SUPER NEWS

NEW SUPER RULES: FREQUENTLY ASKED QUESTIONS

NOW THAT THE GOVERNMENT HAS LEGISLATED THE MAJORITY OF THE SUPERANNUATION REFORMS, IT IS TIMELY TO CONSIDER AND TAKE STOCK OF WHERE WE ARE NOW; HOW THE RULES WILL IMPACT YOU GOING FORWARD AND WHAT STEPS YOU CAN TAKE TO ADDRESS THE SUPERANNUATION CHANGES IN THE LEAD UP TO 30 JUNE 2017 AND BEYOND.

The focus of this article is to provide guidance and discussion on the most frequently asked questions that we have received since the changes were legislated. The common theme in all of these questions, is that there is no 'single solution' for Self Managed Superannuation Fund (SMSF) trustees. All trustees must specifically address their own circumstances and consider each of the proposed superannuation changes before 30 June 2017.

This newsletter is designed to help you shape the questions you want to ask your BDO Adviser or financial planner or other adviser.

ARE THE SUPERANNUATION CHANGES ALL BAD?

No, the changes are definitely not all bad.

Superannuation is and will continue to be a very tax effective vehicle. Providing the SMSF continues to comply with the superannuation rules, the maximum income tax rate is 15per cent.

Importantly, none of the superannuation changes impact the 2017 financial year. We are still dealing with the same super rules up to and including 30 June 2017. The new rules will only take effect from 1 July 2017 onwards.

With some careful planning with your advisor, there will be opportunities to reduce any negative impact the new rules could have on your superannuation balances. Now is the perfect time to touch base with your advisor to see how the new rules will impact you and what you can do between now and 30 June 2017.

WHAT CAN I CONTRIBUTE TO MY SUPER FUND BEFORE 1 JULY 2017?

The superannuation contribution caps for the 2017 financial year have not changed and are the same as they are for the 2016 year.

For contributions made up until 30 June 2017:

- If you are aged 48 years or younger on 30 June 2016, you can contribute $30,000 in tax deductible (or concessional) contributions in the 2017 financial year
- If you are aged 49 years or older on 30 June 2016, you can contribute $35,000 in concessional contributions in the 2017 financial year
- The 2017 non-concessional contribution cap is $180,000 in any one year or $540,000 in any three year period (if utilising the 'bring-forward rule'; a rule which is only relevant for persons aged 64 years or younger) and who have not triggered the bring forward rule in either the 2016 or 2015 financial years.

Superannuation is and will continue to be a very tax effective vehicle.

WHAT CAN I CONTRIBUTE TO SUPER FROM 1 JULY 2017?

The amount you can contribute to super will reduce from 1 July 2017 onwards:

- Regardless of your age, the amount you can contribute to super as a tax deductible (or concessional) contribution will reduce to $25,000
- In addition to any tax deductible contributions made, the amount you can contribute to super as a non-tax deductible (or non-concessional) contribution will reduce to $100,000 in any one year or $300,000 in any three year period (the 'bring-forward' rule for those aged 64 years or younger at the time of contribution). But be aware that if you triggered the bring forward rule in either the 2016 or 2017 financial years there are transitional cap amounts that may apply
- If you have more than $1.6M in all of your superannuation accounts (a total superannuation balance) at 30 June 2017, from that date forward, you will be prevented from making non-concessional contributions. You will only be able to make concessional contributions. If you have a total super balance exceeding $1.6m at 30 June 2017, any further non-concessional contributions are 'excess non-concessional contributions' and excess taxes apply.

PLANNING OPPORTUNITIES

The amount you currently have in your superannuation account does not impact how much you can contribute in the 2017 financial year, but will impact how much you contribute from 1 July 2017. Therefore, it is timely to consider if there are options to maximise contributions in the lead up to 30 June 2017.

Assuming you have NOT triggered the bring-forward rule in the 2015 or 2016 financial year, the 2017 financial year will be the last opportunity to transfer up to $540,000 into your superannuation account in a single year, or in a single contribution. This will be the case regardless of how much money you currently have invested in your superannuation account.

It will also be the last opportunity you will have to put in place a re-contribution strategy.

I DON'T HAVE $1.6M IN MY SUPER ACCOUNT. HOW WILL THE CHANGES IMPACT THE PENSION I AM DRAWING FROM MY SUPER FUND FROM 1 JULY 2017?

For those who have superannuation balances under $1.6M, from 1 July 2017:

- Before a pension is commenced from your super fund, the earnings within the superannuation 'accumulation account' will still be taxed at 15per cent (as has been the case with the previous rules)
- Once a pension is commenced from your super fund, the earnings within your super account will continue to be tax free if you have less than $1.6M in your pension account at the date the pension commenced
- Remember that when determining whether you have more than $1.6M in super, you need to consider all superannuation accounts that you have, not just your SMSF balance.

PLANNING OPPORTUNITIES

It is prudent to talk to your superannuation advisor now to see what measures can be taken with your superannuation account in the lead up to 30 June 2017, if you are currently on a pension or looking to commence a pension in the future.

For example, if you are a couple, where one of you has considerably more money in super than your spouse, you might talk to your advisor to see if there is scope to 'even out' your balances between the two of you prior to 30 June 2017, so that both members remain under the $1.6M cap as long as possible.

I HAVE OVER $1.6M IN MY SUPER ACCOUNT. WHAT'S ALL THIS TALK ABOUT $1.6M 'TRANSFER BALANCE CAP' AND HOW WILL IT IMPACT MY SUPER PENSION AFTER 1 JULY 2017?

Before the introduction of the $1.6M transfer balance cap, all earnings on pension accounts have been and will continue to be tax free up until 30 June 2017.

For those members who have already commenced a pension or are looking to commence a pension from within their super fund, effective from 1 July 2017, if you hold more than $1.6M in your superannuation account, the first $1.6M of your account will be transferred into a 'retirement phase' account (pension account).

Importantly, from a tax perspective, the earnings on the first $1.6M held within this 'retirement phase' account will continue to remain tax free within the super fund after 1 July 2017. It is only the excess funds that you hold in your super account above the first $1.6M that can revert back to an 'accumulation account', and only the earnings on the accumulation account portion of your fund balance will be taxed at 15 per cent.

PLANNING OPPORTUNITIES

If you are eligible to take a pension from your super fund and you only hold a small amount of funds above the $1.6M transfer balance cap, you may wish to talk to your advisor about the benefit of withdrawing some of the excess funds from your superannuation account rather than having the funds revert back to accumulation account. If the funds were withdrawn from super, the tax impact of investing the funds outside super may be less than the 15per cent rate of tax on the superannuation 'accumulation account'.

However, it is very important to do the maths on this, carefully considering what other income you have outside super in the future and also taking into account the difficulty of getting funds back into super as you head down the retirement path.

ESTATE PLANNING CONSIDERATIONS

If part of your super balance is rolling back into an accumulation account, given your super account is not covered under your will, you will need to talk to your advisor to determine if you need to revise your current instructions regarding any benefits payable after your death.

Do not assume that any current binding nominations, reversionary pensions or other estate instructions will still provide the same outcome if your superannuation balances will change with the impact of the new super rules.

I HAVE BEEN DRAWING A 'TRANSITION TO RETIREMENT' PENSION BECAUSE I HAVEN'T RETIRED. WILL THE CHANGES IMPACT MY PENSION?

Yes, the changes will have a significant impact on how the pension earnings (inside your super fund) are taxed:

- Up to 30 June 2017, if you are drawing a transition to retirement income stream (or TRIS), the earnings on your superannuation account within your super fund are tax free
- From 1 July 2017, if you remain on a TRIS, the earnings on your superannuation account within the super fund will be taxed at 15 per cent
- The changes will have no impact on how the TRIS is taxed in your personal tax return. The changes only impact how earnings are taxed within your super fund. Your personal tax treatment remains the same as prior years.

It is important to understand the difference between a TRIS and an account based pension.

A TRIS is an account based pension that allows you to access a portion of your superannuation account in the form of a pension without having retired, provided that you've reached your preservation age. Preservation age is defined as 55 years (if born before July 1960) or from 56 to 60 years, if born after June 1960. Unlike an account based pension, a member on a TRIS cannot withdraw lump sums from their pension account and cannot withdraw more than 10 per cent of the account balance in any year.

In contrast to a TRIS, an account based pension allows you to access your superannuation account once you've reached preservation age and retired, or once you've reached 65 years of age (if you are still working at aged 65), or if you have reached 60 years of age and ceased an arrangement of gainful employment. There is no limit on how much you can withdraw from your superannuation account under an account based pension. However, to access an account based pension, you must have either 'retired', ceased employment (over 60 years of age) or have reached 65 years of age.

So, the main difference between the two pension types is that those people on a TRIS have not retired.

From 1 July 2017, earnings on account based pensions will continue to be tax free (remembering pension accounts are now effectively 'capped' at $1.6M). It's only the TRIS pensions that will be fully taxable within the fund from 1 July 2017.

For most people, unless you are relying on your TRIS to top up your income while being semi-retiring, abolishing the tax free earnings status under a TRIS will mean that it may be no longer a tax effective strategy to remain on your pension and you may want to consider other options for income streams or your superannuation balance.

PLANNING OPPORTUNITIES

If you are aged less than 65 years and are currently on a TRIS, if you were to retire before reaching 65 years of age, your pension will move from TRIS over to an account based pension. Once your pension has shifted across to an account based pension, earnings within the fund will remain tax free post 1 July 2017 (for a maximum pension balance of $1.6M).

If you are aged under 60 years, 'retirement' under the super laws means that you have ceased all gainful employment and have no intention to become gainfully employed in the future.

Importantly, if you are aged 60 or above, you don't need to cease all gainful employment to move from transition to account based pension. A person aged 60 years can give up one employment arrangement while continuing in another employment relationship and still move from a TRIS to an account based pension.

If you will be remaining on a TRIS after 30 June 2017 because you have not retired and you are relying on the TRIS to supplement your income, you should talk to your advisor in the lead up to 30 June 2017 of the merits of bringing forward income and/or deferring expenses where there is scope to do so.

I AM 65 YEARS OLD. DO I STILL NEED TO SATISFY A 'WORK TEST' TO CONTINUE TO MAKE CONTRIBUTIONS TO MY SUPER FUND?

Yes, the 'work test' for over 65's has NOT been abolished.

The Government originally proposed to remove the work test for those aged over 65 years. However, the plan to remove the work test has been scrapped so that the work test will continue to apply going forward.

What is the work test? The work test only applies to people aged 65 or more and requires that a person must work 40 hours in a 30 day period in the financial year that he or she plans to make a super contribution.

The work test applies to both concessional and non-concessional contributions.

PLANNING OPPORTUNITIES

If you are turning 65 before 30 June 2017 and don't currently satisfy the work test, prior to your 65th birthday, you will be eligible to make contributions without the need to satisfy the work test. This is particularly important to consider now, given the reduction of the contribution caps post 30 June 2017 severely limit your ability to get money into super and noting that the amount you have in your super account is not relevant and will not limit the amount you can contribute in the 2017 financial year.

If you are aged 64 now and haven't already accessed your entire 'bring-forward' rule, you should talk to your advisor to determine your eligibility to contribute all or part of the maximum $540,000 non-concessional cap before 30 June 2017.

Consideration needs to be given to what non-concessional contributions you have made in the 2015 and 2016 financial years.

CONCLUSION

At BDO we believe that it is important that all SMSF trustees review their superannuation balances and their personal circumstances. It is imperative that you contact your BDO Adviser well before 30 June 2017 to ensure that you understand how the new super rules impact you and your superannuation fund(s) and what decisions must be made before it is too late.

Waiting until after 30 June 2017 or taking no action, could result in significant or adverse tax consequences for you and your superannuation fund. Your BDO Adviser will be able to assist you to examine your own personal circumstances in detail. Please don't hesitate to contact them with any questions.

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FOR MORE INFORMATION

ADELAIDE

SHIRLEY SCHAEFER
National Leader, Superannuation
Tel: +61 8 7324 6073
shirley.schaefer@bdo.com.au

BRISBANE

PAUL RAFTON
Partner, Brisbane
Tel: +61 3237 5952
paul.rafton@bdo.com.au

CAIRNS

MICHAEL STEELE
Partner, Cairns
Tel: +61 7 4046 0060
michael.steele@bdo.com.au

DARWIN

RICCARDO DILETTOSO
Manager, Darwin
Tel: +61 8 8981 7066
riccardo.dilettoso@bdo.com.au

HOBART

ANDREW PARSONS
Manager, Hobart
Tel: +61 3 6234 2499
andrew.parsons@bdo.com.au

MELBOURNE

ROD NAISMITH
Partner, Melbourne
Tel: +61 3 9603 1712
rod.naismith@bdo.com.au

PERTH

PAT KELLY
Senior Manager, Perth
Tel: +61 8 6382 4600
pat.kelly@bdo.com.au

SYDNEY

MARK WILKINSON
Partner, Sydney
Tel: +61 2 9240 9781
mark.wilkinson@bdo.com.au