



## ***Stimulus Package - Early Access to withdrawing up to \$20,000 of your own super***

### **EARLY ACCESS TO WITHDRAWING UP TO \$20,000 OF YOUR OWN SUPER**

The Government has made changes to the Super regulations to allow individuals affected by Coronavirus to release tax-free up to \$10,000 over 2 financial years from their superannuation on compassionate grounds.

Each person is permitted to have up to 2 releases of \$10,000:

- one for an application made during the 2019-20 financial year; and
- another \$10,000 for an application made during 2020-21.

#### **Eligibility for Coronavirus condition of release**

To be eligible for this new coronavirus condition of release, a person must be either:

- unemployed; or
- eligible to receive a jobseeker payment, parenting payment, special benefit, farm household allowance or youth allowance (other than on the basis that the person is undertaking full-time study or is a new apprentice).

Alternatively, on or after 1 January 2020, a person must have been made redundant; or their working hours have been reduced by 20% or more (including

to zero).

A sole trader will be eligible if, on or after 1 January 2020, their business was suspended or has suffered a reduction in turnover of 20% or more.

The regulations do not specify any minimum documentation or evidentiary conditions for meeting these requirements.

The requirement about a person's eligibility to receive the various payments listed above can be satisfied if the person is receiving such a payment or if they are eligible to receive such a payment. This allows a person to apply for the determination in a timely fashion instead of having to wait for the payments to commence. A person who is unemployed may also be eligible for early release from their superannuation on the grounds of severe financial hardship.

#### **Applications to ATO for early release**

Eligible individuals will be able to apply directly to the ATO from mid-April 2020 through the myGov website to access up to \$10,000 of their superannuation before 1 July 2020.

They will also be able to access up to a further \$10,000 from 1 July 2020 until 24 September 2020. That is, an application for coronavirus early release cannot be made 6 months after the day the regulation

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commences. Provided that an application is made during this period, the Commissioner can make the determination after the period has expired.

After the ATO has processed an application, they will issue the person with a determination. The sum of the amounts specified in a determination cannot exceed \$10,000. The ATO will also provide a copy of this determination to the superannuation fund which will then make the payment to the individual, without the person needing to apply to them directly.

A person cannot make multiple applications in the same financial year to release more than \$10,000 for that year. Likewise, a person who requests an amount of less than \$10,000 for a financial year cannot make a subsequent application in the same financial year to release a further amount up to the \$10,000 limit. For example, a person who has requested that \$6,000 be released cannot subsequently request that another \$4,000 be released. However, a person with multiple accounts who has less than \$10,000 in any one account is able to nominate more than one account from which amounts are to be released when they request the determination.

Separate arrangements will apply for the early release from an SMSF (Self Managed Super Fund). The ATO notes that SMSF trustees are responsible for ensuring that a member is eligible for the early release of their super before the trustee releases any funds from an SMSF.

## **Reduction in working hours or turnover**

The requirements about reductions in a person's working hours or in their turnover as a sole trader are determined by reference to changes that have occurred since 1 January 2020. This requires a comparison of a person's working hours or turnover at the time they make the application and their usual hours prior to 1 January 2020. For example, a person would be eligible to apply for a determination if they had a 20 per cent or more reduction in their usual working hours or turnover relative to the second half of 2019.

### **Example: reduction in working hours**

Darren is a casual worker in a cafe. In May 2020, Darren seeks to apply for an early release from his superannuation for the 2019-20 financial year. Due

to the adverse economic effects of the coronavirus, Darren's working hours have reduced from 35 hours a week on average in the second half of 2019 to 15 hours a week on average in May. As a result, Darren determines that his hours over the last month have reduced by more than 20% compared to the average of his hours over the last 6 months of 2019. Darren self-certifies that he is eligible for early release and applies to have \$10,000 released from his superannuation.

### **Example: reduction in turnover of sole trader**

Rachel is a sole trader with a catering business. At the end of July 2020, Rachel seeks to apply for an early release from her superannuation for the 2020-21 financial year. Due to the adverse economic effects of the coronavirus, Rachel's turnover for July is \$5,000 compared to \$10,000 on average per month for the second half of 2019. Rachel therefore determines that her turnover has reduced by more than 20% compared to her average turnover over the last 6 months of 2019. Rachel self-certifies that she is eligible for early release and applies to have \$10,000 released from her superannuation.

## **Tax-free treatment of released amounts**

Any superannuation lump sum amounts released to an individual under this new condition of release on compassionate grounds relating to the Coronavirus are non-assessable non-exempt income. This also ensures that any released amounts are not counted as income and not taken into account under any income or means tests, such as for Centrelink or Veterans' Affairs payments

Thomson Reuters comment - recontribution opportunities

The tax-free status for amounts released under the Coronavirus condition of release means that eligible people should consider utilising the temporary concession even if they don't need to access their super money to meet their commitments amid the fallout from the coronavirus.

For example, an eligible person may wish to consider withdrawing and recontributing up to \$20,000 using this concession to help equalise accounts between spouses. Similarly, a recontribution strategy using the Coronavirus concession could work to convert

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\$20,000 of a superannuation interest from a taxable component to a tax-free component for retirement and estate planning purposes.

Of course, before withdrawing any super amounts under the Coronavirus condition of release for a re-contribution strategy, a person needs to ensure that they are eligible to make a contribution and stay within the contributions caps. Consideration also needs to be given to the possibility of volatile movements in the underlying super investments between withdrawing and re-contributing any amounts. The benefit of the strategy may be lost if a person withdraws benefits and the underlying investments increase in value during the interval before making a re-contribution.

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