



## Deductions on Personal Super Contributions – Don't get caught out.

*For those receiving income as both an employee and in a self employed capacity, forward planning can be vital to ensure that you maximise personal deductions.*

Claiming a tax deduction on voluntary contributions to superannuation is a highly effective strategy to manage personal income tax while also building superannuation savings for retirement. Individuals can claim superannuation contributions as a tax deduction where they are considered to be substantially self employed or unsupported. The applicable Tests in establishing this eligibility is the 10% Test:

### What is the 10% Rule

The 10% Rule looks at the individual's remuneration as an employee over total income. Where this calculation results in the employee based remuneration being less than 10% of total income, the individual is considered substantially self employed.

$$\frac{\text{Total employee's sourced income + Reportable Fringe Benefits + Reportable Employer Super Contributions (RESC)}}{\text{Total Assessable Income+ Reportable Fringe Benefits + Reportable Employer Super Contributions (RESC)}} < 10\%$$

Historically many individuals utilised salary sacrifice arrangements over their employment income to improve eligibility under the 10% Rule. This strategy was effective as salary sacrifice contributions were excluded from 'Total employee's sourced income'.

From the 1<sup>st</sup> July 2009, the 10% Rule changed so that Reportable Employer Superannuation Contributions (RESC) were included. RESC's are contributions made to superannuation where the **employee is capable of influencing** the amount their employer contributes on their behalf, for example salary sacrifice.

### Consider the following example:

Bill is a 52 year old doctor earning \$15,000 plus 9% standard superannuation contributions doing part time work at the hospital as an employee. Further to this Bill's earns \$130,000 from his own practice. Prior to the 2009/10 financial year Bill salary sacrificed 100% of his employment income which enabled him to make additional personal tax deductible superannuation contributions (up to his allowable limit).

This year however, Bill is surprised to find out on completing his 2009/10 tax return that he cannot claim a deduction on personal superannuation contributions as he no longer meets the 10% Rule (given the inclusion of



Reportable Employer Superannuation Contributions (RESC) i.e salary sacrifice). The 10% Rule for Bill is calculated as follows:

$$\$15,000 / (15,000 + 130,000) = 10.34\%.$$

#### **Possible strategies to improve eligibility**

In a situation where an individual may just fall short of meeting the 10% there are number of strategies which can be utilised to increase an individual's non-employee assessable income improving eligibility. These include:

- Realising a capital gain on assets in the individual's name
- Increasing trust distributions of income &/or capital gains
- Commencing a pension from superannuation for those under age 60
- Undertaking a gearing Strategy
- Taking a lump sum from super under the age of 60.

Prior to undertaking any of these strategies, it is critical to investigate the additional tax burden (associated with increasing the individual's income) versus the benefit associated with the tax deduction available on the superannuation contribution.

Returning to the example of Bill, if he had realised a capital gain of \$6,000 during the financial year, the 10% Rule would change to:

$$15,000 / (15,000 + \$130,000 + 6,000) = 9.93\%.$$

As a result Bill would be able to make additional tax deductible contributions of \$33,650 for the financial year over and above the amount currently being salary sacrificed. Based on Bill's marginal tax rate, the realisation of the capital gain would result in additional tax of \$2,310 however the benefit of the additional tax deductible superannuation contribution would be \$7,907.75.

As this article illustrates, forward planning can be very important to those on the borderline of meeting the 10% Rule and wishing to claim tax deductions on personal contributions to superannuation. If you would like to discuss any aspect of this document please call your adviser on 9476 3900.



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