

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

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# Addendum

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## 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’.

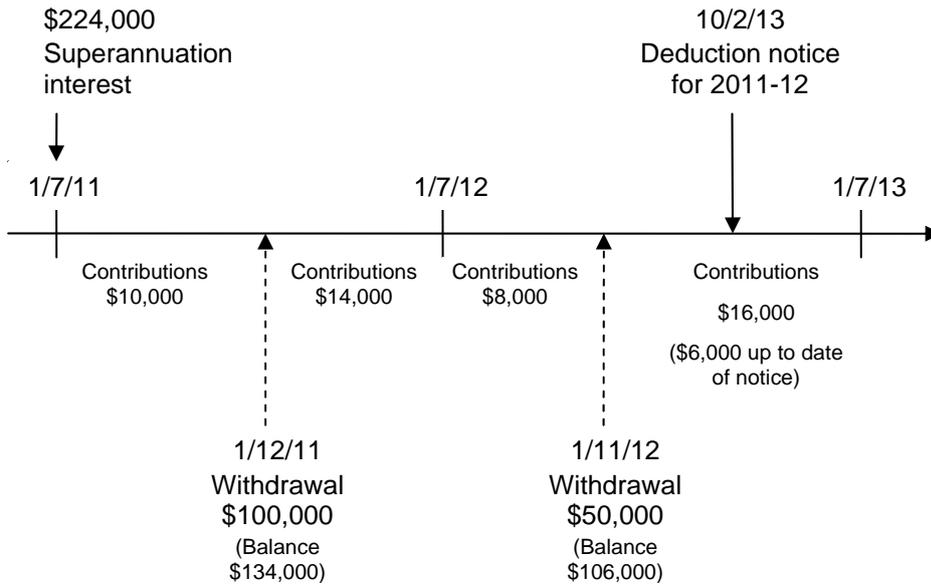
(b) Omit ‘2008-09’; substitute ‘2011-12’.

# TR 2010/1

## 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 20<sup>th</sup> 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.<sup>24A</sup>

<sup>24A</sup> 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:

Tax free component of remaining interest	×	Contributions
		Tax free component of interest before withdrawal
\$48,103	×	\$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.<sup>24B</sup>

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:

<sup>24B</sup> That is, \$50,000 withdrawal × \$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.

$$\begin{array}{rcl}
 \text{Tax free component of} & \times & \text{Contributions} \\
 \text{remaining interest} & & \hline
 & & \text{Tax free component of} \\
 & & \text{interest before withdrawal} \\
 \\ 
 \$47,634 & \times & \underline{\$5,727 + \$14,000} \\
 & & \$70,103 \\
 \\ 
 & & \$13,404
 \end{array}$$

*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:

$$\begin{array}{rcl}
 \text{Tax free component of} & \times & \text{Contributions} \\
 \text{remaining interest} & & \hline
 & & \text{Tax free component of} \\
 & & \text{interest before withdrawal} \\
 \\ 
 \$47,634 & \times & \underline{\$8,000} \\
 & & \$70,103 \\
 \\ 
 & & \$5,436
 \end{array}$$

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:

*Example 10 – valid notice of intention to deduct* 94

Insert:

*Example 10 – valid notice of intention to deduct – roll-over* 94

*Example 10A – valid notice of intention to deduct – multiple withdrawals* 99A

*1st withdrawal* 99C

*2nd withdrawal* 99E

*Valid deduction for the 2011-12 income year* 99G

*Valid deduction for the 2012-13 income year* 99H

## 9. Legislative references

Insert:

- ITAA 1997 307-125

This Addendum applies on and from 25 February 2010.

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**Commissioner of Taxation**

8 December 2010

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ATO references

NO: 1-2A54B0P

ISSN: 1039-0731

ATOlaw topic: Income Tax ~~ Deductions ~~ superannuation  
contributions