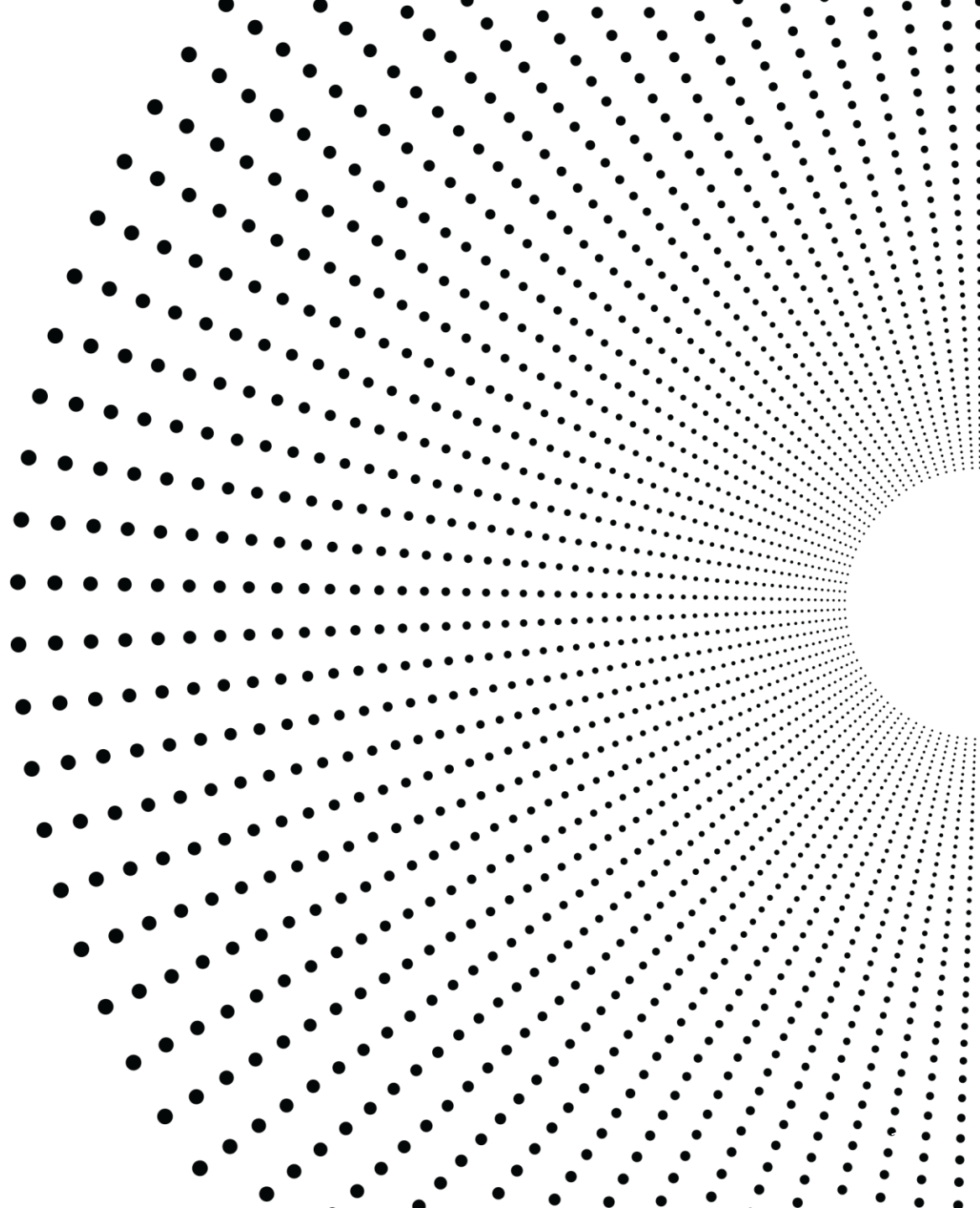


Special super contributions

Will Moloney
Senior Technical Services Manager

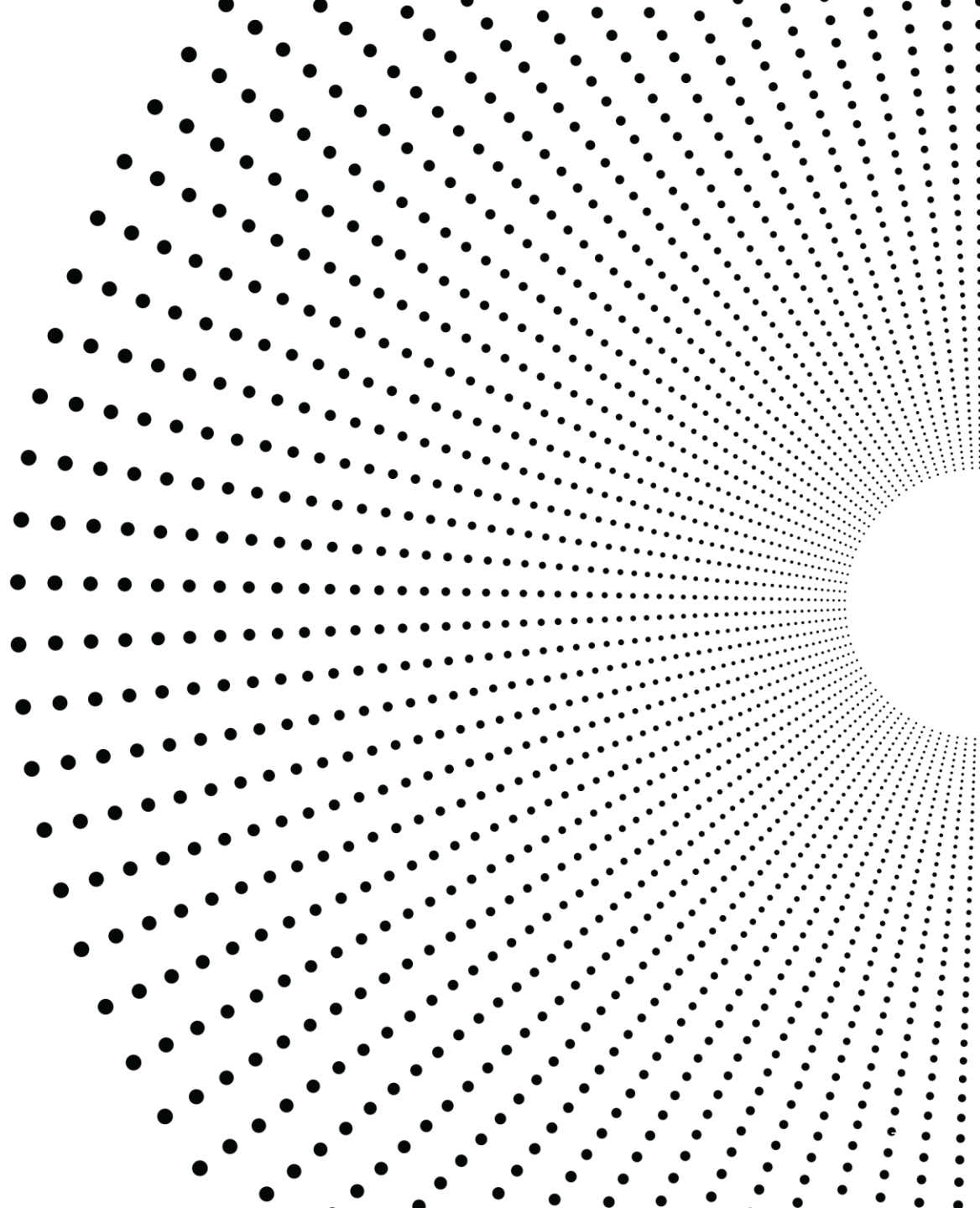
18 August 2025



Important information

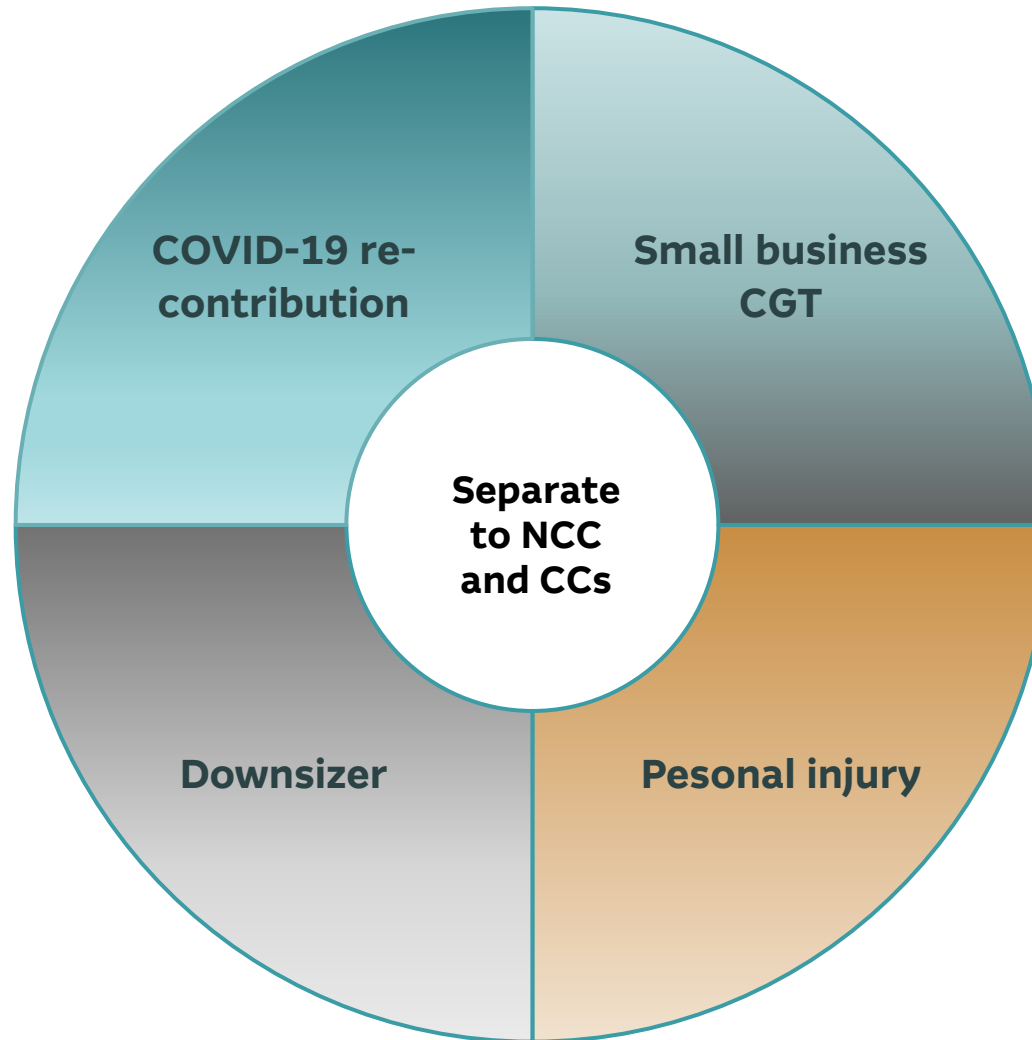
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Special super contributions



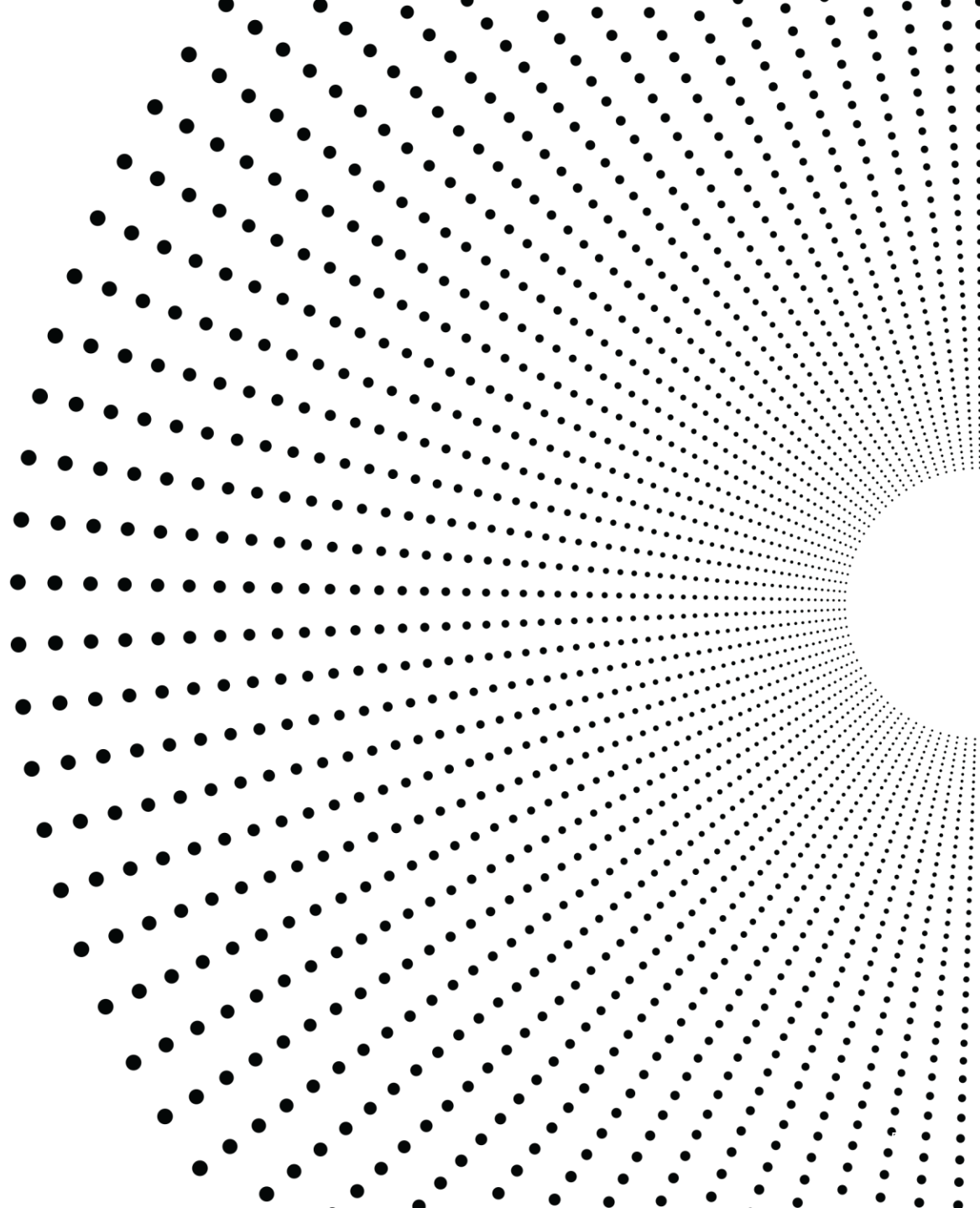
OX – Special super contributions

Contribution types



01

Small business CGT



01 – Small business CGT

The 4 small business CGT concessions

Basic conditions:

1. CGT event
2. Capital gain from event
3. Asset is an active asset
4. Satisfy one of following:
 - a. Small business entity
 - b. Maximum net asset test
 - c. Partner in partnership that is a small business entity + CGT asset is interest in partnership
 - d. Specific rules for passively held assets

Basic conditions must be met before 4 CGT concessions can be assessed

Small business CGT concession	CGT benefit	Contribution eligibility	Contribution limit	Comments
15-year exemption	Capital gain exempt from tax – no limit	Yes	Lesser of: <ul style="list-style-type: none">• lifetime limit (\$1.865m 25-26)• Exempted gain	<ul style="list-style-type: none">• CGT event in connection retirement• Takes priority over other concessions• Potential issue for companies/trusts
50% reduction	No limit	No	N/A	<ul style="list-style-type: none">• Separate to 50% discount for assets held 12+ months• Can choose <u>not</u> to apply; can result in higher contribution for retirement exemption
Retirement exemption	Capital gain exempt from tax – \$500k limit	Yes	Exempted gain (max \$500k)	<ul style="list-style-type: none">• Retirement not required• Counts towards lifetime limit (\$1.78m 24-25 and \$1.865m 25-26)
Roll-over	No limit	No	N/A	<ul style="list-style-type: none">• Deferral

01 – Small business CGT

Small business CGT concessions

Circumstances to look out for

- The sale of a business
- Sale of entity (eg shares for co. or units for unit trust)
- The sale of asset used in a business
- Client's SMSF acquiring business real property (BRP) – used in client's business or affiliate's/connected business

Caution!

Can transfer of BRP to an SMSF attract the small business CGT concessions and qualify as a small business CGT contribution?

Conflicting ATO private rulings – some 'yes' (eg PBR 1051986057979), some 'no' (eg PBR 1013140016976)

Seek specialist advice and/or ATO private ruling

01 – Small business CGT

Small business CGT concessions

15-year CGT exemption - contributions

- Ability to contribute linked to access to tax concession

Maximum age for contribution 75 (up to 28 days after month turn 75)

No maximum age for CGT concession

Age and timing requirements

Type of taxpayer	Minimum age for CGT concession	Payment(s) to CGT concession stakeholder(s)	Contribution(s) to super
Individual	55 just before CGT event	N/A	Super law - on or before the 28 th day after month individual turns 75 Tax law - on or before the later of: <ul style="list-style-type: none">• Day required to lodge tax return for year of CGT event• 30 days after receipt of capital proceeds
Company or trust	Must have one significant individual who is 55 or over just before CGT event	Before later of: <ul style="list-style-type: none">• 2 years after CGT event• 6 months after possible benefit could be due under look-through earnout right	Super law - on or before the 28 th day after month individual turns 75 Tax law - within 30 days after payment from company or trust to CGT concession stakeholder (column to the left)

Age exception – no minimum if individual or significant individual is permanently incapacitated

01 – Small business CGT

Small business CGT concessions

15-year CGT exemption - contributions

- Ability to contribute linked to access to tax concession
- Age 55+ at time of CGT event + event linked to retirement
- Timing:

Maximum age for contribution 75 (up to 28 days after month turn 75)

Exception – permanent incapacity

Type of taxpayer	Payment(s) to CGT concession stakeholders	Contribution(s) to super
Individual	N/A	On or before the later of: <ul style="list-style-type: none">• Day required to lodge tax return for year of CGT event• 30 days after receipt of capital proceeds
Company or trust	Before later of: <ul style="list-style-type: none">• 2 years after CGT event• 6 months after possible benefit could be due under look-through earnout right	Within 30 days after payment from company or trust in column to the left

Note longer time periods may be available for earnout rights

01 – Small business CGT

Small business CGT concessions

15-year CGT exemption - contributions

Potential contribution limitation for companies and trusts

Example

- Business sold - \$2m proceeds
- Gross capital gain \$1.2m
- Satisfy 15-year rule
- 1 CGT concession stakeholder

Scenario 1 - Sole trader

Maximum contribution lesser of:

1. Proceeds = \$2m
2. Lifetime cap = \$1.865m (2025-26)

Scenario 2 - Company

Maximum contribution lesser of:

1. Max. CGT concession stakeholder pmnt = \$1.2m
2. Lifetime cap = \$ 1.865m (2025-26)

Considerations

- Case-by case assessment – company/trust may not always produce lower contribution
- If company/unit trust produces lower contribution, consider selling shares/units – note buyer may not be willing

01 – Small business CGT

Small business CGT concessions

Retirement exemption - contributions

- Exempt gain (limited to \$500k) counts to lifetime cap (\$1.865m for 2025-26)

- Effective contribution cap of \$500k

If taxpayer is co/trust – limit applies to each CGT concession stakeholder

- No connection to retirement required

- Age considerations

- No minimum age
 - Maximum age for contribution is 28 days after the month they turn 75

No maximum age for CGT concession

- Individuals under age 55:

- CGT concession only available if contribution is made
 - Where co./trust is taxpayer, contribution must be made by co./trust

- Can be applied with other CGT concessions

Order of application

First	50% discount (individuals 12+ month ownership)
Second	Small business 50% reduction (optional)
Third	Retirement exemption

01 – Small business CGT

Small business CGT concessions

Retirement exemption - contributions

- Timing is important

Type of taxpayer	Payment(s) to CGT concession stakeholders	Contribution(s) to super
Individual	N/A	On or before the later of: <ul style="list-style-type: none">• Day required to lodge tax return for year of CGT event• 30 days after receipt of capital proceeds
Company or trust	Usually before later of: <ul style="list-style-type: none">• 7 days after company lodges tax return• 7 days after receipt of proceeds	Super law - on or before the 28 th day after month individual turns 75 Tax law - within 30 days after payment from company or trust to CGT concession stakeholder (column to the left)

Same as 15-year rule

Different to 15-year rule

Same as 15-year rule

01 – Small business CGT

Small business CGT concessions

50% reduction and maximising contributions

- No direct ability to contribute to super
- Can choose not to apply concession, which can increase contributions under retirement exemption

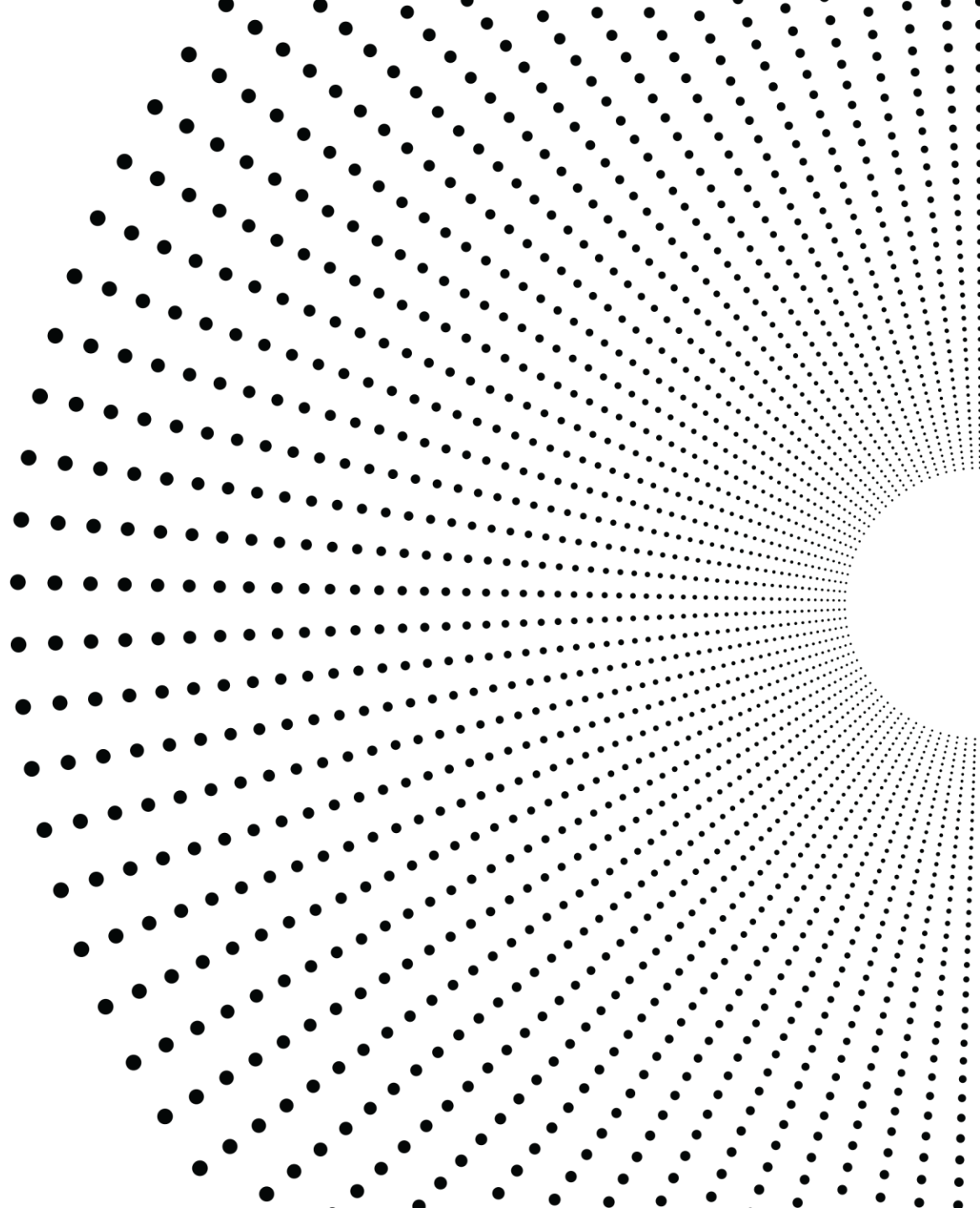
Example – Contributions with and without reduction

Sally was a sole trader. She has recently sold her business that realises a gross capital gain of \$1m. The business has been held for more than 12 months. How much can she contribute to super.

	<u>With 50% reduction</u>	<u>Without 50% reduction</u>
Gross gain	\$1m	\$1m
Less 50% (12+ months)	(\$500k)	(\$500k)
Less 50% CGT reduction	(\$250k)	Not applied
Less retirement exemption	<u>(\$250k)</u>	<u>(\$500k)</u>
Assessable gain	\$Nil	\$Nil
Retirement exemption contribution	\$250k	\$500k

02

Personal injury



02 – Personal injury

Personal injury/structured settlement contributions

Contribution limited to compensation/damages for personal injury

Options 1 and 2

Option 3

Settlement requirements

Claim is:

- Compensation or damages for personal injury
- Based on commission of wrong, or on a right created by statute

Claim for personal injury under Commonwealth or State/Territory law relating to workers compensation

And either:

Settlement in form of written agreement (court approval not required)

or

- Order of court
- Order does not approve or endorse an agreement

Contribution timing

Within 90 days of the later of:

- Receipt of payment
- Date agreement entered into (or if order of court required, date order made)

Within 90 days of the later of:

- Receipt of payment
- Date court order made

Within 90 days of receipt of payment

ATO can approve longer time frame

02 – Personal injury

Personal injury/structured settlement contributions

Key requirements

- Age limits
 - No minimum
 - Maximum – 28 days after the month individual turns 75
- ATO election (NAT 71162) form to be provided to the fund **with or before the contribution**
- Medical certification (s 292-95 of ITAA97):

2 legally qualified medical practitioners have certified that, because of the personal injury, it is unlikely that you can ever be *gainfully employed in a capacity for which you are reasonably qualified because of education, experience or training

Similar to:

- Permanent incapacity condition of release
- Disability super benefit (for tax benefits on payments)

Australian Government
Australian Taxation Office

Contributions for personal injury election

WHEN COMPLETING THIS FORM
■ Print clearly using BLOCK LETTERS.
■ Place ☒ in ALL applicable boxes.

For instructions on how to complete this form go to ato.gov.au and search NAT71162

Section A: Your fund's details

1 Fund's name

2 Australian business number (ABN)

3 Member account number or Member client identifier

Section B: Your details

4 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

02 – Personal injury

Personal injury/structured settlement contributions

Accessing contributions and taxing benefit payments

- Contribution preserved until condition of release is met
- Consider applying for access prior to making contribution (don't forget 90-day rule for making contribution)
- Consider applying to have benefit payments treated as disability superannuation benefits (refer Macquarie Little Black Book)

Disability superannuation benefits

Tax treatment of lump sum benefits

A lump sum *disability superannuation benefit* (see page 96) includes an additional tax free component calculated as follows:

$$\text{Additional tax free component}^6 = \text{benefit amount} \times \frac{\text{Days to retirement}}{(\text{Service days} + \text{Days to retirement})}$$

Where:

- Days to retirement = number of days from day person stopped being capable of gainful employment to last retirement day (assumed to be 65th birthday in the absence of a specified retirement age)
- Service days = number of days in service period for the lump sum.

Note the ATO's view is that the denominator in this formula is equal to the number of days from the service period start date to the person's last retirement day, ie no day is counted twice.

6. This is an additional tax free component, i.e. added to the tax free component of a lump sum calculated in ordinary circumstances. The ATO have indicated that the additional tax free component is available where the member rolls their benefit to a different superannuation interest.

Tax treatment of income stream benefits

An income stream *disability superannuation benefit* (see page 96) is taxed as follows:

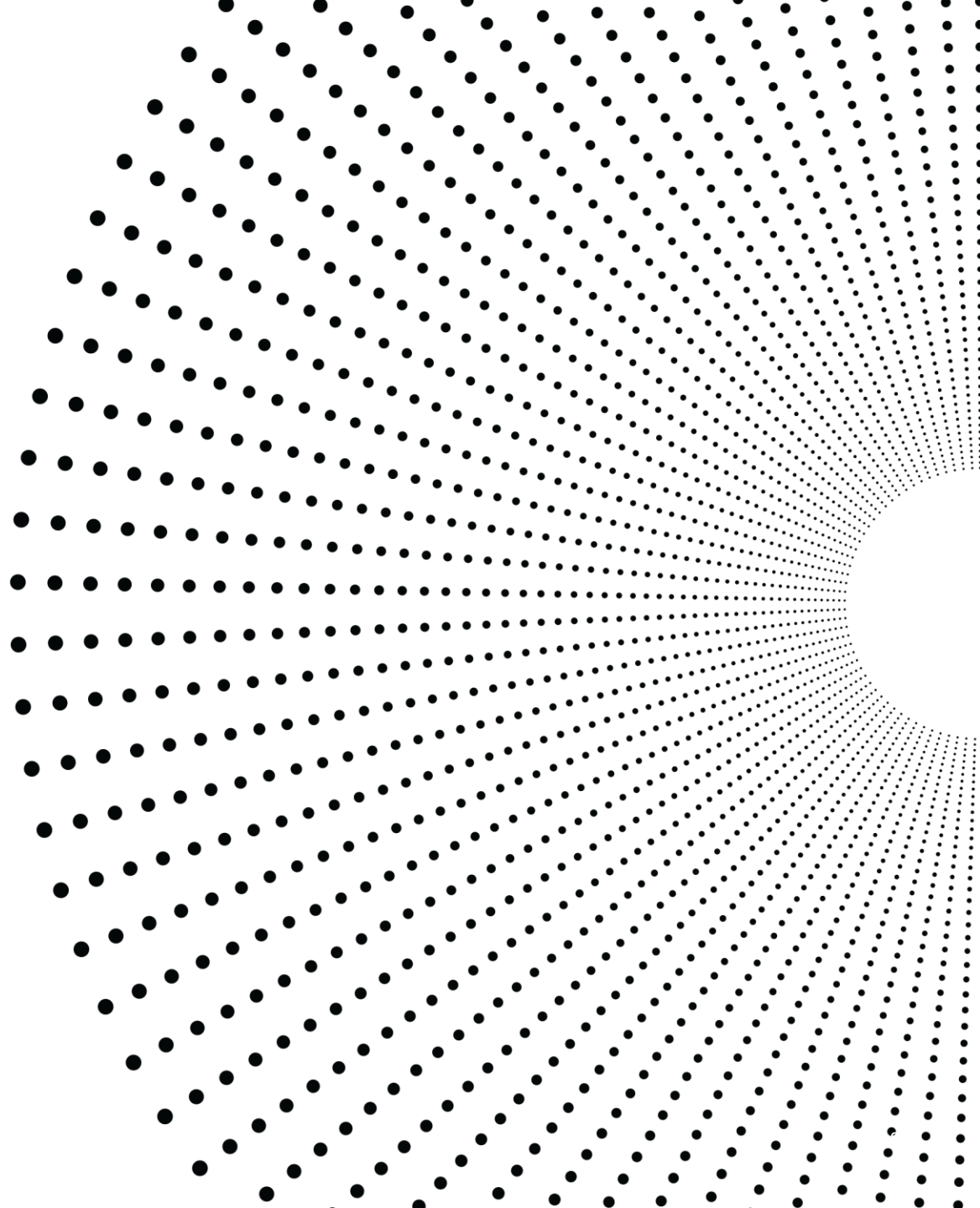
Age	Tax free component	Taxable component	
		Element taxed	Element untaxed
Under age 60	Non-assessable non-exempt income	Marginal tax rate* less 15% tax offset	Marginal tax rate*
60 and over ⁷	Non-assessable non-exempt income		Marginal tax rate* less 10% tax offset

7. Payments from capped defined benefit income streams to those age 60 or more may be subject to additional tax from 1 July 2017 (see page 62).

*Plus Medicare levy.

03

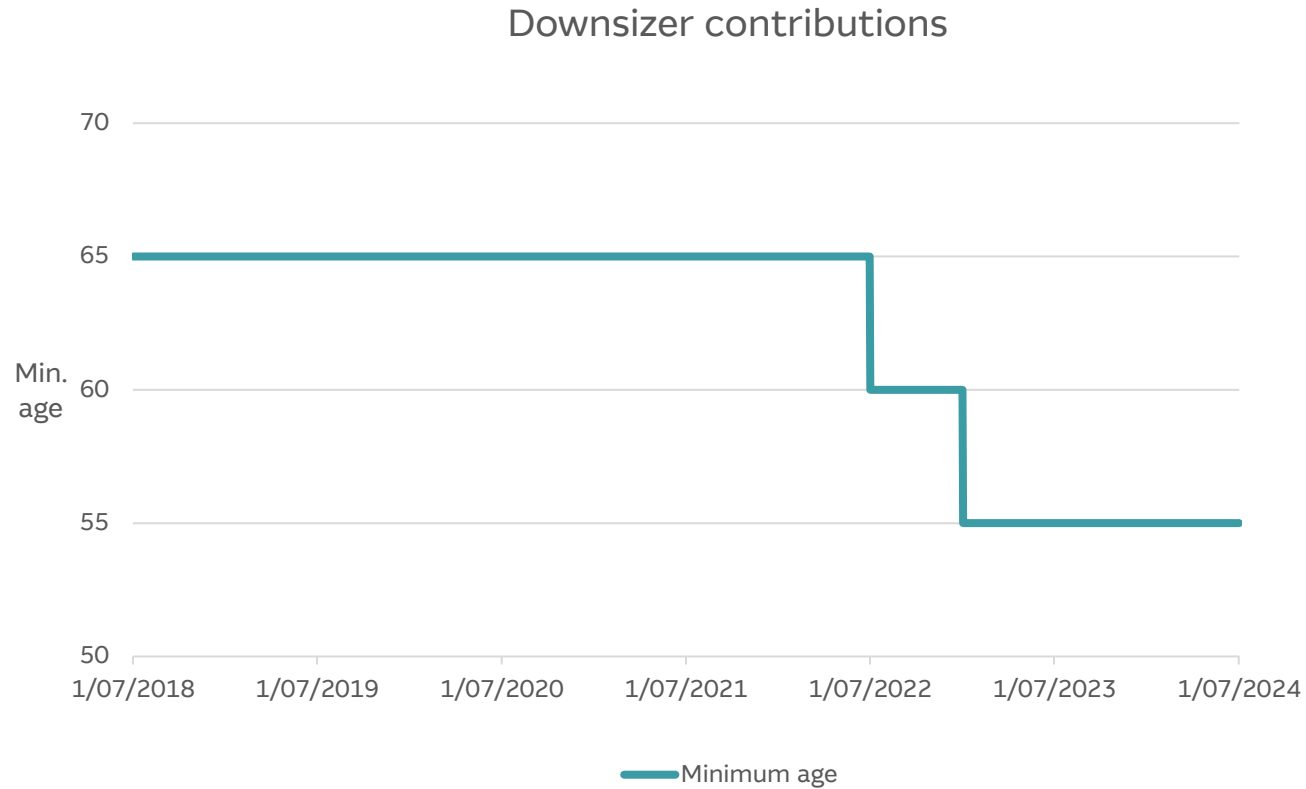
Downsizer



03 – Downsizer contributions

Downsizer contributions

A short history



03 – Downsizer contributions

Downsizer contributions

The fundamentals

Brief	Detail
Property	Individual or spouse disposes of ownership interest in dwelling located in Aust
Age	55+ at time of making contribution
Amount	Lesser of: 1. \$300,000 2. Proceeds from sale (less downsizer contribution by spouse for same property)
Ownership period	10+ years
CGT	Partial or full main residence CGT exemption
Timing	Within 90 days of settlement (or longer if allowed by ATO)
Paperwork	Election form given to fund with or before contribution
Once-off	Have not previously made downsizer for another property

ATO LCR 2018/9

03 – Downsizer contributions

Downsizer contributions - FAQ

Question 1 - TSB

Client has a total super balance (TSB) of more than \$1.9 million.

Can they still qualify?

Answer

Yes

Eligibility doesn't consider TSB

Brief	Detail
Property	Individual or spouse disposes of ownership interest in dwelling located in Aust
Age	55+ at time of making contribution
Amount	Lesser of: 1. \$300,000 2. Proceeds from sale (less downsizer contribution by spouse for same property)
Ownership period	10+ years
CGT	Partial or full main residence CGT exemption
Timing	Within 90 days of settlement (or longer if allowed by ATO)
Paperwork	Election form given to fund with or before contribution
Once-off	Have not previously made downsizer for another property

03 – Downsizer contributions

Downsizer contributions - FAQ

Question 2 – Not downsizing

Client has sold home though is not downsizing and/or is using entire proceeds for their new home.

Does this prevent them from qualifying?

Answer

No need to downsize

No requirement for contribution to come from the actual proceeds of the sale

Brief	Detail
Property	Individual or spouse disposes of ownership interest in dwelling located in Aust
Age	55+ at time of making contribution
Amount	Lesser of: 1. \$300,000 2. Proceeds from sale (less downsizer contribution by spouse for same property)
Ownership period	10+ years
CGT	Partial or full main residence CGT exemption
Timing	Within 90 days of settlement (or longer if allowed by ATO)
Paperwork	Election form given to fund with or before contribution
Once-off	Have not previously made downsizer for another property

03 – Downsizer contributions

Downsizer contributions - FAQ

Question 3 – Pre-CGT

Client sold home that was purchased in 1980

They don't get a main residence exemption as it is a pre-CGT asset

Can the property still qualify?

Answer

Yes

Test applies hypothetical scenario

Would they get partial/full main residence CGT exemption if it had been acquired on or after 20 September 1985

Brief	Detail
Property	Individual or spouse disposes of ownership interest in dwelling located in Aust
Age	55+ at time of making contribution
Amount	Lesser of: 1. \$300,000 2. Proceeds from sale (less downsizer contribution by spouse for same property)
Ownership period	10+ years
CGT	Partial or full main residence CGT exemption
Timing	Within 90 days of settlement (or longer if allowed by ATO)
Paperwork	Election form given to fund with or before contribution
Once-off	Have not previously made downsizer for another property

03 – Downsizer contributions

Downsizer contributions - FAQ

Question 4 – 75+

Client is in their 80's.

Can they still qualify?

Answer

Yes.

No maximum age, just a minimum age

Brief	Detail
Property	Individual or spouse disposes of ownership interest in dwelling located in Aust
Age	55+ at time of making contribution
Amount	Lesser of: 1. \$300,000 2. Proceeds from sale (less downsizer contribution by spouse for same property)
Ownership period	10+ years
CGT	Partial or full main residence CGT exemption
Timing	Within 90 days of settlement (or longer if allowed by ATO)
Paperwork	Election form given to fund with or before contribution
Once-off	Have not previously made downsizer for another property

03 – Downsizer contributions

Downsizer contributions - FAQ

Question 5 – Residency

Client is a tax non-resident and is selling their Australian property that was once their main residence.

Can they qualify?

Answer

No

Non-residents can't access the main residence CGT exemption

Can receive main resident CGT exemption where they become an Australian tax resident and then sell property

Brief	Detail
Property	Individual or spouse disposes of ownership interest in dwelling located in Aust
Age	55+ at time of making contribution
Amount	Lesser of: 1. \$300,000 2. Proceeds from sale (less downsizer contribution by spouse for same property)
Ownership period	10+ years
CGT	Partial or full main residence CGT exemption
Timing	Within 90 days of settlement (or longer if allowed by ATO)
Paperwork	Election form given to fund with or before contribution
Once-off	Have not previously made downsizer for another property

03 – Downsizer contributions

Downsizer contributions - FAQ

Question 6 – 10-year ownership

My client received their home from as part of divorce property settlement.

The former spouse owned the property for 8 years and their client for 3 years.

Is the 10-year ownership requirement met?

Answer

Yes

Satisfied where property owned by contributor, spouse or former spouse during last 10 years

Brief	Detail
Property	Individual or spouse disposes of ownership interest in dwelling located in Aust
Age	55+ at time of making contribution
Amount	Lesser of: 1. \$300,000 2. Proceeds from sale (less downsizer contribution by spouse for same property)
Ownership period	10+ years
CGT	Partial or full main residence CGT exemption
Timing	Within 90 days of settlement (or longer if allowed by ATO)
Paperwork	Election form given to fund with or before contribution
Once-off	Have not previously made downsizer for another property

03 – Downsizer contributions

Downsizer contributions - FAQ

Question 7 – Spouse's property

Spouse 1 sells property that was once their home and will qualify for a partial main residence CGT exemption.

Can spouse 2 make a downsizer contribution?

Answer

Potentially

Test applies hypothetical scenario

Would spouse have received partial/full main residence CGT exemption if they owned the property

Brief	Detail
Property	Individual or spouse disposes of ownership interest in dwelling located in Aust
Age	55+ at time of making contribution
Amount	Lesser of: 1. \$300,000 2. Proceeds from sale (less downsizer contribution by spouse for same property)
Ownership period	10+ years
CGT	Partial or full main residence CGT exemption
Timing	Within 90 days of settlement (or longer if allowed by ATO)
Paperwork	Election form given to fund with or before contribution
Once-off	Have not previously made downsizer for another property

03 – Downsizer contributions

Downsizer contributions - FAQ

Question 8 – Transfer

Client is transferring ownership of their home to their children.

The value of the property is \$1 million.

Can they still qualify?

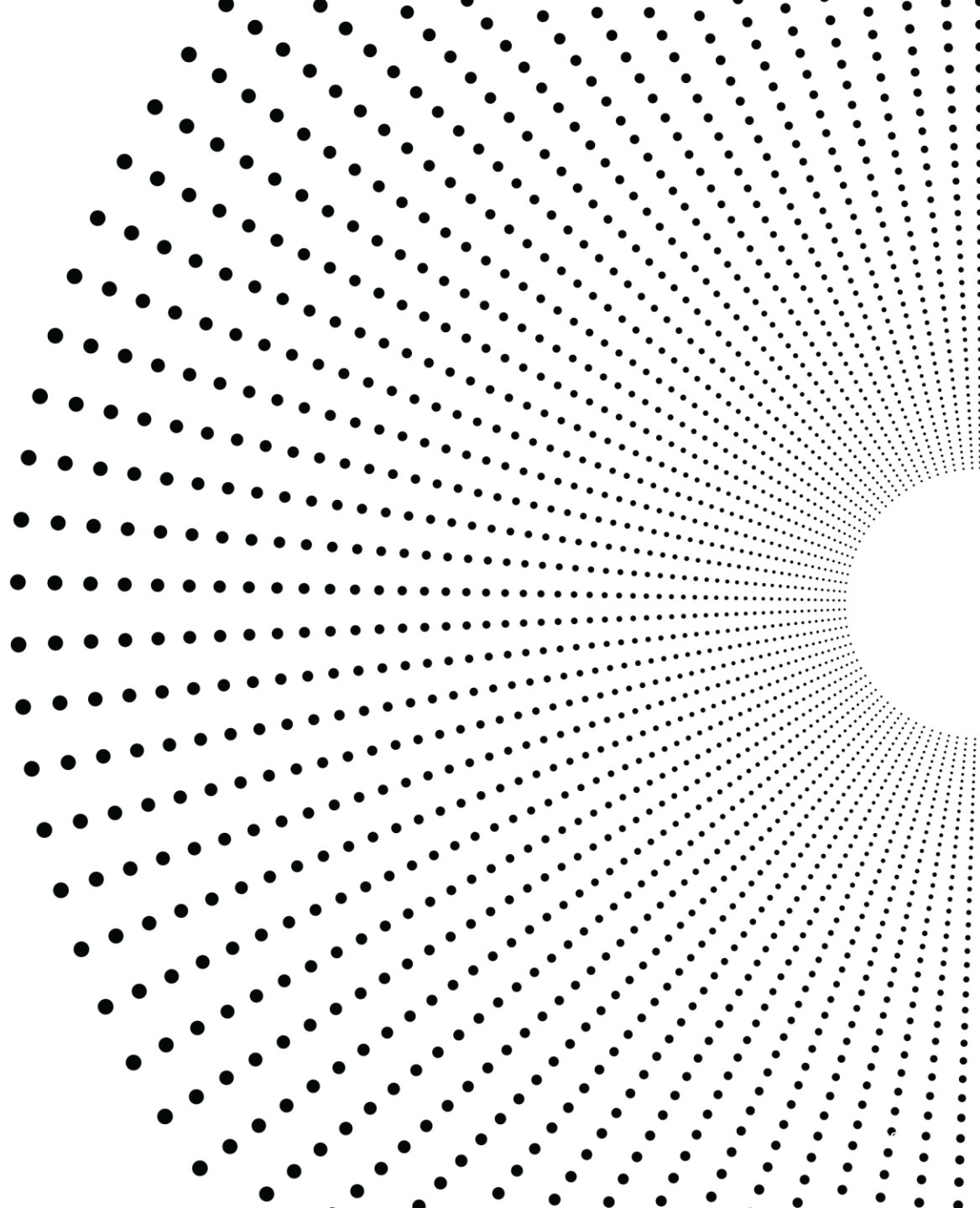
Answer

If there are no proceeds from the sale, the contribution value is nil.

Brief	Detail
Property	Individual or spouse disposes of ownership interest in dwelling located in Aust
Age	55+ at time of making contribution
Amount	Lesser of: 1. \$300,000 2. Proceeds from sale (less downsizer contribution by spouse for same property)
Ownership period	10+ years
CGT	Partial or full main residence CGT exemption
Timing	Within 90 days of settlement (or longer if allowed by ATO)
Paperwork	Election form given to fund with or before contribution
Once-off	Have not previously made downsizer for another property

04

COVID-19 re-
contribution



04 – COVID-19 recontributions

COVID-19 retribution

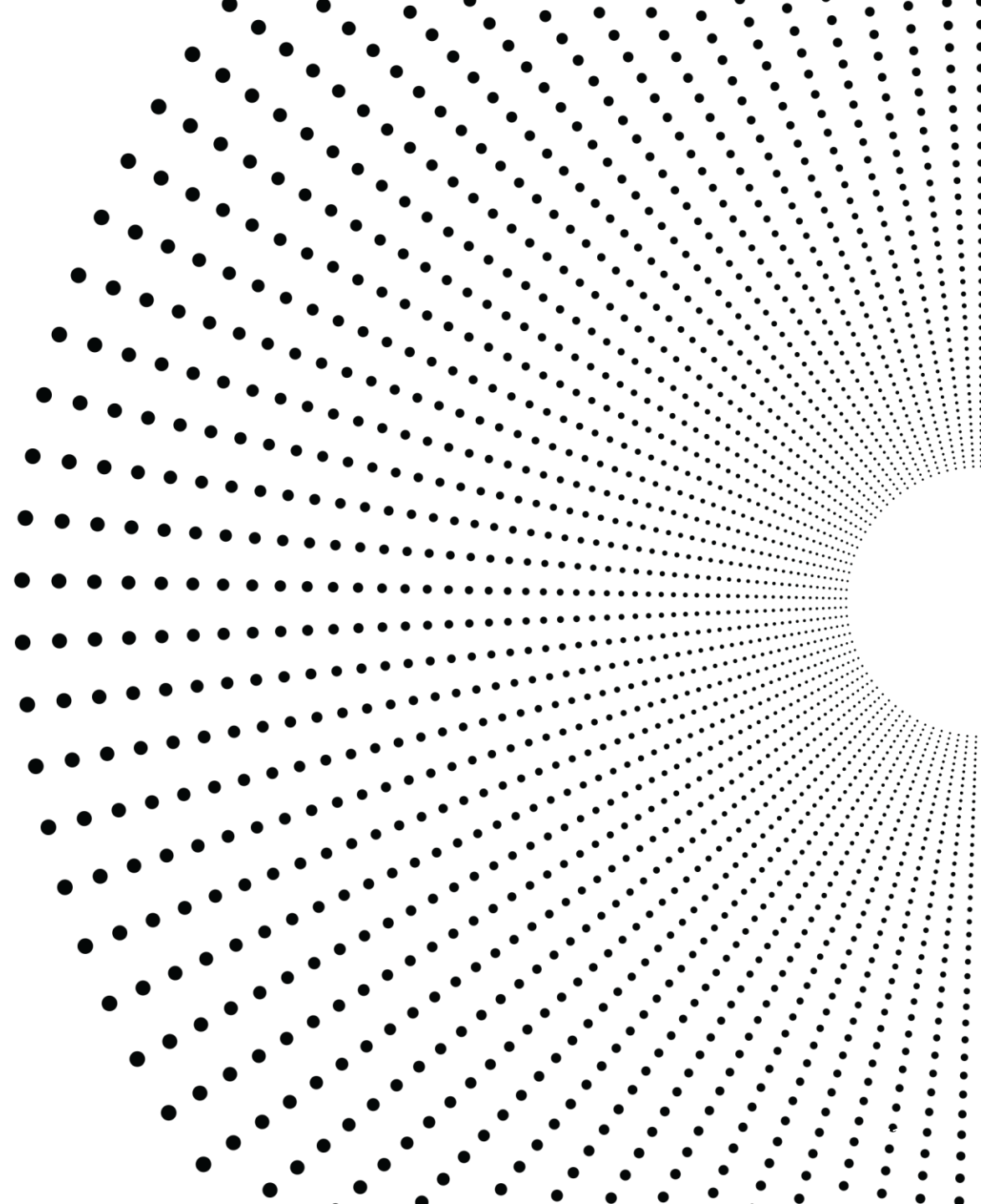
- Capped at amount withdrawn under COVID-19 early access rules
- Contribution made by 30 June 2030
- Cannot be claimed as a tax deduction

Maximum withdrawals - \$10,000 pa for 2019-20 and 2020-21

No later than 28th day after month individual turns 75

05

Additional planning considerations



05 – Additional planning considerations

Additional planning considerations

Tax

Contribution type	Taxation on entry?	Tax component	Restricted by total super balance (TSB)?	Special transfer balance cap treatment?	Excluded from TSB?
Small business CGT	No	Tax-free	No	No	No
Personal injury				Yes, excluded	Yes
Downsizer				No	No
COVID-19 retribution				No	No

Access

- Preserved for those under 65
- Does client satisfy a condition of release

Tip!

Consider making NCCs and carry forward CCs before TSB restricts strategies

05 – Additional planning considerations

Avoiding errors

Top 3 errors

1. Paperwork - election form isn't provided with or before contribution

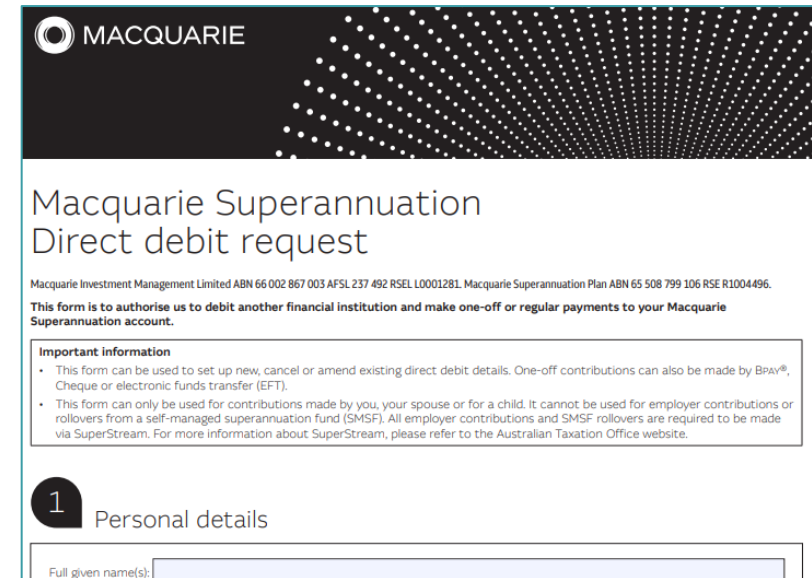
Tip

Send to fund before contribution + confirm receipt

2. Contributions to Macquarie must be made by direct debit

3. Be aware of time frames and possible ATO extension

ATO - 13 10 20



The image shows a sample of a 'Macquarie Superannuation Direct debit request' form. The form has a dark header with the Macquarie logo and a pattern of white dots. Below the header, the title 'Macquarie Superannuation Direct debit request' is prominently displayed. A small line of text provides the ABN for Macquarie Investment Management Limited and the Macquarie Superannuation Plan. A bold statement indicates the form's purpose: to authorize debiting another financial institution for one-off or regular payments. A section titled 'Important information' contains two bullet points: one stating the form can be used to set up, cancel, or amend direct debit details (also mentioning BPay, Cheque, or EFT), and another stating it is only for contributions made by the member, spouse, or child, not for employer contributions or SMSF rollovers. The form is divided into numbered sections, with the first section titled '1 Personal details'. The first field in this section is 'Full given name(s):' followed by a text input box.

05 – Additional planning considerations

Implementation

Approved form must be provided with or before the contribution!

ATO election forms

Small business CGT concession contribution	ATO reference – NAT 71161
Personal injury contribution	ATO reference – NAT 71162
Downsizer contribution	ATO reference – NAT 75073
COVID-19 re-contribution	ATO reference – NAT 75394

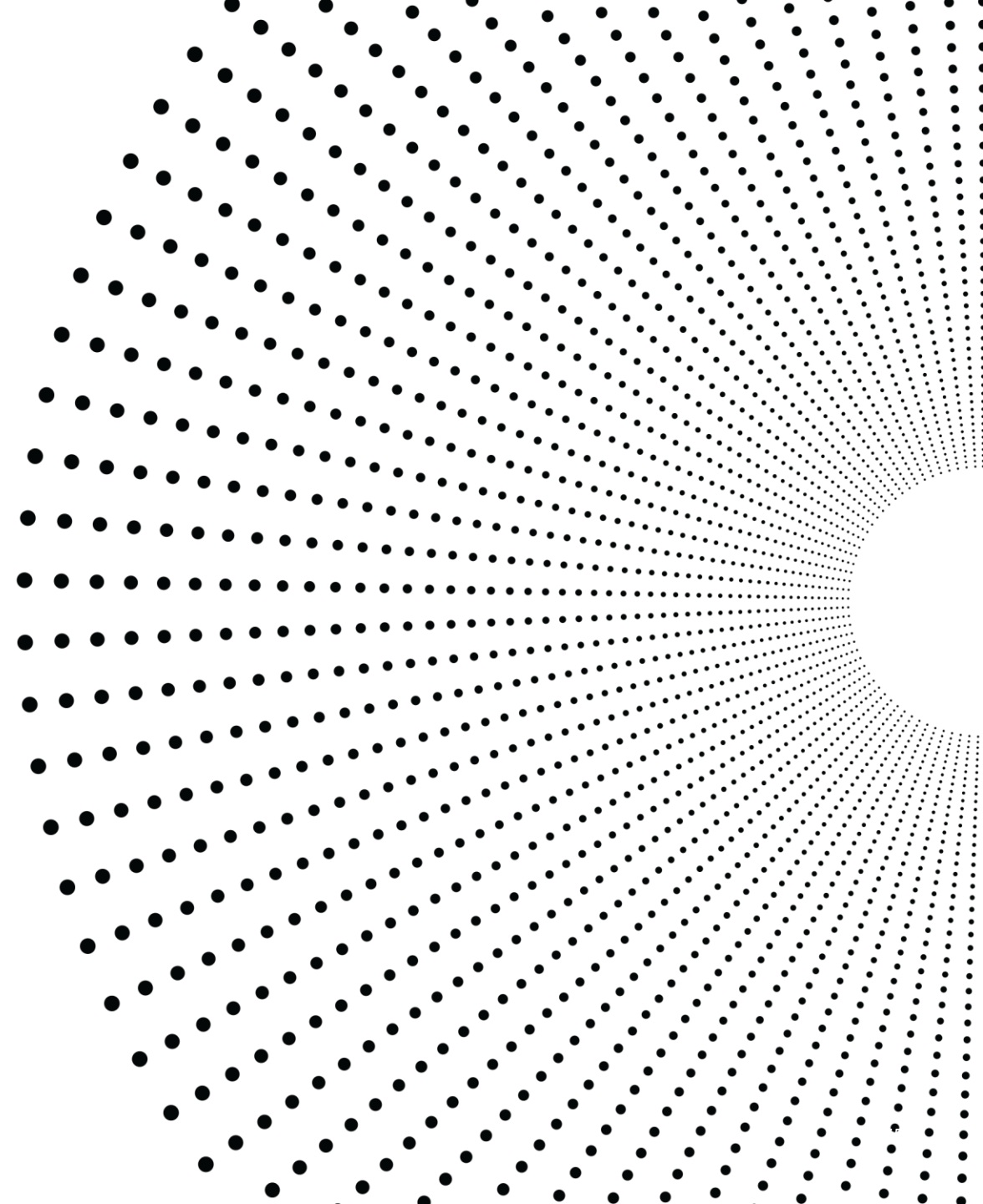
Ways to/not to contribute with Macquarie administered super funds:

1. Do not use BPAY® or direct credit (ie EFT)!
2. Use direct debit

Check for specific fund rules

06

Deductible personal contributions



06 – Deductible personal contributions

FAQ

Case study 1

Client made a personal contribution of \$30,000, taking their balance to \$130,000.

They used \$80,000 of the contribution to commence a pension (using their remaining TBC). They left \$50,000 in accumulation.

Which is the correct statement regarding a deduction notice:

- a. The client can lodge a deduction notice provided there's sufficient tax-free component in their accum. account
- b. A deduction notice won't be valid as part of the contribution has been used in the ABP
- c. A deduction notice of \$30,000 will be valid provided as this is greater than the remaining balance in the accum. account
- d. A deduction notice will be valid if they move the \$80,000 back to the accumulation account

Section 290-170 ITAA97 - deduction notice is invalid if:

- Used, in part or full, to **commence a pension**
- Fund **no longer holds** contribution (egs rollover, lump sum) – proportioning rule applies
- Trustee has accepted request to split contribution
- No longer a member of the fund
- Covered by an earlier notice

Possible solution

If within the same financial year, can they make a subsequent contribution and lodge deduction notice the new contribution?

06 – Deductible personal contributions

FAQ

Case study 2

- Client made a \$30,000 personal contribution
- Their account value was \$500,000 after the contribution and immediately rolled \$490,000 to another fund
- Tax free component:
 - Before withdrawal \$100,000
 - After withdrawal \$2,000

What is the maximum amount they can include in a deduction notice?

- a. The full \$30,000
- b. Nil
- c. \$600
- d. \$29,400

Contribution remaining:

$$\$30,000 \times \frac{\$2,000}{\$100,000}$$

$$= \$30,000 \times 2\%$$

Section 290-170 ITAA97 - deduction notice is invalid if:

- Used, in part or full, to **commence a pension**
- Fund **no longer holds** contribution (egs rollover, lump sum) – proportioning rule applies
- Trustee has accepted request to split contribution
- No longer a member of the fund
- Covered by an earlier notice

When does a super fund still have the contribution?

Tax Ruling 2010/1 – proportioning rule

Proportion of contribution remaining linked to proportion of the tax free component that remains after the withdrawal

06 – Deductible personal contributions

FAQ

Case study 3

- In 2024-25 a client made a \$20,000 personal contribution and lodged deduction notice
- 2024-25 tax return in July 2025 – could only claim \$10,000 due to lower than expected income

Can they vary their deduction notice now that they've completed their tax return?

Section 290-180 ITAA97 – standard time frames for variations – lodged before both:

- Lodged income tax return
- End of following income year

However, s 290-180(4) provides exception:

1. Claimed a deduction for the contribution
2. Deduction was not allowable (in part or full), and
3. Variation reduces amount by amount not allowable

06 – Deductible personal contributions

FAQ

Case study 3 continued

- In 2024-25 a client made a \$20,000 personal contribution and lodged deduction notice
- 2024-25 tax return in July 2025 – could only claim \$10,000 due to lower than expected income
- **The client has started a pension with the contribution**

Can they vary their deduction notice now that they've commenced a pension?

- Fund cannot refund tax! It must pay tax on contributions covered by a valid notice
- Remains taxable component

Section 290-180 ITAA97 – variation notice is invalid if:

- Used, in part or full, to **commence a pension**
- Fund **no longer holds** contribution (egs rollover, lump sum) – proportioning rule applies
- Trustee has accepted request to split contribution
- No longer a member of the fund
- Covered by an earlier notice

06 – Deductible personal contributions

FAQ

Case study 2

A client made a \$20,000 to their spouse's super account.

Can the spouse lodge a deduction notice and claim a tax deduction for the contribution?

- a. No, only contributions made by the individual can be claimed as a tax deduction
- b. Yes, it's an NCC so they can lodge a deduction notice to change it to a CC

ITAA97 – 'You can deduct a contribution you make to a superannuation fund....' (emphasis added)

Possible solution

If this was money the spouse was entitled to and directed the client to make the contribution on their behalf, the super fund may be willing to amend the contribution type from spouse to personal

06 – Deductible personal contributions

FAQ

Case study X

A client had a total super balance of \$400,000 at 30 June 2025.

They've made the concessional contributions in the table.

What is their maximum CC cap for 2025-26?

Year	CC cap for year	CCs made	Unused CCs for year
2018-19	\$25,000	\$15,000	\$10,000
2019-20	\$25,000	\$20,000	\$5,000
2020-21	\$25,000	\$20,000	\$5,000
2021-22	\$27,500	\$22,500	\$5,000
2022-23	\$27,500	\$17,500	\$10,000
2023-24	\$27,500	\$17,500	\$10,000
2024-25	\$30,000	\$25,000	\$5,000
2025-26 (current)	\$30,000	\$0	

Carried forward cap includes 5 prior years

Maximum CC cap = \$65,000 (\$5,000 + \$5,000 + \$10,000 + \$10,000 + \$5,000 + \$30,000)

Special super contributions

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18 August 2025

