans for 2017–18 and beyond.

Other proposed changes

In the Government's media release, it was also announced that it will not proceed with the proposal to remove the work test requirement for contributions for those aged 65 to 74. Individuals between 65 and 74 will be eligible to make annual non-concessional contributions of $100,000 if they meet the work test, but will not be able to access the bring forward rule.

In addition, the commencement date of the proposed catch-up concessional superannuation contributions will be deferred by 12 months to 1 July 2018.

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