TR 2010/1A - Addendum - Income tax: superannuation contributions

Addendum

Taxation Ruling

Income tax: superannuation contributions

This Addendum amends Taxation Ruling TR 2010/1 to defer the date of effect of one aspect of the Ruling and to include a further example.

TR 2010/1 is amended as follows:

1. Paragraph 71

Omit the paragraph; substitute:

> 71. A superannuation provider will no longer hold a contribution, or at least a part of it, if the member has chosen to roll-over or withdraw a part of the superannuation interest held by the provider. In such a case, a deduction notice cannot be given for the entire contribution. A valid deduction notice will be limited to a proportion of the tax free component of the superannuation interest that remains after the roll-over or withdrawal. That proportion is the value of the relevant contribution divided by the tax free component of the superannuation interest immediately before the roll-over or withdrawal – see Examples 10 and 10A.

2. Example 10 Heading

Insert ‘ – roll-over’ after the heading.

3. Paragraphs 94 and 95

Omit ‘2009’; substitute ‘2012’.

4. Paragraph 97

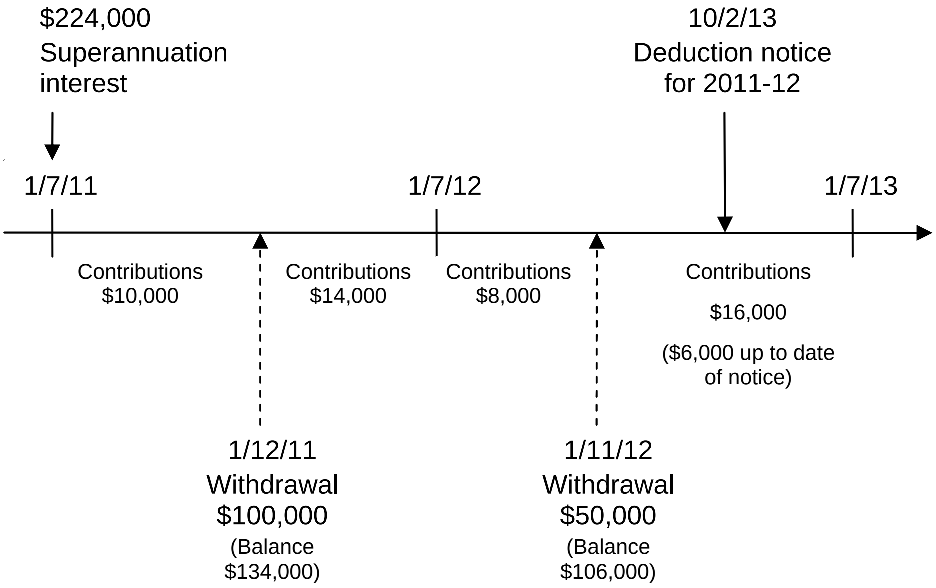
(a) Omit ‘2009’; substitute ‘2012’.

(b) Omit ‘2008-09’; substitute ‘2011-12’.

5. Paragraph 99

Insert after the paragraph:

Example 10A – valid notice of intention to deduct – multiple withdrawals



99A. This example assumes no investment earnings or administration fees. All calculations have been rounded to the nearest dollar.

99B. On 1 July 2011 Mark had a superannuation interest valued at $224,000 including a tax free component of $74,000. Mark pays superannuation contributions of $2,000 on the 20th day of each month.

1st withdrawal

99C. On 1 December 2011 Mark withdraws $100,000. Prior to the withdrawal Mark's account balance was $234,000 including a tax free component of $84,000 ($74,000 + $10,000 contributions). The balance after withdrawal is $134,000 including a tax free component of $48,103.[24A]

[24A] That is, $100,000 withdrawal x $84,000 (tax free component) / $234,000 = $35,897 tax free component withdrawn. Remaining tax free component is therefore $84,000 - $35,897 = $48,103.

99D. The withdrawal affects the amount Mark can include in a valid deduction notice for the contributions made from 1 July 2011 until the withdrawal (1 December 2011) as only a proportion of these contributions are still held by the fund. The proportion of the $10,000 in contributions still held by the fund is:

$$\text{Tax free component of remaining interest} \times \frac{\text{Contributions}}{\text{Tax free component of interest before withdrawal}}$$

$$\$48{,}103 \times \frac{\$10{,}000}{\$84{,}000}$$

$$\$5{,}727$$

2nd withdrawal

99E. Mark makes a second withdrawal of $50,000 on 1 November 2012. Prior to the withdrawal Mark's account balance was $156,000 including a tax free component of $70,103 ($48,103 + $14,000 + $8,000). The balance after withdrawal is $106,000 including a tax free component of $47,634.[24B]

99F. This second withdrawal also affects the amount Mark can include in a valid deduction notice for contributions made in the 2011-12 income year. Additionally, it affects the amount that can be included in a valid deduction notice for contributions made in the 2012-13 income year insofar as the contributions ($8,000) were made before the withdrawal.

Valid deduction for the 2011-12 income year

99G. For the 2011-12 income year Mark had made contributions of $10,000 prior to the withdrawal on 1 December 2011. As calculated above, only $5,727 of those contributions remained in the fund after the first withdrawal. After the first withdrawal, further contributions of $14,000 were made in the 2011-12 income year. The proportion of the contributions made in the 2011-12 income year that are still in the fund after the second withdrawal and for which Mark could present a valid deduction notice for 2011-12 is:

[24B] That is, $50,000 withdrawal x $70,103 (tax free component) / $156,000 = $22,469 tax free component withdrawn. Remaining tax free component is therefore $70,103 - $22,469 = $47,634.

$$\text{Tax free component of remaining interest} \times \frac{\text{Contributions}}{\text{Tax free component of interest before withdrawal}}$$

$$\$47,634 \times \frac{\$5,727 + \$14,000}{\$70,103}$$

$$\$13,404$$

Valid deduction for the 2012-13 income year

99H. For the 2012-13 income year Mark had made contributions of $8,000 between 1 July 2012 and the second withdrawal on 1 November 2012. The proportions of these contributions which are still held by the fund after the second withdrawal and for which Mark could give a valid notice for 2012-13 are:

$$\text{Tax free component of remaining interest} \times \frac{\text{Contributions}}{\text{Tax free component of interest before withdrawal}}$$

$$\$47,634 \times \frac{\$8,000}{\$70,103}$$

$$\$5,436$$

99I. On 10 February 2013 Mark presented a valid deduction notice for $13,404 for contributions made during the 2011-12 income year. These contributions cease to be part of the tax free component and become part of the taxable component. The balance of Mark’s interest is reduced by $2,011 (15% of $13,404), being the tax payable by the fund on the contribution which is now assessable income of the fund. The balance of Mark’s interest after presentation of the notice is $109,989 ($106,000 + $6,000 – $2,011), comprising a tax free component of $40,230 ($47,634 + $6,000 – $13,404) and a taxable component of $69,759 ($109,989 – $40,230).

99J. Provided Mark does not make another withdrawal before he presents a deduction notice for the 2012-13 income year a valid notice can be given to the fund for $21,436. This comprises the contributions made between 1 July 2012 and 1 November 2012 that remain in the fund after the withdrawal ($5,436) and contributions made between 1 November 2012 and 30 June 2013 ($16,000).

6. Paragraph 106

Omit the paragraph; substitute:

> 106. Further, to the extent to which the approach taken in paragraphs 71 and 72 and Examples 10, 10A and 11 of this Ruling are not reflected in a superannuation provider's current administrative practice, they will apply to personal contributions made in the 2011-12 and later income years.

7. Paragraph 275

Omit the paragraph; substitute:

> 275. Examples 10 and 10A show how to work out how much of a particular contribution a superannuation provider continues to hold and therefore can be the subject of a valid deduction notice after a superannuation lump sum has been paid from an interest. The valid deduction notice will be limited to a proportion of the tax free component of the superannuation interest that remains after the roll-over or withdrawal. That proportion is the value of the relevant contribution divided by the tax free component of the superannuation interest immediately before the roll-over or withdrawal. Example 10A shows that the amount of contributions that can be included in a valid deduction notice must take into account all superannuation lump sum payments to which the proportioning rule in section 307-125 applies and that have been paid from an interest after the contributions were made. This is so even though the payments may occur in a different income year to the year in which the contributions were made.

8. Detailed contents list

Omit:

Insert:

9. Legislative references

Insert:

- ITAA 1997 307-125

This Addendum applies on and from 25 February 2010.

Commissioner of Taxation
8 December 2010

ATO references
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