MLC TechConnect

Guide to non-concessional contributions

Table of contents

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Guide to non-concessional contributions

This guide explains the non-concessional contribution rules and provides practical examples when making these contributions.

Introduction

Non-concessional contributions (NCCs) may provide significant opportunity to build superannuation. Like other contribution types, caps and eligibility rules determine the amount and timing of NCCs, and penalties apply if limits are breached.

Some of the eligibility rules relating to NCCs are complex and require careful consideration of a client's current circumstances and future contribution opportunities. This guide explains these requirements and provides various examples to help advisers better understand the NCC rules and potential implications if these rules are not met.

What are NCCs?

NCCs are generally personal contributions made to super from after-tax income or other available capital. Certain other amounts are also captured and assessed as NCCs. Table 1 below summarises the main inclusions and exclusions.

NCCs are not subject to contributions tax. This is because these amounts are not included in the assessable income of the fund and form part of the tax-free component of the super interest.

The tax-free component is not subject to tax when released from super. In accumulation phase, any growth on the tax-free component adds to the taxable component. The amount of NCCs that can be made without incurring penalties is subject to caps. See page 8 for more information about excess NCCs.

Table 1: Summary of inclusions and exclusions for NCC cap

NCC cap - main inclusions
▪ Personal contributions and in-specie transfers for which a tax deduction is not claimed ▪ Spouse contributions ▪ Excess concessional contributions not released from super ▪ Certain amounts transferred from a foreign super fund[1] ▪ Personal after-tax contributions made to defined benefit interests and constitutionally protected funds where the amount is included in the contributions segment of the super interest ▪ Rollover of a terminal illness benefit after meeting the terminal medical condition of release ▪ Ineligible downsizer contributions (if trustee able to accept contribution) ▪ Third party child contributions (except for those made by an employer of the child)

[1] Includes total amount transferred if transfer completed within six months of residency in Australia. If transfer completed after this date, NCC includes a portion of the transfer where election is made for the assessable component of the transfer to be included in super fund earnings.

NCC cap – main exclusions
▪ Contributions included in the assessable income of a fund ▪ Government co-contributions ▪ Downsizer contributions ▪ Eligible small business sale proceeds up to the CGT cap ▪ Rollovers/transfers between complying funds or between pension and accumulation phase ▪ Low income super tax offset ▪ Structured settlement contributions relating to personal injury[2]

Eligibility and acceptance

Eligibility rules limit the amount of NCCs, including:

- an annual cap and bring-forward cap on NCCs that limits the total contributions that can be made without incurring a penalty
- a total super balance (TSB) test, and
- age requirements.

In addition, a fund trustee may not be able to accept an NCC where a member has not provided the fund with their Tax File Number (see page 5). These eligibility rules are explained in more detail below.

Annual cap

An annual cap applies to NCCs. In 2024/25 the annual cap is $120,000. The NCC cap is set at four times the annual concessional contribution (CC) cap[3].

A person who is aged 74 or under on 1 July of a financial year, may be able to bring forward up to two years of NCCs. The bring forward enables a larger contribution to be made sooner. This is referred to as the 'bring-forward rule' and is explained in more detail on page 6.

Advice Tip
Individuals have the primary responsibility for determining whether an NCC is within their NCC cap. The trustee of a super fund is not responsible for managing an individual's cap and cannot reject a contribution because the member has exceeded their cap. The trustee also does not determine contribution eligibility based on the TSB rules or under the bring-forward arrangement. An NCC which exceeds the person's NCC cap is assessed as an excess – see page 8.

Age limit

A trustee can only accept NCCs received on or before 28 days after the end of the month in which the person turns age 75. This means that if the trustee has received a contribution after that timeframe, the trustee must return the contribution within 30 days. Table 2 summarises the rules.

Table 2: Summary of aged-based rules for accepting NCCs

Age	Eligibility to make an NCC
Under 75[4]	No restriction
75+[4]	NCCs cannot be made

[2] Even though these contributions are not assessed as NCCs, other eligibility rules still apply.
[3] The CC cap is indexed at AWOTE in increments of $2,500.
[4] NCCs can be accepted on or before 28 days after the end of the month in which they turn 75.

The work test

The work test (and work test exemption) does not need to be satisfied to make NCCs. Prior to 2022/23, a work test was required to make NCCs at certain ages.

Total superannuation balance

To be eligible to make an NCC, an individual's TSB must be less than the general transfer balance cap (TBC) on 30 June of the prior financial year. Where NCCs are made and the TSB was greater than (or equal to) the permissible limit, all NCCs are assessed as excess NCCs – see page 8.

The general TBC is $1.9m[5]. To be eligible to make an NCC in the 2024/25 financial year, an individual's TSB must have been less than $1.9m on 30 June 2024. To make NCCs above the annual NCC cap (using the bring-forward rule) additional TSB thresholds apply to determine eligibility.

An individual's TSB for this purpose broadly includes the total of:

- accumulation balances
- balances of account-based superannuation income streams[6],
- value of their transfer balance account excluding account-based income stream. and
- in-transit rollovers (in transit from one super fund to another on 30 June).

The TSB is increased by certain limited recourse borrowing arrangements in SMSFs[7] and is reduced by any contributions a person has made under the structured settlement provisions[8]. For a more detailed explanation of TSB, please see our adviser document **TSB impact on contribution eligibility**. Only super benefits held in an Australian super fund are assessed for TSB purposes. Retirement benefits held outside of Australia are not included in TSB.

Advice tip

Advisers should ensure that accurate information is obtained to confirm the individual's TSB as at the prior 30 June before making a recommendation to make NCCs. The trustee of a super fund does not consider a member's TSB when accepting a contribution. Clients can access this information by logging on to their myGov account at my.gov.au, where a report can be downloaded and printed or emailed to their financial adviser.

You should take care when relying on this information. Best practice is to keep detailed records and make enquiries to each of the client's funds to validate the information. The information on myGov may not reflect the TSB as at the date of accessing the information due to timing of fund reporting, particularly for SMSFs.

Refer to our client friendly guide **How to track total super balance** for guidance on how to view TSB on myGov.

Providing a TFN

If the individual makes an NCC to super before providing their Tax File Number (TFN), the trustee must return the contribution within 30 days of becoming aware that a TFN has not been provided (unless the member provides the trustee with their TFN during this period).[9]

[5] Current for 2024/25 financial year and indexed to CPI to increase in $100,000 increments.

[6] Including Transition to Retirement pensions and other superannuation income streams.

[7] ITAA 1997 s307.230(1d) and s302.231

[8] Generally, the contribution must comply with s292-95 of ITAA 97.

[9] SIS Reg 7.04 (2),(4)

Bring-forward rule

The ability to invoke the bring-forward provisions is available to individuals who are aged under 75 on 1 July of a financial year. While age may determine whether or not a person is eligible to make NCCs above the annual cap, additional eligibility rules apply which determine the amount of bring-forward available, and whether or not the fund can accept a personal contribution. These requirements are explained below.

Amount of bring-forward available and TSB

Where eligible, the bring-forward is triggered automatically when total annual NCCs exceed the annual cap. The maximum amount available under the bring-forward, as well as whether the person has a three year, or a two year bring-forward period, depends upon their TSB on 30 June prior to the financial year in which the bring-forward is initially triggered (see Table 3).

If a person triggers the bring-forward rule but does not fully utilise the increased NCC cap in the first year of their bring-forward period, the balance is available in the second or third year (if applicable), subject to the:

- TSB at 30 June prior to the second or third year of the bring forward period[10] remaining below the general TBC applicable ($1.9m in 2024/25), and
- the member must generally be under age 75 at the time of contributing. If the client has recently turned age 75, the contribution must be received on or before 28 days after the end of the month in which the person turns age 75.

If a member makes an NCC that exceeds the allowable amount based on their TSB on the prior 30 June, the contribution is assessed as an excess NCC. Once the bring-forward period has expired, an eligible person may make further contributions within the annual cap or may trigger the bring-forward provisions again.

Advice tip

Any unused bring forward amount from a previously triggered bring forward may be utilised provided the client is under age 75 at the time of contributing (or within 28 days after the end of the month in which the person turns age 75). The TSB at 30 June prior must be below the relevant limit.

You may wish to review clients between ages 67 and 74 (inclusive) who have previously trigged the bring forward but have not satisfied the work test. These clients can utilise the remainder of the bring forward, regardless of the work test, providing their TSB is below the relevant limit.

Table 3 shows the available bring-forward for a year, based on the TSB on the 30 June prior to the financial year in which the bring-forward is triggered.

Table 3: NCCs and $1.9m general transfer balance cap

TSB on 30 June of prior financial year (ie 30 June 2024 in 2024/25)	Contribution and bring-forward available
Less than $1.66m	3 years ($360,000)
$1.66m to < $1.78m	2 years ($240,000)
$1.78m to < $1.9m	1 year ($120,000, no bring-forward available)
$1.9m and above	Nil

[10] The only requirement at that point is that the TSB as at the prior 30 June cannot equal or exceed the general TBC. This means that provided the TSB is below this amount, additional NCCs can be made under a previously triggered bring-forward even if that contribution results in the TSB increasing to greater than $1.9m – see Example 4 on page 7.

If the NCC cap is indexed during the bring forward period, the individual does not get the benefit of indexation. This concept is further explained below, in examples 1, 2 and 3.

Example 1: Bring-forward eligibility and period – three years

Karen is 60 and had a TSB of $1.65m on 30 June 2024. She is not currently in a bring-forward period. If Karen makes NCCs of greater than $120,000 in the 2024/25 financial year, she automatically triggers the bring-forward rule. As her TSB is < $1.66m on 30 June 2024, the bring-forward amount available to Karen is $360,000, and her bring-forward period is three years.

If Karen triggers the bring-forward in 2024/25 but does not fully utilise the available amount of $360,000, she may be able to make additional contributions in the following two financial years up to this limit. This is subject to her TSB on 30 June 2025 and 30 June 2026 being below the general TBC (currently $1.9m) in years two and three of her bring-forward period, respectively, for Karen to make additional contributions.

Example 2: Bring-forward eligibility and period – two years

Joe is 66 and had a TSB of $1.72m on 30 June 2024. As Joe's TSB is at least $1.66m but lower than $1.78m, he is eligible for a two-year bring forward limit of up to $240,000.

If Joe triggers the bring-forward in the 2024/25 financial year but does not fully utilise the available $240,000, he may be eligible to make additional contributions in 2024/25 to make up this amount. His TSB must also be below the 2025/26 general transfer balance cap on 30 June 2025 (currently $1.9m) for Joe to make additional contributions.

Example 3: No bring-forward eligibility

Tom is 63 and had a TSB of $1.85m on 30 June 2024. As his TSB is at least $1.78m but lower than $1.9m on the prior 30 June, he is not eligible to trigger the bring-forward provisions in 2024/25. Tom can make total NCCs in the 2024/25 financial year of up to $120,000.

Example 4 – NCC year two contributions

George is 45 and had a TSB of $1.69m on 30 June 2023. George was eligible to trigger a two year bring-forward in 2023/24 and make NCCs of up to $220,000.

George made an NCC of $130,000 in 2023/24, triggering the two year bring-forward rule. The remaining balance of his available bring-forward is $90,000. To determine if George can make the additional NCC of $90,000 in 2024/25 (year two), you must consider George's TSB on 30 June 2024.

George's TSB on 30 June 2024 was $1.88m. As his TSB is less than the general TBC, George can utilise the balance of his previously triggered bring-forward and may make NCCs in 2024/25 up to $90,000.

Although $90,000 of NCCs in 2024/25 will put George's TSB at that time, in excess of $1.9m, this is allowed, as the available bring-forward limit is determined based only upon the TSB on the 30 June prior to year one, and it is sufficient that his 30 June 2024 TSB is less than the general TBC at that time of $1.9m.

If George's TSB on 30 June 2024 was $1.9m or higher, he cannot make additional contributions in the 2024/25 financial year.

Excess NCCs

Assessment of excess NCCs

The ATO makes an assessment when an individual has breached the relevant NCC cap. This includes circumstances where their cap was nil due to the application of the TSB rules, or they have contributed an amount in excess of their cap as determined by their TSB.

An individual cannot rectify or withdraw an excess NCC amount prior to receiving an assessment from the ATO. Assuming a full condition of release has been met – if an amount is withdrawn from super to try and correct an excess contribution prior to receiving an excess NCC determination, another amount will subsequently need to be removed from super to rectify the excess.

The excess NCC determination is sent by the ATO to the individual. The determination will state the amount of excess NCC and an amount of 'associated earnings' deemed to have accrued on the excess NCC. Earnings do not reflect actual fund earnings, but rather are calculated at a set notional rate.

Where an individual has an excess NCC, they must lodge a tax return for the income year in which the excess occurred.

Associated earnings

The associated earnings rate is based the average of the general interest charge rates for the four quarters of the financial year that an excess NCC occurred. This rate is applied to the excess NCC amount during the associated earnings period – from 1 July of the financial year that the excess NCC occurred through to the date of the excess NCC determination letter.

Options for excess NCCs and tax consequences

When the excess determination is issued, it includes the amount of:

- excess NCCs
- associated earnings, and
- the release amount (which comprises the excess NCC plus 85% of associated earnings).

The determination includes an election form with two options:

- release excess NCC together with 85% of associated earnings, or
- retain the excess NCC in super.

The consequences of either option are explained below.

Individuals can complete the election request online (using myGov) or complete the form to return to the ATO. This must occur within 60 days. This is important if the individual wishes to nominate a specific fund to release the funds.

Amounts released from super under an NCC excess release authority are not subject to the proportioning rule and comprise taxable component (may contain tax-free amount if taxable component is less than release amount). While releasing an excess NCC may therefore result in a reduced taxable component, an excess NCC should not be internationally made in an attempt to derive a favourable tax outcome.

If the individual does not respond to the ATO determination within 60 days, a release notice is automatically sent to their super fund. This is the first option by the ATO as it results in a lower tax penalty as the outcome.

When a super fund receives a release authority, they have 10 business days[11] from the date of the release authority to comply with the request and pay the amount directly to the ATO. The amount paid to the ATO must be lesser of the:

- amount stated in the release authority, and
- sum of the maximum available release amount held by that super fund.

[11] Schedule 1 of ITAA53 S131-15 and S131-35

A released excess NCC amount is classified as non-assessable and non-exempt income[12]. This means the refunded amount of excess NCCs is not taxable and is not included in the tax return. However, the grossed up amount[13] of associated earnings is added to the individual's assessable income in the year that the excess contribution occurred, and taxed at their marginal tax rate with a 15% tax offset.

A 15% tax offset[14] applies to reflect that earnings are taxable in the super fund have already been taxed within the fund. The ATO will re-assess the individual's income tax assessment, deduct any additional tax liability from the funds released, and refund the remaining amount to the individual.

If the super fund receiving the release authority cannot action the request, the ATO leaves the excess amount in the super fund and the individual receives a notice of assessment taxing the entire excess NCC at 47%. Such a situation may arise if the individual has contributed to a defined benefit fund and the tax penalty must be paid by that individual personally.

An individual who has withdrawn all their savings from the superannuation environment (including pensions and defined benefit interests) has no funds available to be released. In this case, the ATO adds the full amount of associated earnings to assessable income which is taxed at the individual's marginal tax rate with a 15% tax offset.

Advice tip

In all cases where associated earnings are added to income, this increases assessable and taxable income and may impact eligibility for Government benefits and concessions.

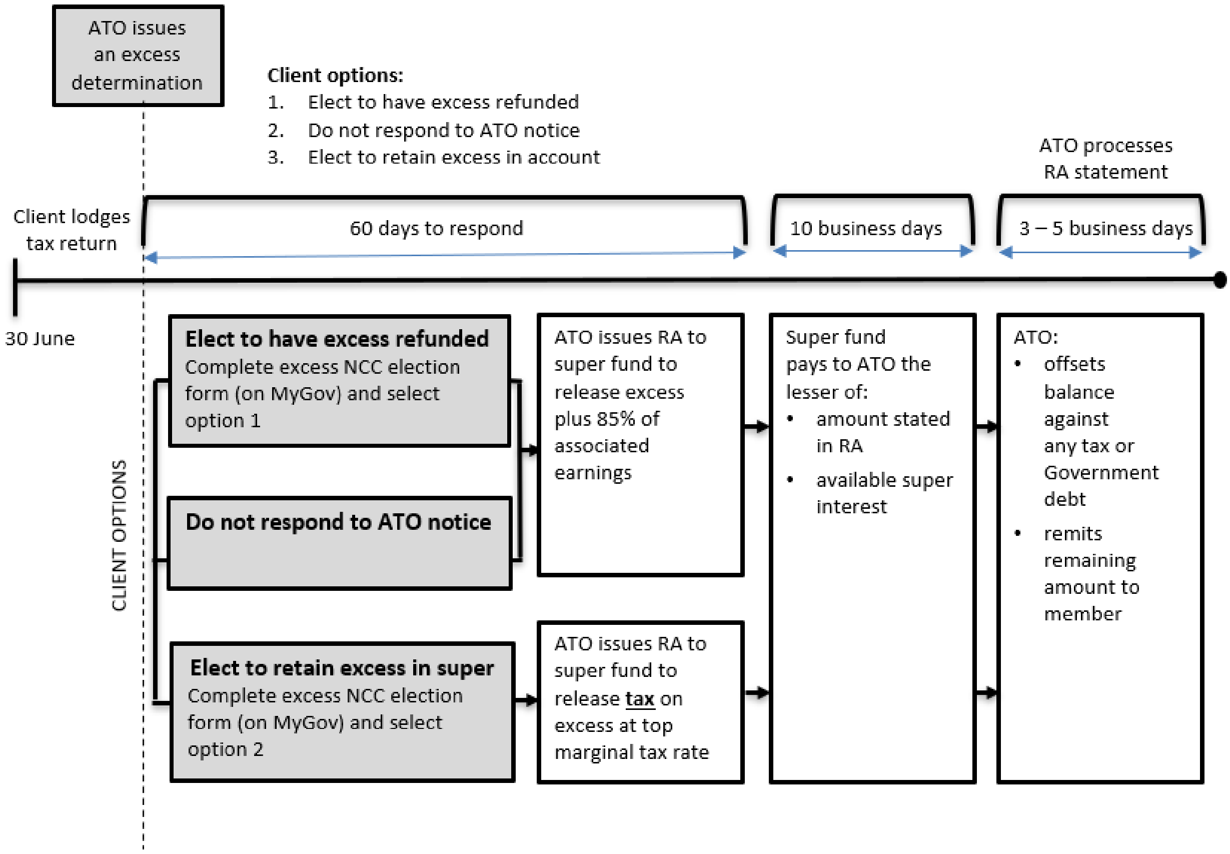
Contact details

For further information, please contact TechConnect on **1800 645 597.**

[12] ITAA97 S303-17
[13] ITAA97 S292-25
[14] ITAA97 S292-30

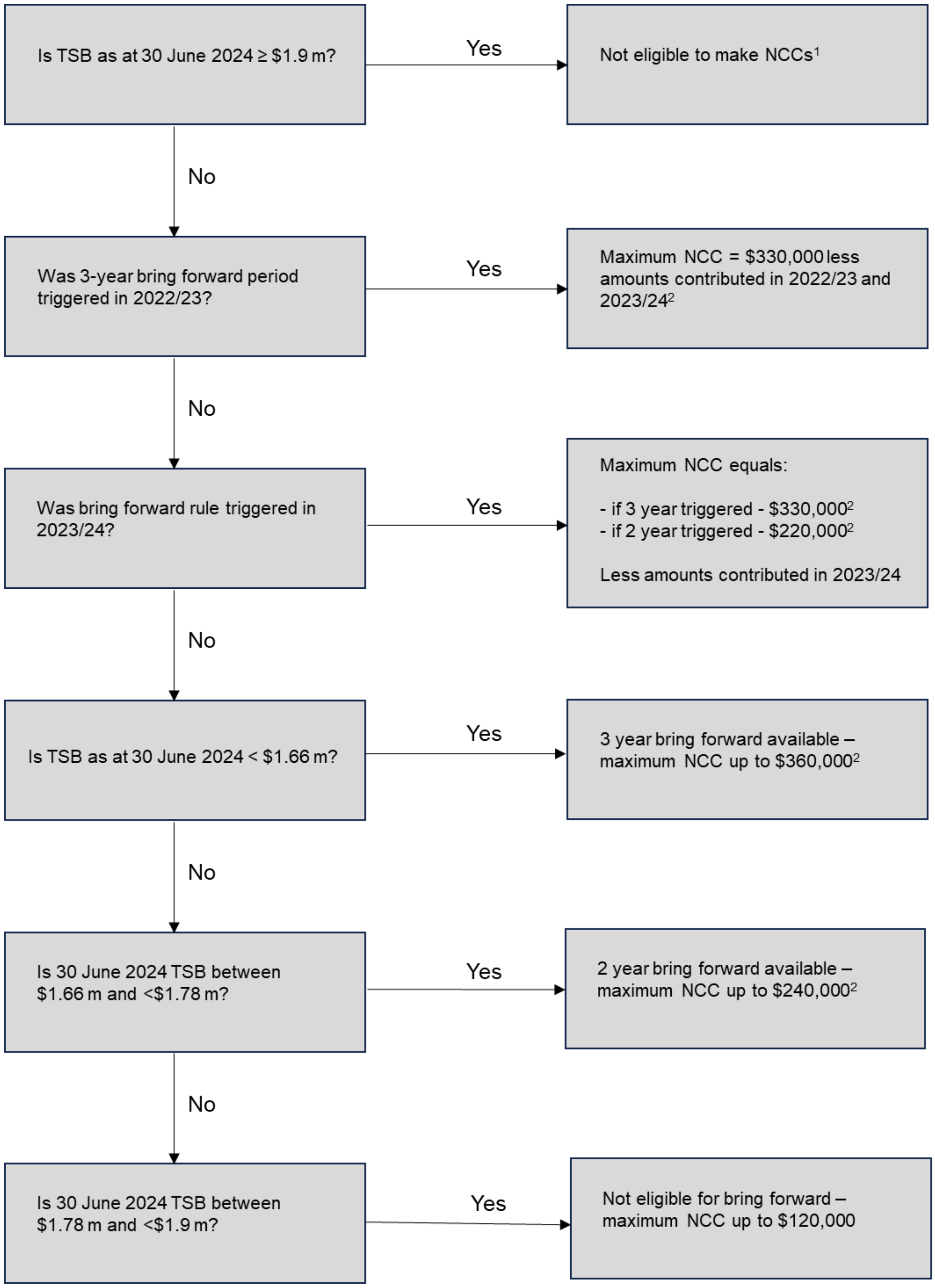
Appendix

Excess NCC determinations



Determining NCC and bring forward eligibility for 2024/25

Note: This flow chart assumes that all contributions are made within 28 days after the end of the month the person turns 75. To trigger the bring-forward rule, the individual must have been aged less than age 75 on 1 July.



[1] Includes all NCCs, either to trigger the bring forward rule or additional contributions under a previously triggered bring forward.

[2] Additional contributions in 2024/25 and 2025/26 (if applicable) within the limit are subject to the client's TSB on each 30 June prior to each financial year during the period being less than the general transfer balance cap at the time.