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## SPOUSE CONTRIBUTION SPLITTING - ARE THERE ANY BENEFITS?

The superannuation contribution splitting measures have been in place since 1 January 2006. These measures effectively allow spouses to split or allocate part of their contributions made to a superannuation fund for the benefit of their spouse. When introduced, this was considered to be of significant benefit. It would allow families to make full use of two reasonable benefit limits (RBL's), two post-55 ETP tax-free thresholds and better use of individual marginal tax rates in retirement.

However, the Simpler Superannuation Reforms announced in the May 2006 Federal Budget changed the dynamics of contribution splitting. The removal of RBL's and tax on superannuation benefits after the age of 60 diminished a lot of the obvious advantages of splitting.

Nevertheless, the spouse contribution splitting strategy, still has some life.

### What Contributions can be Split?

The following components of a member's superannuation account can be split to a spouse:

- 85% of the employers contributions (including superannuation guarantee contributions);
- 85% of the deductible personal contributions made after 1 January 2006.

The exclusions from "splitting contributions" include:

- A rollover superannuation benefit;
- A super lump sum from a foreign super fund;
- A directed termination payment; and
- Non-deductible personal contributions.

The contribution splittable measures continue to only apply to accumulation benefits.

### Who can you Split to?

Splittable contributions can only be split with a member's spouse. Spouse for this purpose includes both married and de facto relationships, but does not include same sex couples.

The receiving spouse cannot have reached the age of 65, be retired or permanently incapacitated. The rationale for this being that contributions cannot be split with a spouse who would otherwise be able to access the monies. If the receiving spouse is between their "preservation age" and age 65, they will need to provide a statement to the fund that they have not retired. Preservation age is 55 for someone born before 1 July 1960, 60 for persons born after 30 June 1964 with a phase-in between those years.

For receiving spouses with a preservation age between 55 and 60, retired means that an arrangement under which they were gainfully employed has come to an end and they intend never to work on a full-time or part-time basis again. Between the ages of 60 and 65, the receiving spouse will have retired where an arrangement under which they were gainfully employed has come to an end.

### What are the Benefits of Splitting Contributions?

1. Earlier access to superannuation benefits - if one spouse is older than the other, splitting to that older spouse may allow earlier access to benefits in a tax free form. This is particularly relevant where one spouse is close to age 60 and the other is some time off age 60.
2. Asset protection - if one spouse is at a higher risk of bankruptcy than the other (eg. Due to nature of business/employment they are in) then splitting contributions to the lower risk spouse may provide some additional protection.
3. Taking benefits before age 60 - if the proposal is to take benefits from super before age 60 (when they become tax free) there is still an incentive to ensure optimum usage of the post 55 low rate threshold of \$140,000 (for the 2008 year). Therefore, if one spouse has a balance in excess of this amount and the other below this balance and little prospect of further contributions, splitting would be beneficial.

Similarly to make maximum use of marginal tax rates in retirement before age 60, account balances could be "evened up" (so that similar pension / lump sum payments are made for each spouse).

In the same vein, if account balances are similar but one spouse has a higher exempt component than the other (such that the taxable portion of the income streams in retirement pre age 60 will be different), contribution splitting may continue to be beneficial.

### How do you Split a Splittable Contribution?

The sending spouse must make an application to the trustee of the superannuation fund in order to have some or all of those contributions split to a spouse. The application must generally be made between 1 July following the end of the financial year in which the contributions were made and the following 30 June.

The application will need to specify:

- The amount of the member's splittable contributions that the member wishes to split for the benefit of their spouse;
- A statement by the receiving spouse that they are either less than the relevant preservation age or between their preservation age and 65 but not yet retired.

Where self-employed persons wish to claim deductions for personal contributions and also to split some or all of those contributions, the timing of the various notices is important. That is, the person must provide their notice of intention to claim a tax deduction to the trustee (and have it accepted) prior to lodging their splitting application. If the "Notice of Intent to Deduct" is lodged after the splitting application, it will be ineffective and the individual will not be able to claim a tax deduction.

Many superannuation funds (including most SMSFs) that wish to offer contribution splitting may require an amendment to the Trust Deed to enable contribution splitting to occur.

For more information on any aspect of superannuation or superannuation splitting, please do not hesitate to contact Michelle Saunders on (08) 6311 6911 or Marissa Bechta on (08) 6311 6933

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