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Super

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QC 23212

What is super

If you're new to Australia's superannuation system for retirement saving, find out how it works and how to benefit.

Last updated 2 August 2023

Super is an investment in your future

Australia's superannuation system is the main way most people save for their retirement.

Superannuation (super for short) is a long-term investment that grows over time. The more you contribute during your working life, the more you'll have for your retirement.

For most people, super begins when you **start work** and your employer starts paying a percentage of your salary or wages into your super fund. Your employer pays your super on top of your wages.

You can also make **additional voluntary contributions** up to a cap.

Your chosen super fund invests and manages this money for you until you retire. Your super fund will offer you a range of investment options and account types to help you choose what's best for you.

What you need to do

You can generally **choose what fund** your super is invested in, and how it is invested.

You need to **keep track of your super**, checking that your employer is contributing the right amount and ensuring it's most effectively invested for your circumstances.

Contributions

There are **caps** on how much you or others can contribute to your super without paying extra tax. Contributions made out of pre-tax income are called concessional contributions while contributions made from post-tax income are called non-concessional contributions.

Withdrawal and retirement

Except in very limited circumstances, you can't **withdraw amounts** from super or start an income stream until you've reached your **preservation age** and meet the relevant conditions of release.

Penalties and fees apply if super is **accessed illegally**. It's important you meet the requirements before you access your super.

Be wary of anyone offering to help you withdraw your super early.

The ATO's role

The ATO works with the community, super funds, employers and other government agencies to manage key elements of Australia's superannuation system. In particular, we:

- provide super fund members with the information and tools to keep track of their super and entitlements
- monitor the use of superannuation tax concessions to ensure a high level of compliance
- support employers to meet their superannuation obligations

- regulate and support self-managed super funds so they can be run legally to save for retirement.

How we can help you

In these pages you'll find information on your super entitlements and the rules and tax treatment applying to contributions and withdrawals.

If you're unsure of what super accounts you hold, you can log in to ATO online services (including ATO App) through myGov to monitor and **keep track of your super**.

If you need help to choose a super fund, our **YourSuper comparison tool** will help you compare MySuper products (basic superannuation accounts without unnecessary features and fees) and choose a fund that meets your needs.

The Australian Securities and Investments Commission (ASIC) Moneysmart website also provides information on what to look for when comparing and choosing a super fund.

We provide basic information on Australia's superannuation system in **other languages**.

Note that when we refer to 'super funds', we include:

- complying super funds
- public sector super schemes (regulated or exempt public sector super scheme)
- complying approved deposit funds (ADFs).

'Super provider' means the trustee of a super fund or ADF, or a life insurance company that holds the account for the member.

Other sources of information and support

As well as the information and tools on this website, you can find out more to help you plan for your retirement from other sources:

- your employer, who should be able to explain how their contributions to your super are calculated and paid
- your super fund, on how your super is invested and your options
- a financial adviser, for advice on financial planning for your retirement – ASIC's Moneysmart website will help you find a

suitable financial adviser

- Centrelink - Services Australia, for information on what retirement income support is available from the government.

QC 73080

Choosing a super fund

When choosing a super fund make sure you understand your options and set up an account that suits your situation.

Last updated 2 August 2023

Overview

Whether you're an employee, contractor or self-employed, you can usually choose which fund you want your superannuation contributions (including your super guarantee contributions) to be paid into.

There are different types of super funds. To choose one that suits your situation and maximise your retirement savings, consider their administration fees, insurance, member benefits, as well as performance and investments options. For example, you may opt for higher returns (with higher risks) or greater security (with lower risks).

To help compare options and choose a super fund that meets your needs you can:

- visit Choosing a super fund on ASIC's MoneySmart website
- use the **YourSuper comparison tool**.

If you change your mind about the fund you've chosen and want to transfer your super to another fund, or consolidate multiple super accounts into a single fund, you may be able to roll it over (see **Transferring or consolidating your super**).

For the compulsory super guarantee contributions your employer makes, your right to nominate a fund will depend on your employment arrangements (see Employees and contractors).

Employers who don't pay super guarantee contributions by the due date or into the right fund must pay the super guarantee charge to us. We then pay super guarantee shortfalls and any interest into your super account. (See Unpaid super from your employer.)

How to tell your employer what fund you've chosen

Once you have an account with a super fund, you need to tell your employer what fund they should pay your compulsory super guarantee contributions into.

Your employer should give you a superannuation standard choice form or advise you to get it directly online (see Superannuation standard choice form). Complete the form and give it to your employer.

Note that not all employees are eligible to choose their fund for super guarantee contributions.

If you don't choose a super fund, or you're not eligible to choose one, your employer may need to check with us whether you have an existing super fund if you commenced work with them from 1 November 2021. If so, they should pay super guarantee contributions into a fund you already have – this is known as a 'stapled' super fund.

If you don't have a stapled super fund (for example, it's your first job in Australia) and you don't choose a particular fund, your employer can pay your super guarantee contributions into a fund they choose from among those that offer a MySuper product. These products are basic super accounts without unnecessary features and fees (see YourSuper comparison tool).

Who can choose a super fund?

Employees and contractors

Generally, **you are eligible** to choose a super fund for your super guarantee contributions if you're:

- employed under an award or registered agreement that **does not require super contributions**. An award is a legal document that outlines the minimum employment pay rate and conditions in a specific industry. A registered agreement outlines the minimum employment pay rate and conditions for a particular business or enterprise (enterprise agreement), and is approved by Australia's workplace tribunal, the Fair Work Commission)

- employed under an enterprise agreement or another formal agreement such as workplace determination, made on or after 1 January 2021. A workplace determination constitutes the terms and conditions of employment made by the Fair Work Commission in the absence of an enterprise agreement
- not employed under any award or registered agreement; for example, if you're a **contractor** paid wholly or principally for your labour. To be paid super in the fund of your choice, your contract must be directly between you and your employer; it can't be through another person, company, trust or partnership.

You **are not eligible** to choose a super fund for your super guarantee contributions if:

- your super is paid under a state award or registered agreement
- your super is paid under certain workplace agreements made before 1 January 2021 that require super contributions, including some Australian workplace agreements
- you’re a federal or state public sector employee
- you’re in a particular type of defined benefit fund or have already reached a certain level of benefit in that super fund.

For more information on:

- employment rules in Australia, visit fairwork.gov.au
- when a contractor is considered an employee for super guarantee purposes, see **Super from your employer**.

Self-employed

If you're self-employed – that is, as a sole trader or a partner in a partnership – you don't have to pay super contributions for yourself. However, it's a good idea to save for your retirement. If you have a tax file number (TFN) you can make personal super contributions into a super fund of your choice and you may:

- be able to **claim a tax deduction** for your super contributions

- be eligible for the **low-income super tax offset**
- be eligible for the **super co-contribution** on contributions you don't claim a deduction for
- benefit from additional concessions for certain invalidity payments.

Types of funds

There are 5 basic types of funds you may be able to choose from:

- **Industry funds**: you can only join some industry funds if you work in a particular industry (such as hospitality or construction) or under a particular award, and your employer signs up with the fund. Some industry funds are open to everyone.
- **Retail funds**: usually run by financial institutions and open to everyone.
- **Public sector funds**: generally open to employees working for the Australian (federal), state and territory governments.
  - Public sector employers may offer **defined benefit and constitutionally protected funds** (CPFs) to their staff.
- **Corporate funds**: generally only open to people working for a particular employer or corporation.
  - They may offer defined benefits to their members.
- **Self-managed super funds (SMSFs)**: an SMSF works like any other super fund, but you manage it yourself. As 'trustee', you are legally responsible for all investment decisions and for complying with the super and tax laws.

Note that **approved deposit funds** (ADFs) are mainly rollover vehicles. They cannot accept contributions directly from contributors in the same way as super funds. They only accept termination payments after you take early retirement, change jobs or are retrenched. They must pay out a member's benefits when they reach 65 years old, and they cannot pay a pension.

For more information visit ASIC's Moneysmart website.

Stapled super funds

A stapled super fund is an existing super account that is linked, or 'stapled', to you – it follows you when you change jobs. You don't have to do anything; your employer should ask us which fund to pay your super into.

How we select your stapled super fund

How we select your stapled super fund depends on the information we hold on your super.

If you have **one existing eligible** super account, we will notify your employer that this is the stapled super fund account to pay super guarantee contributions into.

Where you have **multiple existing eligible** super accounts, we will apply 'tiebreaker' rules that take into consideration:

- whether we have previously identified an account as a stapled super fund
- how recently contributions have been made to each of the accounts
- the account balances
- how recently each of the accounts were created.

If you have any concern about how the tiebreaker rules will be applied, you can nominate your preferred fund using a Superannuation standard choice form.

For a super fund to be a stapled super fund all of the following conditions must be met:

- the fund is a:
  - complying superannuation fund
  - retirement savings account
  - complying superannuation scheme
  - able to accept contributions from the employer
- you are a current member of the fund

- we're able to legally disclose information about you or your super fund to your employer.

Protecting your privacy

When your new employer requests your stapled super fund details, we'll notify you of the outcome of that request, including the fund details we provide to them. You don't need to do anything: your employer should make your super guarantee contributions to that super fund if you've not chosen a fund.

If you have concerns about why an employer has requested your stapled super fund details, you need to speak to them directly.

Nominate your super beneficiary

When you open a super account it's important that the fund trustee knows where to pay your money if you die.

When a person’s super is paid after their death it’s called a **super death benefit**, which is made up of the deceased person’s super fund account balance and any associated insurance benefit.

Take the time to ensure you have a valid death beneficiary nomination in place in your super fund as this isn't covered by your will. This means your loved ones will not be put through unnecessary difficulties to finalise your estate.

Most binding nominations expire every 3 years. Some super funds have an option where nominations do not expire and remain in place until they are revoked.

If you don’t nominate a beneficiary, your fund may not know who your benefit should be paid to. In these cases, they will follow the law. This usually means they pay it to one or more of your dependents or your legal personal representative.

To check or nominate your death beneficiary:

- Refer to your super fund's website or contact them to check if you already have a valid nomination in place.
- To update it, complete the form from your super fund, sign and date in the presence of 2 witnesses.

- If you are unsure, contact your super fund or seek independent financial or legal advice from a qualified estate planner.

How ATO online services can help you

In addition to completing your choice of super fund, you can also use ATO online services through myGov to:

- view your current super accounts
- consolidate multiple accounts
- access the YourSuper comparison tool to compare MySuper products.

Log in to ATO online services

If you don't have a myGov account, **create one and link it to the ATO**.

QC 50360

Choose the right super fund for you

Take the time to pick a super fund that's right for you now so future you can thank you later.

Last updated 31 March 2023

Youth_and_super_Campaign.png

Take the time to pick a super fund that's right for you now so future you can thank you later.

Superannuation (super), is important because the more you save, the more money you will have in retirement. It is a long-term investment which grows over time. Choosing the correct super fund initially may help you in the future, so take the time now to make the right choice for you.

There are several types of super funds in Australia, including industry funds, retail funds, and self-managed super funds (SMSFs). They all offer different levels of service, fees and return on your investment. Choose a super fund that suits your needs, goals and budget.

Within 28 days of starting a job your employer will give you a 'superannuation standard choice form' which will ask you information such as your name, tax file number and your super account information. Before filling out this form, take the time and pick a super fund that is right for you.

Follow the steps below to choose and set up your super account:

1. Choose a super fund: There are many super funds in Australia, to help pick a fund that's right for you, you can use our **YourSupercomparison tool** and visit [Choosing a super fund](#) on ASIC's MoneySmart website for more information on different fund types.
2. Gather necessary information: You will need to provide your personal details, including your name, date of birth, tax file number (TFN), and employment information. You may also need to provide identification documents, such as a passport or driver's license.
3. Open a super fund account: once you have picked a super fund that meets your needs and have the documentation required you can either create an account online via your preferred super fund's website or give them a call. It's important to note, if you already have a super account, consider continuing with that account or consolidating it with this new account to avoid fees from holding multiple accounts.
4. Complete the form: Fill out the **super choice form** application provided by your employer and complete the relevant information including your super fund's name and your member number. You can also complete the form on ATO Online Services which you access through your myGov account (navigate to the Employment menu then select 'New Employment'). Submit this form to your employer. Your payslips should include how much super has been paid to your account by your employer. This does not mean they have paid that amount to your fund at that time. Employers may pay super contributions at different times, and that's ok, but they must pay at least quarterly.

   If you don't choose a super fund, your employer may contact us to request details of an existing super account of yours to pay your super into (known as a **stapled super fund**). If you have not made a choice and you do not have a stapled super fund, your employer can contribute to their nominated default fund for you.

5. Monitor your account: Regularly review your super account to make sure it's performing as you expected, your details are up to date and that you are **receiving super contribution payments** from your employer.

It's important to do your research and compare different super funds before making a decision. Consider speaking to a financial adviser if you're unsure about the best option for your circumstances.

It's never too early to think about your super.

Find out more about being an **Employee**, **Contractor** or **Self-employed** and how to **Grow your super**, **Withdraw and use your super** and **Temporary residents and super**.

Authorised by the Australian Government, Canberra.

QC 71957

Superannuation and relationship breakdown

How your super is affected if your marriage or relationship breaks down.

Last updated 2 August 2023

Overview

If your relationship with your spouse ends, you should be aware of what can happen to the super entitlements of you both.

The Family Court and super-splitting laws generally enable super interests (accounts in super funds) or super payments (pensions or annuities) to be split by agreement or court order if a relationship breaks down.

There are options for splitting super depending on whether you are the member or non-member spouse of the super fund that reports this information to us.

The ATO may be able to provide information to the family courts on the assets of the other party in family law proceedings where there are concerns that they have not fully disclosed.

A spouse is a person who lived with you on a genuine domestic basis in a relationship as a couple (whether of the same or different sex). This includes a de facto relationship – you do not necessarily need to be legally married.

For more detailed legal information on the law that applies to superannuation in a relationship breakdown, see Attorney-General's Department (search for 'Superannuation splitting').

How super is treated

Superannuation is treated as property under the *Family Law Act 1975* but differs from other types of property because it's held in a trust.

Where the super interest can be split under superannuation law and the super fund rules, the parties can finalise their superannuation entitlements and obligations as part of their settlement, rather than waiting until the member spouse retires.

How an interest in a super fund or a super payment will be split between the member and non-member spouses may be specified by a court order or a superannuation agreement negotiated as part of a financial settlement.

Options for splitting super assets

If the fund's rules allow it, the non-member spouse can open a new super account for themself in the same fund. If not, the fund can transfer or roll over the interest to another fund in the non-member spouse's name.

If a non-member spouse meets a **condition of release**, they may be able to access their interest immediately in the form of a super benefit.

The tax-free and taxable components of the super interest or super payment is calculated immediately before the interest split or payment and divided between the split interests or payments in the same proportion (see **Calculating the components of a super benefit**).

If an income stream has started

If the member has set up a super income stream that has started to be paid before the relationship breakdown, a super agreement or court order can split the income stream.

In most cases, the income stream would be commuted into a lump sum (due to the governing rules of the fund) and the non-member spouse paid their entitlement under the agreement or court order. The fund would pay the rest to the member spouse either as either a lump sum or a reduced super income stream.

If the fund pays the non-member spouse's entitlement as a super lump sum, they will treat it as a separate lump sum benefit for the non-member spouse. If it is paid as a super income stream, they will treat it as a separate income stream for the non-member spouse.

If the income stream is unable to be commuted, or fully commuted, to a lump sum due to the fund's governing rules, both spouses will receive an income stream. The split will result in two regular payments from the same income stream – one to the member spouse and one to the non-member spouse. See **Superannuation benefit component calculator**.

Transfer balance cap consequences of splitting super

Splitting an income stream can also have **transfer balance cap** consequences for both the member and non-member spouses. You may need to notify us of a pension split to manage your transfer balance account.

If the member spouse has started to receive a super income stream before the relationship breakdown, a superannuation split can result in the non-member spouse receiving a lump sum amount or a percentage of member spouse's super income stream benefits.

Most income streams are in the retirement phase and will count towards the individual's transfer balance cap. Splitting a retirement phase super income stream can have transfer balance cap consequences for both the member and non-member spouse. To manage your transfer balance account, you may notify us in writing on a **Transfer balance event notification form**. This split affects the transfer balance account for both spouses.

If the payment split is achieved by the member spouse fully or partially commuting the income stream to pay the non-member spouse a lump sum amount, a debit will arise in the member's transfer balance account, which their fund will report to us. If the non-member spouse chooses to use that lump sum amount to start a super income stream, a transfer balance credit will arise in the non-member's transfer balance account, which their fund will report to us.

See **Managing your transfer balance account**.

Tax consequences of splitting super

If the non-member spouse creates a new super interest in the member spouse's fund, any super benefits subsequently taken by the non-member spouse from the new super interest are taxed according to the current rules for member benefits.

The tax consequences of splitting super on a relationship breakdown are:

- super lump sum and income stream payments are taxed to the two parties separately
- the proportion of the taxable and tax-free components in the member spouse's existing super interest is applied equally to the amount retained by the member spouse and the amount transferred the non-member spouse
- your **total super balance** is affected by the amount you received (or lost) from the split
  - for the non-member spouse, this may affect your ability to contribute to super in the future
  - for the member spouse, this may bring you under thresholds, allowing you to make further contributions again.

Self-managed super funds

The same options for splitting super apply to members of self-managed super funds (SMSFs). However SMSF trustees (who are also typically fund members) are also responsible for ensuring the SMSF complies with a superannuation agreement or court order, subject to a member's directions on what fund their interest is to be rolled over to.

Super splitting and relationship breakdown may mean you need to restructure or wind up your SMSF. The option of continued membership of the SMSF after a relationship breakdown will depend on the SMSF's trust deed.

Trustees must also ensure the SMSF continues to meet all its legal and reporting obligations while giving effect to a super splitting order or agreement. This includes meeting requirements to implement super splitting imposed on trustees under the *Superannuation Industry (Supervision) Act 1993* and its Regulations.

As trustee, you have control over and responsibility for your fund's investment decisions. You also must manage the fund's legal responsibilities and always act in the best interests of all members.

If you are unsure of your responsibilities as a trustee, see **How we deal with non-compliance**.

Trustees can acquire assets from a related party of a SMSF because of a relationship breakdown

The usual prohibition on acquiring assets from a related party do not apply where the acquisition occurs as a result of the relationship breakdown of a member of the fund.

Visibility of super information for family law proceedings

From 1 April 2022, individuals in current property settlement proceedings can request information from the ATO through the family law courts on their current or former spouse's super interests. The ATO will disclose this information to the court, which will then provide it to all parties.

This process often results in faster and fairer property settlements.

How to request your spouse's super information

Step 1: Check you're eligible to apply

To be eligible to apply, you must be a party to a current permitted family law proceeding in either the Federal Circuit and Family Court of Australia or Family Court of Western Australia.

Step 2: Submit super information request form to court

You or your legal representative will need to submit a 'Super information request form' to the respective court – **not directly to the ATO.**

Check the court website for how to access and complete the form. It must be completed electronically and include the following information on your current or former spouse:

- full name including former names
- any known addresses
- date of birth
- their phone number and/or email address, if known.

The court will verify the ongoing permitted family law proceedings between the parties before submitting the request to us. We will respond, providing the court with any information we have within 5 business days of receiving the request.

Step 3: Court will provide available information

The court will provide the super information to those involved in the family law proceeding and/or their legal representatives. This may be distributed electronically. Please check the court's website for information on how any response will be provided.

The 3 possible outcomes are:

- Individual located and super found
- Individual located and no super found
- Individual unable to be located.

If we can't locate the individual, you may submit a new request if you have further identifying information that can assist us.

If you don't have any further identifying information and we have been unable to locate the individual, you may want to consider other legal options available to you.

If we have located super information of a member of an APRA fund or SMSF or someone with **ATO-held super** we will provide the following:

- super fund name, ABN and unique superannuation identifier
- amount and date of last reported balance
- account phase (whether you are still contributing to super, receiving benefits from your super, or both).

Where the information is blank or listed as 'not yet reported', we do not have this information.

We will provide the latest balance of ATO-held super. If the balance shows as zero, there may still be super in the account as super funds are only required to report balances annually. You will need to verify the latest balance with the super fund.

A super fund account may be in accumulation or retirement phase or in some cases both. If we don't hold account phase information, this can be obtained from the super fund together with latest balance information (see next step).

The ATO information that is provided to the courts is subject to change and may not be up to date. It is unlikely to be sufficient evidence for court proceedings, and you should seek independent legal advice on the information.

A disclosure notice is included in each letter advising that the super information it contains should only be for the purposes of a permitted family law proceeding. Making a record of or disclosing this information may be an offence unless it is for the purpose of the relevant proceedings.

Step 4: Obtain updated information from the super fund

The super information provided by us may not reflect an up-to-date account balance and should not be solely relied on. The latest balance information can be obtained from the super fund directly by completing a **Form 6 Declaration** in the *Superannuation Information Kit* for your relevant court:

- Federal Circuit and Family Court of Australia Superannuation Information Kit

- Family Court of Western Australia Superannuation Information Kit (PDF,151KB).

In some circumstances, such as with public sector defined benefit funds, special rules apply to determine the value of the super interest for family law purposes. In these, the fund will not necessarily give the value for family law purposes in the Form 6 declaration. Instead the fund will include all the information needed for the individual to obtain that value from a lawyer or actuary.

The super information is disclosed for the purposes of property settlement proceedings and should only be disclosed to the parties and their respective legal representatives for the purposes of the relevant proceedings. Parties should be aware that making a record of, or on-disclosing, that superannuation information by a person may be an offence unless it is for the purpose of the relevant proceedings.

QC 27159

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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