

## Contribution splitting

Contribution splitting, which will allow a member to split their superannuation contributions with their spouse, was first proposed by the Federal Government in its 2001 election campaign. It has been on and off the political agenda since that time. However, with the recent passage through Parliament of the enabling legislation and the release of final regulations, contribution splitting will now become part of the superannuation landscape with effect from 1 January 2006.

Some members will already be reconsidering their contribution strategies in anticipation of its commencement. This Bulletin provides some detail on contribution splitting and considers some of its implications.

### What is contribution splitting?

Contribution splitting will allow a fund member to transfer part of their superannuation balance to an account in the name of their spouse once each year. The amount transferred will be limited to a maximum of a proportion of the contributions paid by or for them to that fund in the previous year (or in the current year, in certain circumstances). According to Treasury, splitting will:

*“...assist families to maximise the benefits available in superannuation and provide an avenue for spouses to share in superannuation benefits. It will be of particular benefit to low income or non-working spouses by allowing them to have superannuation assets under their own control and have their own income in retirement.”*

The spouse will be subject to their own reasonable benefit limits (RBLs) and will have access to their own low tax threshold when their benefits are finally paid. This means that for families where one partner currently has little or no superannuation, or where one partner has benefits approaching their RBL, the overall effect will be lower tax when the benefits are received in cash.

### Who is eligible for contribution splitting?

In general terms, contribution splitting applies to members with accumulation style benefits. While members with defined benefits will be able to split any accumulation style “add-on” benefits (such as additional voluntary contribution accounts), they will not be able to split their “core” defined benefit. In addition, contributions may only be split to a spouse of the opposite sex (married or defacto). A member whose benefit is subject to a Family Law payment split or payment flag will not be able to access splitting until the payment split has ceased to operate or the payment flag has been lifted.

It will not be compulsory for trustees to allow contribution splitting in their fund. Therefore, it is possible that some funds will elect to not offer the facility, perhaps due to the trustee’s assessment of cost, or based on expected low demand.

Finally, splitting will only apply to contributions. Rollovers and transfers (including transfers from overseas funds, even if the member has elected to have the amount treated in the Australian fund as a taxable contribution) cannot be split. Nor can amounts which have been received as a result of contribution splitting (so a member cannot split to a new spouse an amount which was received from a previous spouse under the splitting regime). However, amounts allocated to a member from surplus in a fund (called “allocated surplus amounts”) will be able to be split to a spouse.

### The mechanics of contribution splitting

After the end of a particular financial year, a member may apply to the fund’s trustee to split contributions made in that (previous) financial year. For the financial year ending 30 June 2006, only contributions made (or amounts of surplus allocated) on or after 1 January 2006 may be split. In addition, where the member’s entire benefit is to be rolled over or transferred in that year, the member may apply to split the contributions made in that (current) year. A member will not be allowed to make more than one splitting application each financial year.

There will also be limits on the amount of contributions that may be split in a year, depending on the type of contribution:

- up to 100% of *untaxed splittable contributions* made in a year can be split. Untaxed splittable contributions are contributions made by the member or another person which are not taxable contributions under tax legislation, for example, after-tax member contributions.
- up to 85% of *taxed splittable contributions* made in a year can be split. Taxed splittable contributions include taxable contributions under tax legislation, and allocated surplus amounts. Taxed splittable contributions therefore include employer contributions (including those which exceed deductible contribution limits so that no deduction can be obtained for them), and salary sacrifice contributions.

Employer contributions, and member contributions from pre-tax salary, are taxed at 15% on receipt by the fund. Therefore, allowing up to a maximum of 85% of these contributions to be split is a simple way to avoid accounts holding these contributions becoming negative due to contributions tax.

Trustees are not permitted to approve a splitting application in the following circumstances:

- if a previous application has been approved or is being considered in respect of a financial year;
- that exceeds the splitting limits above;
- if the spouse is aged 65 or over;
- if the spouse is at or over their preservation age, unless the application is accompanied by a statement by the spouse that they are not retired in terms of the SIS legislation;
- if the amount of untaxed splittable contributions to be split exceeds the member's undeducted contributions at the time of giving effect to the split; or
- if the amount of taxed splittable contributions to be split exceeds the post-83 component (taxed element) of the member's total benefit if it had been withdrawn at the time of giving effect to the split.

Trustees may also impose other conditions on how and when they will accept applications for contribution splits.

If a trustee approves an application, it must be effected as soon as practicable and in any case within 90 days of receiving the application. A split may be effected by rolling over or transferring the amount to another fund for the spouse, or by allotting it to an account in the spouse's name in the fund.

Contributions split to a spouse will be preserved until the spouse satisfies a relevant condition of release. However, a spouse who has attained the relevant age will be able to commence to be paid a "transition to retirement" pension while receiving split contributions.

## Benefits of contribution splitting

For the majority of families, the major advantage of contribution splitting will be the ability to take full advantage of two low tax thresholds for payments made in cash after age 55. Under current tax law, the first \$129,751 (as at 1 July 2005, and indexed each year) of post-83 superannuation benefits received in cash on or after age 55 is tax free. Where one partner in a family has little or no superannuation, they cannot take full advantage of that tax free limit. If contributions are split so that both partners' benefits exceed the limit, there will be an overall tax saving.

For families where one partner's superannuation will exceed their RBL at retirement, splitting will provide further tax advantages as both partners will have their own RBL, enabling the partner with the RBL issue to reduce the amount of benefit that is not subject to concessional tax.

## Defined benefit entitlements – currently excluded

As noted above, members with defined benefits will not be able to split their "core" defined benefit entitlements.

The Government had stated, in announcing the contribution splitting initiative in 2002, that defined benefit members were excluded from splitting because of "...additional complexities and issues in extending contribution splitting to defined benefit members...". However, these difficulties are not insurmountable and, since it will now be voluntary for funds to offer splitting, trustees who find that contribution splitting is too complex to administer for their fund could simply elect to not offer it.

*We believe that contribution splitting is a valuable benefit that will significantly assist families to save for retirement. Watson Wyatt has submitted to the Minister details of a simple and administratively efficient approach to splitting of defined benefits. We hope that the disappointing treatment of defined benefit members will be addressed by the Minister. In any event, defined benefit designs should be reviewed to investigate whether there are any accumulation style entitlements within the designs that can be isolated to enable splitting of those contributions. Contact your Watson Wyatt consultant to ensure that any splitting opportunities for your defined benefit members are identified.*

## Contact

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