



## Bring Forward Contributions

The ability to bring-forward future year entitlements to make non-concessional contributions has been in place for many years now. Prior to 1 July 2020 this could be done by anyone who was under 65 on 1st of July and met the total superannuation balance test and in certain circumstances the work test, all discussed below. Legislation has now been passed to increase the age from 65 to 67 years of age, effective from 1 July 2020.

The idea of the bring-forward provisions is to allow individuals that have the capacity to make large contributions the opportunity to do so as a single lump sum rather than to spread the amount out over a number of years in line with the existing annual caps. As with anything, there are trade-offs.

It's effective for individuals who are approaching retirement who may want to make a larger one-off contribution. It may be due to receiving an inheritance, selling a home or selling a large asset such as their business, to name just a few reasons why an individual may have the capacity to contribute large amounts. Of course superannuation and tax laws provide for other opportunities, such as downsizer and CGT concessional contributions that can enable extra funds to be put into super. These opportunities also come with many conditions and as such the bring-forward arrangements can be an easier option to use in a broad range of circumstances.

Increasing the bring-forward age to 67, in alignment with the contribution work test requirements provides numerous strategic opportunities, particularly as preserved benefits are still accessible from age 65. There were further proposed changes in the recent 2021/22 Australian Federal Budget. This will be discussed further on.

### What are the bring forward provisions?

Effectively an individual can bring-forward their non-concessional contributions cap from future years and use them earlier. The maximum amount that can be contributed is three (3) times the annual non-concessional contributions cap either as a one-off contribution or as multiple contributions over the allowable bring-forward period, the trigger being that a single contribution exceeds the standard non-concessional cap.

The provisions are only triggered if an individual exceeds the non-concessional contributions cap and is eligible to bring-forward subject to their total superannuation balance. Excess non-concessional contributions that are otherwise ineligible to trigger the bring-forward amounts are treated as excess contributions and will be subject to tax on associated earnings and a refund of the excess via the ATO.

One of the trade-offs of the bring-forward provisions are that by bringing forward future years an individual forgoes any indexation to the non-concessional cap that may otherwise apply in those years. That is a relevant discussion point as the non-concessional cap is indexed from 1 July 2021.

### How does the Total Superannuation Balance affect the bring forward amount and timing?

The Total Superannuation Balance (TSB) at 30 June of the previous financial year will determine an individual's eligibility to use the bring-forward provisions and importantly will dictate what the maximum non-concessional contribution cap is and for what period. The below table highlights how much can be contributed and over what period based on the contribution caps that apply to the 2020/21 financial year:

TSB at 30 June of prior financial year	Non-concessional contribution cap and bring forward period
< \$1,400,000	\$300,000 over a 3-year period
> \$1,400,000 to < \$1,500,000	\$200,000 over a 2-year period
> \$1,500,000 to < \$1,600,000	\$100,000 (with no bring forward period)
> \$1,600,000	Not eligible to make non-concessional contributions without creating excess contributions

Once indexation of the contribution and transfer balance caps applies from 1 July 2021, the below table highlights how much can be contributed and over what period based on the contribution caps that apply to the 2021/22 financial year:

TSB at 30 June of prior financial year	Non-concessional contribution cap and bring forward period
< \$1,480,000	\$330,000 over a 3-year period
> \$1,480,000 to < \$1,590,000	\$220,000 over a 2-year period
> \$1,590,000 to < \$1,700,000	\$110,000 (with no bring forward period)
> \$1,700,000	Not eligible to make non-concessional contributions without creating excess contributions

A trap of the bring-forward provisions is that the capacity to contribute each year is based on the prior year total superannuation balance. As a result, triggering the bring-forward provides the best outcome to those who can contribute the full amount in the first year. If for example (prior to indexation on 1 July 2021) an individual has less than \$1,400,000 and subsequently contributes \$200,000 in the first year, their capacity to contribute another \$100,000 in the following year will be reliant on their balance not exceeding \$1,700,000 at 30 June 2021.

## How does the age of the member affect it?

Currently, members aged 67 to 74 years of age at 1 July of the financial year are not eligible to use the bring-forward provisions and will be subject to the ordinary non-concessional contributions cap, subject to their TSB. Once a member turns 67 they must satisfy the work test to contribute. Individuals aged 75 or above are not able to make non-concessional contributions, unless the contribution is received on or before 28 days after the end of the month in which they turn 75 years old.

## How does the work test fit in?

For those aged 67 and over, there is a gainful employment requirement to make contributions, regularly referred to as the "work test". The test requires an individual to undertake at least 40 hours of gainful employment within a period of 30 consecutive days. To be considered gainful employment the person must provide a service, either as an employee or self-employed and be remunerated for doing so (voluntary unpaid work does not count). As a rule of thumb, if you have to ask if something is gainful employment, it probably isn't!

If the bring-forward provisions are triggered in the year an individual turns 67 then the 3 year period expires in the year they turn 69. If for some reason the individual doesn't have the capacity to contribute the entirety of any bring-forward amount and they subsequently turn 67 prior to contributing the balance, they must meet the work test before making any further contribution.

However, a limited work test exemption applies to allow individuals to make contributions post age 67 without meeting the work test if they met the work test in the previous financial year and their total superannuation balance was less than \$300,000 at 30 June. The work test exemption can only be used once.

## **Bring-forward Case study**

### **Facts**

- Member is 64 years of age at 1 July 2020
- They turn 65 years of age on 8th February 2021
- As at 30 June 2020 their Total Superannuation Balance is \$800,000
- They have not made any non-concessional contributions in the last 5 years
- Not worked since 63 years of age
- They will have \$300,000 from an inheritance to contribute to super but unsure on timing of when the funds will be available
- They will have \$150,000 by 31st December 2020 and the timing of the balance is unknown pending the finalisation of the estate

### **What rules do we need to consider?**

- The cap needs to be exceeded in year 1 to trigger the bring-forward provisions. There will be \$150,000 available initially to contribute which will exceed the cap and trigger the bring-forward period.
- The bring-forward provisions can't have already been triggered in one of the prior 2 financial years, as they have not made any non-concessional contributions so they will meet this requirement.
- The TSB is less than \$1.4 million as at the previous 30 June so the non-concessional contributions cap and bring-forward period can be \$300,000 over 3 years.
- As the member is under age 67 at 1 July 2020, they are eligible to use the bring-forward provisions in the 2020/21 financial year.
- \$150,000 can be contributed to super around December 2020 to trigger the bring forward provisions for 2020/21, 2021/22 and 2022/23.
- If the balance of approximately \$150,000 is received from the estate after 2020/21 then the timing will determine any requirement to satisfy the work test. If received in 21/22 then all is ok as there is no work test requirement for a member aged 66. If received in 22/23 prior to 8th February 2023 then this is also ok. If the amount is received after 8th February 2023 then the individual will need to satisfy the work test.

### **In summary:**

If the total amount of the inheritance was received in the first year then the whole amount can be contributed (up to \$300,000). Alternatively, as long as an amount greater than one year's non-concessional cap is contributed in the first year then the balance can be contributed prior to their 67th birthday without meeting the work test and up to 30th June 2023, having met the test.

## Indexation

The bring-forward provisions are guided by two different caps. The concessional contribution cap, currently \$25,000, dictates the annual non-concessional cap. From 1 July 2021 when the concessional cap indexes to \$27,500 the annual non-concessional cap will increase to \$110,000 and therefore the 3 year limit will be \$330,000.

The capacity to make non-concessional contributions up to the cap are subject to the general transfer balance cap which is currently \$1,600,000. From 1 July 2021 when the transfer balance cap is indexed to \$1,700,000 that will alter the total superannuation balance requirements for making non-concessional contributions.

## Proposed changes to the rules

As part of the 2021/22 Federal Budget, the Government have proposed to remove the work test for individuals aged 67-74 for making voluntary contributions such as non-concessional contributions or salary sacrificed contributions. The Government have also proposed to allow individuals aged 67-74 to use the bring forward provisions (subject to the contribution caps and total superannuation balance criteria).

These changes are expected to come into effect from 1 July 2022 and are not law at this time.

## Conclusion

As can be noted, changing the age at which the bring-forward arrangements can be utilised will give individuals approaching retirement more scope to plan and longer to contribute. Understanding the how the bring-forward rules work and how the rules are aligned to the total superannuation balance and work test can be what creates inadvertent breaches of the non-concessional rules.

Indexation of the general transfer balance cap and indexation of the concessional (and non-concessional) contributions caps will also have a major effect on future strategies and planning to maximise retirement income.

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