

Guidance on recontributions to superannuation

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The Tax Office today confirmed that commonly-used superannuation strategies will not attract the anti-avoidance provisions in the tax law.

Tax Commissioner Michael Carmody said he wanted to provide clarity for people on the treatment of a range of superannuation practices.

"We have examined a number of straightforward strategies and confirm that they will not attract the general anti-avoidance provisions."

"Under the law, there is a certain amount of flexibility and choice about when and how people draw on their super savings."

"The strategies and variations we have examined so far are arrangements to maximise an individual's retirement benefits and are allowable under law."

Two retribution strategies that will not attract the general anti-avoidance provisions are:

1. A person withdraws an eligible termination payment (ETP) from their super fund and then re-contributes the same or a similar amount shortly after to the same fund for the purpose of commencing a superannuation pension. The effect of the strategy is to reduce the assessable portion of the annual pension over the person's retirement years.
2. Simple variations to the first scenario such as where a person commences a pension in the year or years following that in which the ETP was paid, or where the re-contribution is made to a fund other than the one that paid the ETP (for example, a spouse fund). Again, the effect is to reduce the assessable portion of the annual pension.

Another superannuation strategy that also will not attract the general anti-avoidance provisions is where a person makes a large undeducted contribution to their super fund before they receive an ETP. The effect is to reduce the amount of tax payable on the ETP.

The cases we have examined involve straightforward examples of these three strategies.

"We would of course need to consider our position were we to find examples of arrangements contrived to meet eligibility requirements in form but not in substance," Mr Carmody said.

The Tax Office will be releasing a public ruling on re-contribution strategies in the next few months to further clarify the law in this important area and will be working with the industry to do this.

Individuals who are uncertain about the consequences of their particular arrangements may request a private ruling from the Tax Office.

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