Monthly Information Newsletter – Tax & Super

April 2022

Salary Sacrificing to Super

Are you an employee thinking of putting some of your pre-tax income into superannuation to boost your retirement savings? This is known as salary sacrifice, and the good news is that it can benefit you and your employer.

What is salary sacrifice?

An effective salary sacrifice agreement (SSA) involves you as an employee, agreeing in writing to forgo part of your future entitlement to salary or wages in return for your employer providing you with benefits of a similar value, such as increased employer superannuation contributions.

Contributions made through a SSA into superannuation are made with pre-tax dollars and do not form part of your assessable income.

This means salary sacrifice contributions are not taxed at your marginal tax rate (MTR) and will instead be subject to superannuation contributions tax of up to 15% when received by your superannuation fund and will count toward your concessional contributions (CC) cap.

The CC cap is a limit to how much you can contribute to superannuation. The combined total of your employer superannuation guarantee (SG) and salary sacrificed contributions must not be more than $27,500 per financial year. Note that there are other, very rare types of contributions that also contribute towards your CC cap.

For most people, the 15% contributions tax will be lower than their MTR. You benefit because you pay less tax while boosting your retirement savings.

Your employer also benefits because salary sacrifice contributions are tax deductible to them and there is no limit to the amount of their contribution/deduction.

However, this is not the case for employees. Salary sacrifice contributions in excess of your CC cap will be included in your assessable income and taxed at your MTR. You will however be entitled to a 15% non-refundable tax offset to compensate for the tax paid by the superannuation fund on the same excess contribution.

Warning – Division 293 tax on higher income earners

If you earn more than $250,000 pa in income, you will pay an additional 15% tax on your CCs.

For many impacted people however, CCs are still worthwhile as even though they pay 30% tax on CCs, this is still less than the top MTR of 47% (including Medicare levy) that applies to high income earners who are liable for Division 293 tax.

The additional Division 293 tax is administered by the ATO who will work out if you need to pay the tax based on information in your tax return and data the ATO receives from your superannuation fund(s).

The benefits of salary sacrifice

- Disciplined approach to saving – individuals who struggle to save may benefit from salary sacrificing as contributions are deducted directly from pre-tax income. This automatic process can help you build your superannuation over the long-term and save for retirement.
- Tax saving is immediate – because contributions are made from pre-tax salary, the personal tax benefit is derived 'up-front'. This means the saving goes straight to your superannuation fund and you can benefit from compounding returns on the tax saving amount (presuming the return is positive) throughout the year.
- Dollar cost averaging – salary sacrifice allows you to buy into the market at regular intervals and, therefore, reduce the risk of market timing.
- Easy to administer once established – you do not need to claim a deduction in your tax return or lodge a notice of intent form with your superannuation fund when salary sacrificing, unlike personal deductible contributions.

- Employer matching arrangements – salary sacrifice may also be attractive if your employer offers generous matching arrangements to their employees, for example, an additional 1% employer contribution for each 1% of salary sacrificed.

Tip – consider the carry forward rules

You may be eligible to make large CCs in a year without exceeding your CC cap under the carry forward CC rules. These rules allow certain individuals to make extra CCs in excess of the general concessional cap by utilising any unused concessional cap amounts from the previous five financial years (commencing from 1 July 2018).

To be eligible to make carry forward CCs in a year, you must have:

- A total superannuation balance (TSB) of less than $500,000 at the end of 30 June in the previous financial year, and
- Unused CC cap amounts for one or more of the previous five financial years in which the extra CCs are made.

The key issues to consider

- SSA may be ineffective – where your employer offers salary sacrifice, the arrangement must be in place before you have actually earned the entitlement. This means only income that relates to future employment and entitlements can be salary sacrificed into superannuation. This is known as an 'effective' SSA. With any bonus payments, the arrangement needs to be made before a decision to pay the bonus has been made. This applies even when the bonus won't be paid until some time in the future.
- No control over when a salary sacrifice contribution will be made – all SSA should be documented and signed by you and your employer in writing. It should also include details outlining the amount to be salary sacrificed and frequency of contributions. This is because superannuation legislation does not specify the contribution frequency required for salary sacrifice contributions, unlike SG contributions.
- Employer may not offer salary sacrifice to employees – although most employers will offer SSA to their employees, it is not compulsory for an employer to offer salary sacrifice to their staff. Further, due to the paperwork involved and changes to the pay system, some employers may restrict their employees to one salary sacrifice negotiation per year, which can make it hard if the employee changes their mind if things change from month to month.
- Potential for excess CCs – once established, salary sacrifice should not be a 'set and forget' strategy. For example, your salary may increase/decrease, or the CC cap may change. Therefore, it is important to track the contributions regularly if aiming to maximise, and also stay within, the CC cap.