

MEDIA RELEASE

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12 MONTHS TO TAKE ADVANTAGE OF DOUBLE SUPER CONTRIBUTIONS

The double maximum deductible contributions (MDC) strategy is often overlooked by advisers despite being one of the most effective superannuation strategies available, and given its planned phase out on 1 July 2007, needs to be on the agenda early this financial year, says Challenger Technical Services Manager, Nathalie Bouquet.

“The MDC strategy offers eligible clients the opportunity to access the aged based limit twice and is particularly useful for clients with multiple company directorships, or who contract their services to different employers,” said Ms Bouquet.

“Under the current MDC rules, anyone employed by two or more unrelated employers can access more than one MDC amount – as each employer can claim up to that person’s MDC limit. For example, a doctor who works in a hospital and also has an incorporated medical practice may be an eligible employee of both the hospital and the medical practice. This means that both employers are able to make tax deductible contributions.

“Directors of their own company may also be able to take advantage of the double MDC strategy by using a salary sacrifice arrangement together with qualifying for a personal tax deduction on their own contributions up to their age based limits.

“The MDC strategy has been available for many years, but it hasn’t been well understood. Changes proposed in the Federal Budget mean it will lose much of its appeal from 1 July 2007 and so will need to be set in place early in the financial year,” she concluded.

Following is information on how the strategy works and examples of how it can be applied in practice.

Employer Deductible contributions

Employers are able to claim a tax deduction for superannuation contributions made on behalf of *eligible employees* (section 82AAC ITAA 1936). An employee is defined as a person who is



- Engaged in producing assessable income of the taxpayer; or
- Is a resident of Australia and is engaged in the business of the taxpayer.

The maximum amount an employer can claim as a tax deduction in a particular year is determined according to the age of the employee when the last deductible contribution is made for the financial year.

The MDC limits for 2006-2007 are:

Age	MDC	Amount self employed required to contribute to claim full MDC
Less than 35	\$15,260	\$18,680
35-49	\$42,385	\$54,847
50+	\$105,113	\$138,484

Only one MDC amount is available between an employer and its associates for any particular employee. If an employer or its associate contributes in excess of the age based limit, the excess contribution will:

- Not be deductible to the employer or its associate;
- Still be treated as taxable contribution in the fund and taxed at 15 per cent.

Note: The definition of associate is found in section 26AAB ITAA 1936 and is fairly complex. Your clients may need to seek tax advice in relation to this.

Substantially self-employed individuals

Aged-based limits also apply to individuals who are eligible for a tax deduction for their own personal contributions.

Another group of clients that may be able to double their MDC are those classed as an *eligible persons* (section 82AAS ITAA 1936) and who are able to claim a deduction for personal contributions (section 82AAT ITAA 1936) while still being employed and receiving employer superannuation support.

With this strategy, the company is able to make deductible contributions to superannuation on behalf of eligible employees up to the relevant aged based limits. In addition, a person who receives superannuation support from an employer is entitled to claim a tax deduction for personal contributions if they are classed as an *eligible person* and meet the *10 per cent rule*. This occurs when a person's assessable, exempt income and reportable fringe benefits from



eligible employment is less than 10 per cent of their total assessable income and reportable fringe benefits for the financial year.

Under current rules, the maximum an *eligible person* can claim as a tax deduction is \$5000 plus 75 per cent of the remaining contribution up to the relevant MDC limit.

In this instance, it does not matter if the employee and the employer are associated as section 82AAC and 82AAT are not linked by an associate test. This strategy is mainly available to clients who own and are directors of their own company.

Let's take a look at how this might work in practice:

Case study

Simon is 53 and a director of his own company. His total assessable income for the year is \$150,000, including salary and dividends from his company. As long as the amount he receives from the company as salary is less than \$15,000 in that income year, he will meet the *10 per cent rule* and be classed as an *eligible person* under section 82AAS.

Under the current rules:

- The company can make \$105,113 of deductible contributions on Simon's behalf*;
- Simon can also personally contribute \$138,484 to receive \$105,113 as a personal tax deduction;
- Total deductible contributions for the financial year can be up to a maximum of \$210,226

*Directors are automatically deemed to be employed by the company by virtue of section 82AAC (2A).

The company should be entitled to a tax deduction so long as the director is:

- Engaged producing assessable income of the company;
- Works in the business (for directors who are Australian residents);
- An employee for the purposes of the SGA Act.

Note: The rules surrounding what counts as employment income are slightly grey and the ATO has tried to disallow deductions in a number of cases. For a closer look at the 10 per cent rule, please refer to Challenger Technical Update Issue 41: Self employed persons and the 10% rule; and ATO Taxation Ruling TR 2005/24 Deductibility of personal superannuation contributions.



Proposed Rules from 1 July 2007

The age based limits are to be abolished from 1 July 2007 and replaced with a single limit on *concessional contributions* of \$50,000 regardless of a person's age.

Under the proposed rules, concessional contributions will be taxed at 15 per cent and will include SG, salary sacrifice and deductible self employed contributions. Deductible contributions in excess of \$50,000 will be taxed at the top marginal tax rate by the superannuation fund, but will still be fully deductible to the contributor.

Transitional arrangements will apply to those aged 50 or over, where a concessional limit up to \$100,000 will apply between the 2007/2008 and 2011/2012 financial years. Treasury has confirmed that the transitional arrangements will apply for individuals who turn 50 during the transitional period.

If we refer to our case study above, under the rules proposed from 1 July 2007:

- Contributions taxed at 15 per cent would be limited to \$100,000 (this would be \$50,000 if Simon was under 50 years of age);
- If for example, the company made \$100,000 deductible contribution on behalf of Simon, any personal deductible contributions he made as an *eligible person* would be taxed at the highest MTR;
- Simon however, would be eligible for a full tax deduction for his personal contribution. He would not be limited to \$5000 plus 75 per cent of the remaining contribution.

There is still an opportunity for your clients to utilise the double MDC strategy this financial year. If client's need to set up salary sacrifice arrangements in order to meet the *10 per cent rule*, it is important to set these early in the financial year as they must be prospective arrangements.

Increasing your clients overall assessable income for the year is another way of helping clients qualify for the *10 per cent rule*. This may be achieved through receiving extra distributions from the company or trust, for example, or crystallising a capital gain.

Now is a good time to talk to your clients to ensure they have the proper arrangements in place to make the most of the current rules.

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