Spouse Contribution Tax Offset

Where a taxpayer has a spouse with a low income or who is not working and under 67, they (the taxpayer) may be eligible to make a contribution to superannuation on their spouse's behalf and claim a tax offset. This has the double effect of helping the spouse grow their retirement savings and also gives the taxpayer a tax benefit at the same time. The maximum tax offset that can be claimed is currently $540 and is available subject to several conditions being met.

Previously the age limit for a spouse to receive contributions was age 70, however, the age limit has increased to age 75, from 1 July 2020. As a result, there are now more opportunities for people to take advantage of the availability of this tax offset.

Who can make spouse contributions?

The receiving spouse must be eligible to make contributions, so their age, working status and total superannuation balance are significant. They must satisfy the following conditions:

- Be under age 67;
- Be aged between 67-75 and have met the work test; OR
- Be aged between 67-75 and have met the work test exemption requirements

The work test requires the member undertakes at least 40 hours of gainful employment within a period of 30 consecutive days. To be considered gainful employment the person must provide a service and be remunerated for doing so. Voluntary unpaid work does not count in this context.

The work test exemption was introduced from 1 July 2019 and enables individuals over age 67 to effectively disregard the work test in the year following the year they ceased employment. Whilst the exemption allows an individual over age 67 but under age 75 to contribute to super in the year following their retirement, their Total Superannuation Balance must be less than $300,000 at 30 June immediately prior to the contribution. It is important to note that the work test must be satisfied in the financial year prior to the year in which the contribution is made. Additionally, the work test exemption cannot have been used in a previous year.

Eligibility for the spouse contribution tax offset

The eligibility conditions to be entitled to claim the tax offset can be summarised as follows:

- The contributions made on behalf of a spouse are not deductible to the taxpayer
- At the time the contributions are made the parties satisfy the definition of spouses (spouse can be of any sex and includes de facto relationships)
- Both must be Australian residents and living together at the time of the contributions
- The spouse must be under age 75 (see above)
- The superannuation fund receiving the contributions must have been a complying superannuation fund for the year in which the contributions were made
- The spouse must have not exceeded their non-concessional contributions cap for the year (as these contributions count towards their non-concessional contributions cap)
- The spouse must not have a Total Superannuation Balance exceeding the General Transfer Balance Cap as at 30th June of the prior financial year. This General Transfer Balance Cap is currently $1.6 million and will be indexed to $1.7 million from 1 July 2021
- The spouse's income does not exceed the threshold of $40,000. The income threshold includes the following in the calculation:

- Assessable income (excluding First Home Super Saver released amounts that were assessable)
- Reportable employer super contributions
- Total reportable fringe benefits

Where their income is under $37,000, a contribution of $3,000 will generate the maximum tax offset available, which is $540. Where their income is over $40,000 there will be no entitlement to a tax offset. Between the thresholds the amount of the tax offset is 18% of the lesser of $3,000 reduced by the amount of income over $37,000 and the value of the spouse contributions.

The following table summarises how the tax offset is calculated by the ATO with the relevant income thresholds that apply:

Income Thresholds	Maximum Tax Offset
0 - <$37,000	18% of the value of the spouse contributions for the year up to a maximum of $540
>$37,000 - <$40,000	18% of the lesser of: $3,000 reduced by every dollar of income over $37,000 AND The value of the spouse contributions
> $40,000	Nil

<u>Example 1 – Full tax offset</u>
Joe and Cathy are spouses, married and living together. They meet the age and other eligibility criteria for the spouse tax offset. Joe makes a $3,000 contribution for Cathy. Cathy has total income of $35,000. As Cathy's income is under the lower income limit, the maximum tax offset is available to Joe.

The tax offset that can be claimed by Joe is calculated as 18% of $3,000 = $540

<u>Example 2 – Partial tax offset</u>
Geoffrey and Heather are spouses, married and living together. They meet the age and other eligibility criteria for the spouse tax offset. Heather makes a $3,000 contribution for Geoffrey. Geoffrey has total income of $39,000. Therefore, as he exceeds the lower income limit, the maximum tax offset is not available to Heather.

The tax offset is calculated as the lesser of the following:
18% x ($3,000 – ($39,000 - $37,000)) = $180
18% x $3,000 = $540
So the lesser amount that can be claimed as the tax offset by Heather is $180

Where a person has more than one spouse during the financial year and satisfies the conditions of the tax offset for more than one spouse, they are able to claim the tax offset being the lesser of the sum of the entitlements for each spouse, or $540. Therefore, the maximum entitlement in any year is $540. It's also important to note that this does not apply for contributions made to an individual's own account and then split to their spouse under a Contribution Splitting arrangement.

Proposed changes to the rules

The above rules apply at the time of writing. As part of the 2021/22 Federal Budget, the Government have proposed to remove the work test for individuals aged 67-74 for making voluntary contributions such as non-concessional contributions. As the receiving spouse in this type of arrangement must be eligible to receive a contribution, the changes to the work test will increase the opportunities to make spouse contributions. These changes are expected to come into effect from 1 July 2022 and are not law at this time.