

Contribution limits – how they work

The Government restricts the amount of money you can contribute to your super account - and you should be aware that there are tax implications once your contributions reach certain limits.

What are the limits on contributions?

For the 2009/10 financial year the limit on concessional contributions is \$25,000. If you are aged 50 or above, special transitional provisions apply (until 30 June 2012) and you will be able to contribute up to \$50,000.

The limit on non-concessional contributions is \$150,000 for the 2009/10 financial year. There is also a 'bring forward' option, which allows you to contribute up to \$450,000 over 3 years if you are under age 65 (e.g. you could make non-concessional contributions of \$450,000 in 2009/10 but you could not make further non-concessional contributions until 2012/13) without paying additional tax.

The limit on non-concessional contributions is six times the concessional limit, and therefore will only increase when the concessional limit increases.

What are concessional contributions?

Concessional contributions are those which are subject to tax on receipt by AvSuper. They include contributions made by way of salary sacrifice, employer contributions and deductible contributions made by self-employed people (people who receive less than 10% of their income from employment).

While these contributions may be transferred to your spouse under a contribution splitting arrangement, they will still count against your contribution limit.

What are non-concessional contributions?

Non-concessional contributions are those which are not subject to tax when paid to AvSuper. These are generally contributions which you make from your after tax income and any contributions made by a spouse on your behalf.

Note that, if you exceed your concessional cap, any contributions in excess of the cap will also be counted towards your non-concessional limit.

What is the process for assessing whether I have exceeded the contribution limits?

By the end of October each year, all superannuation funds must report to the ATO the contributions they have received for members in the previous financial year. Funded defined benefit funds are also required to calculate members' notional taxed contributions and include these in the report.

The ATO assesses the contributions reported for each person against the prescribed limits.



What if I am over the cap?

If you exceed the concessional limit you will be taxed at 31.5% on the excess. This will be in addition to the 15% tax already paid on the contributions. The excess concessional contributions will also be counted towards your non-concessional limit.

If you exceed the non-concessional limit you will be taxed 46.5% on the excess. You will receive a notice of excess contributions tax assessment from the ATO and the tax levied must be paid within 21 days.

The ATO will issue you with a release authority for each cap you have exceeded. If you have exceeded the concessional cap you can present this release authority to your super fund and ask them to release funds from an accumulation (but not a defined benefit) account to pay the excess contributions tax. Alternatively, you can choose not to use the release authority and pay the tax yourself.

If you have exceeded your non-concessional cap, you must provide the release authority to the fund within 21 days so that the amount to meet the assessment can be deducted from your account.

Excess contributions tax may be offset or added to other income tax debits or credits that you have. However, you are still required to withdraw an amount equal to your excess non-concessional contributions tax liability from your superannuation account.

Provision exists to appeal against these assessments. Assessments can generally only be amended within four years of being made.



Defined Benefit Members

As a defined benefit member, how do you determine my employer's contribution?

In a funded defined benefit scheme such as AvSuper's, the defined benefit contributions made by you and your employer are not credited to your account but are paid into the Fund's asset pool from which your benefit is paid. Each year the actuary reviews AvSuper's financial position to ensure that the asset pool remains adequate to meet members' accrued benefits. Employer contributions may then be increased or decreased depending on the actuary's findings.

Your benefit is calculated by reference to a formula prescribed in AvSuper's Trust Deed and your accrued benefit is not dependant on the actual payments being made by your employer.

It is not possible to determine the actual value of the employer's contribution for the purpose of the concessional contributions limit in the same way as can be done for an accumulation scheme where the employer contribution is actually credited to each member's account. Therefore, the Government issued regulations specifying the method for valuing employer contributions to funded defined benefit schemes.

How do I estimate the amount of my defined benefit contributions for the purposes of the concessional cap?

Table 1 below details the percentage of your superannuation salary that will count towards your concessional contributions cap each financial year. The superannuation salary used is the one determined by Airservices Australia or CASA on your birthday immediately prior to 1 July each year, i.e. the calculations for the 2009/10 financial year will be based on the superannuation salary determined on your birthday immediately prior to 1 July 2009.

If you are contributing to your defined benefit account by way of salary sacrifice, the calculation will also include the value of this contribution. If you are contributing from after tax dollars, this contribution is excluded from the calculation as it counts towards your non-concessional cap.

If you have changed or intend to change your contribution rate during the financial year this will need to be taken into account when you do your estimate.

If you take leave without pay for which you do not accrue superannuation, allowance will be made for this.

If you are a CSS AvSuper Defined Benefit Member, 1.2% of Superannuation Salary will count towards the concessional contribution cap.

Table 1: Full Defined Benefit Member

Selected Contribution Rate (%)	percentage of superannuation salary which counts towards concessional cap	
	Member contribution made by salary sacrifice	Member contribution made from after tax dollars
0	7.2%	7.2%
1	8.4%	7.2%
2	9.6%	7.2%
3	10.8%	7.2%
4	13.2%	8.4%
5	14.4%	8.4%
6	15.6%	8.4%
7	15.6%	7.2%
8	16.8%	7.2%
9	18%	7.2%
10	19.2%	7.2%

I have done the defined benefit calculation and I am already over the concessional cap

Currently, there are 'grandfathering' provisions which state that if the value of your defined benefit exceeds the cap, you will be considered to be equal to the cap, i.e. you will not be subject to the increased tax on the excess. These provisions apply for members with defined benefits at 12 May 2009. However, any other concessional contributions you may have in the relevant financial year will be subject to the additional tax, e.g. salary sacrifice contributions you make to AvSuper's accumulation section or another fund, or employer contributions which you may receive from a second employer.

The 'grandfathering' provisions won't apply if:

- You increase or have increased your contribution rate after 12 May 2009 (unless the increase was a salary sacrifice change from 6% to 7%)
- AvSuper's rules are varied to increase the benefit or to improve the method of calculating superannuation salary after 12 May 2009.
- Your superannuation salary increased after 12 May 2009 by more than 50% over 1 year or 75% over 3 years, and your employer is unable to certify that the increase was on an arm's length basis. We are required to report any of these `salary increases to the ATO even if the employer's certification is received.
- The AvSuper Trustee or your employer exercises discretion to pay a greater benefit than provided for in AvSuper's rules.