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NEWSLETTER

How to Share Your Superannuation so You're Both Better Off

You might be surprised to learn that splitting super evenly isn't always the best financial strategy.

The goal should always be to optimise balances for each person's unique situation to maximise tax concessions and retirement benefits as a couple. Here's how…

Make the Most of Tax-Effective Contribution Opportunities

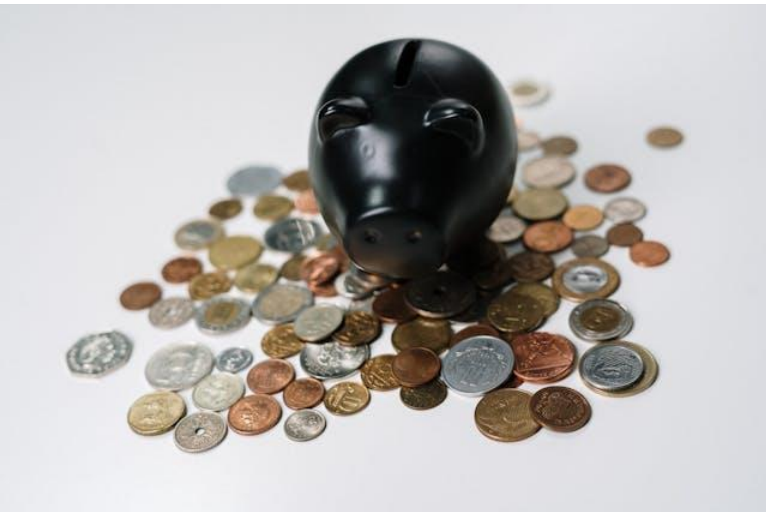
There are limits to how much you can contribute to your super each year, based on your age and total super balance.

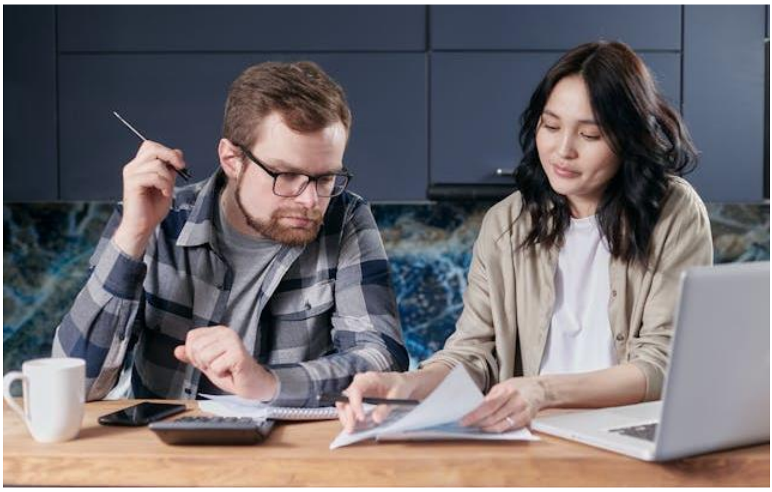
Knowing these limits and eligibility rules, and considering your circumstances, is key to optimising your super. Being strategic about your contributions and total super balance could open the door to significant opportunities and tax benefits down the track.

Concessional contributions include the 12% of pay that your employer must contribute, plus any salary sacrifice contributions.

If you are under 75 (or meet the work test if you're aged 67 or older), you can also make concessional contributions by making a personal contribution and claiming a tax deduction.

If your total super balance was less than $500,000 on the previous June 30, and you haven't fully used your concessional contributions cap in the five prior financial years, your personal cap may include these unused "carry forward" amounts. This means you may be able to make personal deductible contributions of up to$162,500 this financial year.





You can check your cap and eligibility by logging into MyGov.

When deciding whose fund to contribute to, consider whether either of you can use the carry-forward rules and the resulting tax benefit.

Also, if you're contemplating making contributions in the short term, but your total super balance is likely to exceed $500,000 as a result, it's worth considering the timing of your contributions because you might be able to benefit from large personal deductible contributions in coming years.

You must meet a condition of release to access super, such as retiring or reaching age 65. It's therefore important to consider when you'll need to access any contributions made.

Maximise Tax-Free Retirement Income

The cap for starting a retirement phase pension is currently $2M. Once you're in the retirement phase, earnings are tax-free, which is a significant advantage compared to the 15 per cent tax on earnings in the accumulation phase.

If one of you looks like you're on track for your super savings to reach or exceed these limits, planning could enable you to maximise the combined amount that you can save in this tax-free phase.

This might include directing any available funds that you wish to save for retirement into the account of the person with the lower balance, or even considering a cash-out and recontribution strategy.

This involves one spouse making a withdrawal from super after meeting a condition of release and recontributing the amount into their partner's account.

Conditions of release most commonly include reaching age 65 and retirement. It's important to make sure that your spouse meets the contribution eligibility rules and that the contributions are within their available contribution caps. It's also important to understand that the money won't be accessible until that person meets a condition of release.

Maximise Age Pension Entitlements

If there's an age gap between you and your spouse, consider the benefit of optimising super balances to boost age pension entitlements for the older spouse.

Super in the accumulation phase is not counted in the means test for the age pension until the account holder reaches 67 – or earlier if an income stream is commenced. By contributing to the younger spouse's super, you may increase the older spouse's age pension entitlements.

You could also use a cash-out and recontribution strategy. This involves the older spouse withdrawing a lump sum from their super and the younger spouse contributing it back onto their account.

This strategy doesn't trigger gifting or deprivation rules for member couples, and it can help balance super accounts more effectively.

Remember, though, earnings on super in the accumulation phase are taxed at up to 15 per cent, while earnings in the retirement phase are tax-free. It's important to consider the extra tax payable in accumulation and how it compares to a potential increase in your age pension entitlements.

Super can be a complex beast, but Accountplan has been guiding clients toward better outcomes for nearly 30 years. Call for an appointment with Alex Holmes, our experienced Financial Planner on 07 3883 8999.

Source: MLC

Difference Between Employees & Independent Contractors

If you are an employer, you are responsible for classifying your workers for tax and super purposes and you need to get it right. If you make an incorrect decision, you may face penalties.

Serving in Your Business

The critical differences between an employee and independent contractor are:

- an employee serves in your business, and performs their work as a representative of your business
- an independent contractor provides services to your business and performs work to further their own business.

It is crucial that you accurately characterise the nature of the business that you carry out. You should examine the essential activities of the business that you operate and compare them with the legal rights and obligations contained in the contract you entered into with the worker.

Superannuation Obligations Still May Apply to Certain Independent Contractors

In certain circumstances, you must pay superannuation for independent contractors who are deemed to be employees for superannuation purposes.

These circumstances include if the worker:

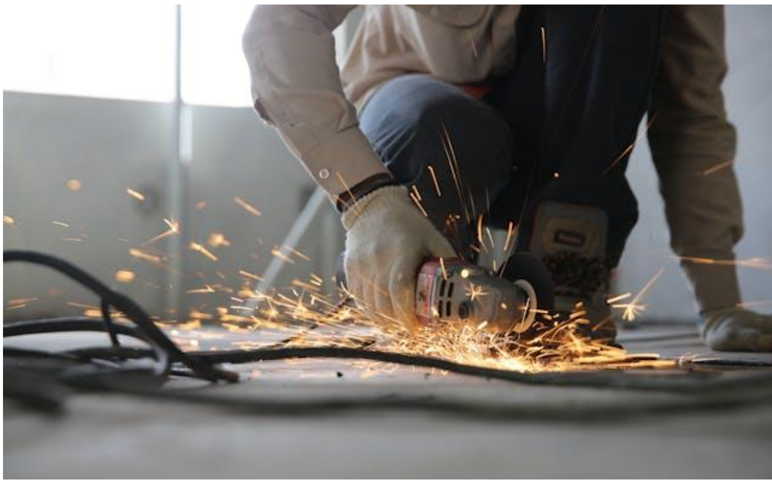
- works under a contract that is wholly or principally for their labour
- performs work that is wholly or principally of a domestic nature for more than 30 hours per week
- is a sportsperson, artist or entertainer paid to perform, present or participate in any music, play, dance, entertainment, sport, display or promotional activity, or similar activity
- is a person paid to provide services in connection with any performance, presentation or participation in these activities
- is a person paid to perform services related to the making of a film, tape, disc, television or radio broadcast.

Some Workers Are Always Employees

The following workers are **always** treated as employees:

- Apprentices
- Trainees
- Labourers
- Trades assistants

Apprentices and trainees do both work and recognised training to get a qualification, certificate or diploma. They can be full-time, part-time or school-based and usually have a formal training agreement with the business they work for. This is registered through a state or territory training authority or completed under a relevant law.



In most cases they are paid under an award and receive specific pay and conditions. You must meet the same tax and super obligations as you do for any other employees.

Companies, Trusts and Partnerships are Always Contractors

An employee must be a natural person. If you've hired a company, trust, or partnership to do the work, this is the contracting relationship for tax and super purposes. The people who do the work may be directors, partners, or employees of the contractor but they're not your employees.

Labour Hire or On-Hire Arrangements

If you hired your worker through a labour hire firm and pay that firm for the work undertaken by the worker in your business, your business has a contract with the labour hire firm and not the worker. It is the labour hire firm that is responsible for pay as you go (PAYG) withholding, super and fringe benefits tax obligations for the worker. Labour hire firms may be called different names, including on-hire firms, recruitment services or group training organisations. They will refer to your business as the 'host employer'.

Employee or Independent Contractor Traits

The following table outlines common traits of employees and independent contractors…

Employee	Independent Contractor
Control: your business has the legal right to control how, where and when the worker does their work.	Control: the worker can choose how, where and when their work is done, subject to reasonable direction by you.
Integration: the worker serves in your business. They are contractually required to perform work as a representative of your business.	Integration: the worker provides services to your business. The worker performs work to further their own business.
Mode of remuneration: the worker is paid either: • for the time worked • a price per item or activity • a commission.	Mode of remuneration: the worker is generally contracted to achieve a specific result, and is paid when they have completed that result, often for a fixed fee.
Ability to subcontract or delegate: there is no clause in the contract allowing the worker to delegate or subcontract their work to others. The worker must perform the work themselves and cannot pay someone else to do the work for them.	Ability to subcontract or delegate: there is a clause in the contract allowing the worker the right to delegate or subcontract their work to others. The clause must not be a sham and must be legally capable of exercise.
Provision of tools and equipment: your business: provides all or most of the equipment, tools and other assets required to complete the work; or the worker provides all or most of the tools, but your business provides them with an allowance or reimburses them for expenses incurred.	Provision of tools and equipment: the worker provides all or most of the equipment, tools and other assets required to complete the work, and you do not give them an allowance or reimbursement for the expenses incurred. The work involves the use of a substantial item that your worker is wholly responsible for.
Risk: the worker bears little or no risk. Your business bears the commercial risk for any costs arising out of injury or defect in their work.	Risk: the worker bears the commercial risk for any costs arising out of injury or defect in their work.
Generation of goodwill: your business benefits from any goodwill arising from the work of the worker.	Generation of goodwill: the worker's business benefits from any goodwill generated from their work, not your business.

Don't risk getting it wrong. The experienced team at Accountplan can help you determine your tax and super responsibilities as an employer. Call us on 07 3883 8999.

Source: ATO

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