HUB24

Making the most of SMSFs

The double tax deduction strategy

A summary of what you'll read about in this guide:

- Anyone between 18 and 67 (and in some cases even people up to 75) can make personal super contributions and claim a tax deduction for them.
- In an SMSF (but not in other funds), it's even possible to bring forward the next year's tax deduction and claim two years' worth at once without breaching the contribution caps.
- But there are some important timeframes, rules and paperwork.

Introduction

For the 2023/24 income year the cap on 'concessional contributions' (typically includes employer contributions and personal contributions for which a tax deduction is claimed) is $27,500.

While there's technically nothing stopping someone making larger contributions from claiming a tax deduction for them, the problem is that usually this means they go over their cap. The way the tax rules work for people who exceed their cap is that they end up getting taxed on the 'excess' anyway – so there's no point in claiming the deduction in the first place.

Some people have higher concessional contribution caps because they haven't used up their full cap in previous years and can use it 'now'. But unfortunately not everyone can use this rule. There are two key requirements to use old unused cap amounts in 2023/24: their total super balance must have been less than $500,000 at 30 June 2023 and the concessional contributions made in 2023/24 must exceed the general contributions cap.

So what about everyone else that is stuck with the $27,500 cap? There's another strategy that allows any SMSF member to access more than one year's worth of concessional contribution caps. Doing so is often called the 'double deduction' or 'deferred allocation' strategy because it involves making up to two years' worth of contributions in the same year and using next year's cap in advance. This fact sheet explains how the strategy works and who might find it useful.

A key concept to understand

Contributions are tax deductible in the year they are 'made' and in this context, a contribution is generally made when it actually appears in the super fund's bank account.

For example, Mary is 60 and retired so she's no longer receiving concessional contributions from an employer. But she is expecting significant taxable income in 2023/24 (she's selling an investment property) and is on the lookout for tax deductions this year.

If she makes a personal contribution to her super fund in June 2024 and does all the right paperwork, it's tax deductible in 2023/24. She has to make sure it actually arrives in the fund's bank account on or before 30 June 2024 – if it's late and doesn't show up until 2 July, it's not tax deductible until 2024/25.

But no matter when the tax deduction is claimed, the contribution is only checked against the member's concessional contributions cap in the year it's actually allocated to their super account. If that happens to be in the *following* financial year, it will be checked against the next year's cap, not the cap in the year it's made.

How is it possible to delay allocating a contribution to a member's account?

Normally, particularly in SMSFs, contributions are allocated to the right member's account as soon as they land in the fund. But that's not actually the legal requirement. In an SMSF, the trustee has until the 28th of the following month to do this.

That long delay is critical. It means it's possible to have a contribution 'made' in June 2024 (and tax deductible in 2023/24) but not allocated until 28 July 2024 (so checked against the 2024/25 cap).

If we return to Mary, she could:

- make personal concessional contributions of up to $27,500 as normal throughout 2023/24 – using up her 2023/24 concessional contributions cap;
- contribute up to an extra $27,500 at any time during June 2024; and
- ensure the trustee deliberately defers allocating this extra $27,500 to her account until 1 July 2024.

As long as she does the relevant paperwork to claim a tax deduction for both of her contributions in 2023/24, she will have a total tax deduction of $55,000 (2 x $27,500) in 2023/24 without breaching her concessional contributions cap. She's effectively used her 2024/25 cap in advance.

Why can't this be done in a large fund?

Other funds must allocate contributions within 3 days of their arrival. That makes it impractical to try this strategy in any fund other than an SMSF.

Who could consider this?

Mary was an ideal candidate:

- Her age means she is eligible to make tax deductible personal contributions even though she's not working (more on this below);
- She's not receiving any employer contributions and so has her full concessional cap to play with in both 2023/24 and 2024/25; and
- she has a lot of taxable income this year (2023/24) but not necessarily next year (2024/25). If she was going to have a lot of taxable income next year as well this might backfire – because remember she's going to use next year's concessional contributions cap in advance.

There's nothing to stop someone who is working from also using this strategy. It would just mean their concessional contributions cap (in both years) would be partially used up by their employer contributions.

For example, Dale is also 60 but still working. His employer will contribute $17,500 to super in 2023/24 and about the same amount in 2024/25 but he'd like to maximise his personal tax deductions in 2023/24. Dale could make personal contributions of $10,000 at any point in 2023/24 and a further $10,000 in June 2024 (which is not allocated until 1 July 2024). He could claim tax deductions for both in 2023/24. The amounts are just smaller than Mary's to reflect the fact that he knows his employer contributions will use up some of his cap in each year.

Doesn't this sound too good to be true? The SMSF trustee obviously knows exactly who made the contribution.

The trustee isn't pretending not to know who made the contribution. The trustee is simply using their legal right to defer allocating it until a later time. This is such a commonly used SMSF strategy that the ATO even has a special form for it to help accountants do the right reporting!

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What if the cap goes up next year?

Remember this strategy is all about using next year's cap in advance. So if the cap increases to $30,000 for 2024/25 (and we'll know in February 2024 what the new cap will be), it just means there's an extra $2,500 that can be contributed in June 2024 and allocated between 1 July – 28 July 2024.

What paperwork is required?

The usual paperwork to claim a tax deduction is required – a notice from the member to the trustee (called a 'Notice of Intent to Claim a Deduction'), followed by acknowledgement from the trustee. Any SMSF accountant or administrator will be able to provide these.

But it's also important to document the deferred allocation of the contribution. Trustee minutes for this purpose should clearly identify the contribution, highlight that the trustee won't be allocating it until a particular date and then document the allocation. There is also an extra form for the fund's accountant or administrator to send to the ATO. These tell the ATO that there are some contributions being reported for the member that weren't actually allocated until the following year. If this form is not done, the ATO will naturally assume the contributions were allocated immediately.

Timing is also important. For example, the paperwork about the tax deduction needs to be done before:

- 30 June the following year (ie 30 June 2025 in Mary's case); or
- when Mary lodges her tax return for 2023/24 (if this is earlier).

It might even need to be earlier if Mary is withdrawing money from her account or starting a pension.

Is there anything else Mary needs to know?

If Mary is under 67 when she makes her contributions in 2023/24, all she needs to worry about is:

- doing the right paperwork; and
- having enough taxable income to make full use of the tax deduction in 2023/24.

It doesn't matter how much she already has in super or how much of her cap she's used in previous years – this is all about using next year's concessional contributions cap in advance.

If she is over 67 when she makes the contributions in 2023/24, there's one extra check to do.

She can only claim a tax deduction for contributions made after her 67th birthday if she meets a 'work test' at some point during the year (in this case, 2023/24 – the year the contribution is actually made and the tax deduction is claimed). That involves doing paid work for at least 40 hours in any 30 day period during the year.

And once she's over 75 she can't make contributions at all.

Any contributions that are going to be deferred should be made quite separately to contributions that will be allocated straight away. The ATO has taken the view that it's an 'all or nothing' decision to defer contributions.

And finally, Mary might need to know her 'total super balance' at 30 June 2024. For example, if she's going to make non-concessional contributions in 2024/25, the amount she can contribute will depend on how much she already has in super.

When she's working out her total super balance at 30 June 2024, she needs to add in any of these deferred contributions (after allowing for the normal 15% tax paid by the fund on concessional contributions). While it doesn't seem quite right to have these added back to her account when they haven't officially been allocated to her yet, it's necessary in this case. That's because her total super balance is technically whatever the trustee would have given her if she'd left the fund on 30 June 2024. Under that scenario, the trustee would have been forced to allocate the contributions earlier.

We're only talking about personal concessional contributions here – what about other sorts of contributions?

Technically this ability to defer allocating contributions applies to any type of contribution. For example:

- Dale could ask his employer to increase his salary sacrifice contributions during 2023/24 and ensure that $10,000 of this occurred in June 2024. The trustee of his SMSF could still elect to defer allocating this amount until July 2024 and achieve the same outcome (while it would be Dale's employer rather than Dale receiving the tax deduction the result is the same for Dale – less income to pay tax on)
- Personal contributions for which no tax deduction is claimed (non-concessional contributions) can also be deferred. In fact this used to be more common when a work test was required for these contributions. The strategy allowed extra contributions to be made in a year when the member did meet the work test but allocated in a subsequent year when they weren't able to meet it. Now that the work test has been dropped for non-concessional contributions it's less relevant.

Conclusion

The ability to defer allocating super contributions until the next financial year can be invaluable in helping clients maximise their tax deductions. It's unique to SMSFs and one of the many benefits of using them to help clients save for retirement.

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Heffron Managing Director Meg Heffron has been working exclusively in SMSFs since 1998. She is one of the few actuaries to work in all areas of SMSF practice. Her passion is turning technical knowledge about SMSFs into practical solutions that accountants and advisers can use to help their clients and grow their businesses.

Want to know more?

Call our team on **1300 854 994** or visit **HUB24.com.au/smsf**

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