Superannuation – First Home Super Saver Scheme

The First Home Super Saver (FHSS) scheme is aimed at assisting you to purchase your first home. This is achieved through allowing voluntary contributions to be made to superannuation and subsequently withdrawn to pay a deposit for the first home.

How it works

General eligibility

To be eligible to withdraw from superannuation under the FHSS scheme, you must:

1. not have owned property in Australia before
2. be aged 18 years or older; and
3. have not previously had an amount released from superannuation under this scheme.

Never owned property
As this scheme is targeted towards first home buyers, it is a requirement that you have not previously owned a property. This includes an interest in any property, not just a property that was treated as a main residence. Therefore, a current or previous interest in property, including an investment or commercial property, will make you ineligible to use this scheme.

If you're purchasing the property with another person, eligibility is determined individually, and provided that the criteria are met, it is possible for one person to be eligible to participate in the scheme where the other fails to qualify. For example, this might be the case where you wish to purchase a home with your spouse, but your spouse has previously owned an interest in a property but you have not.

Age requirement
When an amount is released under the FHSS scheme, you must be aged 18 or over. There is no restriction to making voluntary contributions to superannuation under 18 which may be accessed under the scheme after reaching age 18.

One release request from superannuation
Only one withdrawal can be made from eligible contributions under the scheme.

Eligible contributions

Contributions that can be withdrawn under the FHSS scheme must be voluntary. Voluntary contributions can be either concessional or non-concessional contributions.

Voluntary concessional contributions can be made from pre-tax income (eg salary sacrifice) or personal contributions for which a deduction has been claimed (personal deductible contributions). Voluntary non-concessional contributions are made from after-tax income you make and no tax deduction is claimed.

A number of contributions to superannuation are not eligible to be withdrawn under the FHSS scheme. These include:

- compulsory employer contributions (eg Superannuation Guarantee)
- spouse or child contributions

- Government co-contribution, and
- voluntary contributions to defined benefit funds or constitutionally protected funds.

The maximum eligible voluntary contributions that count towards the amount that can be withdrawn are:

- $15,000 per financial year, and
- $30,000 in total.

The contributions made in a year must also be within the relevant contribution cap. The contribution caps are intended to limit the amount of tax concessions relating to superannuation. Contribution caps are indexed periodically.

NOTE: In the 2021/22 Federal Budget, the Government announced a proposal to increase the maximum amount that can be released under the FHSS scheme from $30,000 to $50,000. Other eligibility criteria were unchanged, including the $15,000 per financial year limit.

Legislation needs to pass before this change becomes law. The Government has indicated the commencement date of the change is expected to be 1 July 2022.

Concessional contributions
Your annual concessional contribution cap is $27,500 (applies in the 2021/22 financial year). Concessional contributions generally consist of contributions made from pre-tax income (such as superannuation guarantee (SG) and salary sacrifice) or contributions for which a deduction has been claimed (personal deductible contributions).

If you exceed your concessional contribution cap, excess contributions are taxed at your marginal tax rate less the 15% tax already deducted within the fund. An interest penalty will also apply. You can elect to withdraw the excess contribution from your super fund. If you don't withdraw the excess it is also counted towards the non-concessional contributions cap.

Non-concessional contributions
Non-concessional contributions generally consist of contributions from after-tax income, such as personal contributions (for which you don't claim a tax deduction) and spouse contributions.

The annual non-concessional contribution cap for the 2021/22 financial year is $110,000. But if you are under age 67 on 1st of July in a financial year you may be able to trigger the 'bring-forward' rule to make larger contributions.

The 'bring-forward' rule effectively allows you to bring forward up to an additional two years' worth of non-concessional cap and add it to the current year's cap. If eligible, you may be able to contribute up to $330,000 over the three year period. Whether or not you're eligible to use the bring-forward rule will depend on your 'total super balance'.

The bring-forward rule is automatically triggered if you're eligible and make non-concessional contributions in a financial year that exceed the annual non-concessional contribution limit. Once triggered, your non-concessional contribution cap will not be indexed for the balance of your bring-forward period. In addition, you must have total superannuation savings of less than the general transfer balance cap ($1.7 million for FY2021/22) at 30 June of the previous financial year to be eligible to make non-concessional contributions in the following years.

These rules are complex so it is important that you get advice to help you understand how these rules apply in your situation.

If you exceed your non-concessional contribution cap, you can choose to have the excess contributions and associated earnings (as calculated by the Australian Tax Office (ATO)) refunded with penalty tax only applied to the earnings. If not withdrawn, the excess contributions are taxed at the highest marginal tax rate plus Medicare levy. The tax payable must be withdrawn from superannuation.

Releasing eligible contributions

To have eligible contributions released under the FHSS scheme, you will need to:

1. Apply to the ATO to determine the maximum amount that you are eligible to withdraw, and
2. Complete the release authority provided by the ATO.

1. Applying to the ATO for a determination

When you are ready to make the withdrawal under the FHSS scheme, you can make an application to the ATO to find out how much you're able to withdraw. The ATO will issue you a FHSS determination. The FHSS determination will state the maximum amount of eligible contributions and associated earnings that you are able to withdraw – referred to as the FHSS maximum release value.

The associated earnings as part of the FHSS maximum release value is determined by a legislative formula and does not reflect the actual earnings derived in the superannuation fund.

The maximum release amount will be to the total of:

- Eligible non-concessional contributions
- 85% of eligible concessional contributions
- 85% of associated earnings.

You'll need to apply for a FHSSS determination before you sign a contract to purchase or construct your new home. You are able to sign a contract from the date you make a request to withdraw funds, or up to 14 days before.

2. Complete release authority

Once you receive a FHSS determination, you may request the ATO to issue your superannuation fund with a release authority for all or part of the maximum release amount.

You are only able to make one request for an amount to be withdrawn.

The amount released by the superannuation fund will be directed to the ATO. The ATO will withhold any tax (see below) and then provide you with the net amount.

Taxation of released amount

Released eligible non-concessional contributions will be received tax-free. Eligible concessional contributions and associated earnings (including those on non-concessional contributions) withdrawn will be added to your assessable income for that financial year and taxed at your marginal tax rate less a 30% tax offset. A tax offset reduces tax payable. As the withdrawal will occur

during the financial year, the ATO will make an estimate of your marginal tax rate. If the ATO is unable to estimate your income, withholding tax of 17% will apply.

Amounts received under the FHSS scheme are ignored when calculating eligibility to a number of benefits and concessions. These include:

- Family Tax Benefit A and B
- Child support
- HECS/HELP repayments
- Medicare levy surcharge, and
- Government co-contribution.

Use of withdrawn amount

As the scheme is to assist you with the purchase of your first home, the amount withdrawn must be used to enter a contract to purchase or construct your first home within 12 months (from the date you make a valid release request). The ATO has discretion to extend this period for an additional 12 months.

Your first home purchased with this money must be occupied by you as soon as it is practical as you need to establish this property as your main residence. You must live there for at least six of the first 12 months.

If you are not able to enter a contract within the 12 months (or within an ATO-approved extended period) you have two choices:

1. **Re-contribute the amount back to superannuation**
   If you contribute the amount back to superannuation, the amount will be a non-concessional contribution. This will count towards your non-concessional contribution cap. As a non-concessional contribution, you are not able to claim any amount as a tax deduction.

2. **Pay the additional FHSS tax**
   If you do not wish to contribute the amount into superannuation, you are able to retain this money but are liable for the FHSS tax. This tax is 20% of the assessable FHSS withdrawn amount (i.e. concessional contributions and all associated earnings). This is a flat tax rate.

   Additional tax penalties are payable if this tax is not paid within 21 days of receiving the ATO notice.

Benefits

These may include:

- The FHSS scheme may assist in helping you to accumulate savings as a deposit for your first home.
- Earnings that accrue on amounts contributed to superannuation are only taxed at up to 15% in the fund which may be less than your marginal tax rate. This may assist in boosting your super savings.
- When eligible contributions (and associated earnings at a set rate) are withdrawn from superannuation under the FHSS scheme, the withdrawal attracts favourable tax treatment.
- It provides a disciplined way of saving for your home deposit as the amount can only be released from superannuation for that purpose.

Risks, consequences and other important things to consider

These may include:

- The contributions for the FHSS scheme must be voluntary and exclude any contributions made on your behalf, such as mandated employer or spouse contributions, as well as contributions in excess of the relevant cap. Only voluntary contributions made from 1 July 2017 may be eligible under this scheme.
- Eligible contributions for the FHSS scheme are limited to $15,000 per year. These contributions will also count toward the relevant superannuation contribution caps. Making contributions in excess of these caps may incur significant tax penalties.
- The amount that can be withdrawn will be determined by the ATO which includes eligible contributions and associated earnings.
- When withdrawn, concessional contributions and associated earnings are included in your assessable income and taxed at your marginal tax rate less a 30% tax offset. Non-concessional contributions are returned tax-free.
- The withdrawn amount must be used to enter a contract to purchase or construct your first home within 12 months from the release date (24 months if ATO extension applies). It is a requirement that you establish this as your home and reside there for at least six months.
- The ATO will request information to determine your eligibility to make the withdrawal and use of the funds as a deposit for your first home under FHSS scheme. Penalties may apply for making false statements.
- The Government may change superannuation legislation in the future.

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