# Self Managed Super

Spring Edition Newsletter 2018

## Planning – Rebalancing Super

The 2017 super reforms have led to a rethink on how a couple approaches saving for their retirement. Rebalancing super savings between a couple is one strategy that has increased in popularity under the reforms. In this article, we discuss why this strategy is popular and the different ways in which super accounts may be rebalanced.

**INFO**–Income earned by an SMSF from assets supporting 'retirement-phase' pensions is exempt from tax. The new transfer balance cap limits this earnings exemption by capping the amount of super that can be transferred into 'retirement phase'.

### The super reforms and balancing super

Recent ATO statistics reveal that around 70% of SMSFs have two members. Statistics also report that women retire with 40% less super than men. From a tax perspective, there are various disadvantages for a couple with a large difference in their super savings. These are set out below.

**Disadvantage – Transfer balance cap applies per individual**

As the transfer balance cap applies per individual, it is not possible for a person below the transfer balance cap to transfer any unused cap space to their spouse.

**TIP**–Evening up superannuation balances minimises the risk of one member of a couple exceeding the transfer balance cap, while the other member does not fully utilise their cap.

**Disadvantage – Some super concessions are forgone**

From 1 July 2017, an individual's total super balance is used to assess (i.e., 'means-test') eligibility for certain super concessions. Specifically, individuals with a total super balance of at least $1.6m at 30 June of the preceding income year are ineligible for the following concessions from 1 July 2017:

- **Government co-contribution** – low or middle-income earners may qualify for a Government super contribution of up to $500.
- **Tax offset for spouse contributions** – individuals contributing super for their spouse may be eligible for a tax offset of up to $540 where the spouse's income does not exceed $40,000.

**Disadvantage – Limits on non-concessional contributions**

Non-concessional contributions are after-tax contributions that an individual makes to their super account. Caps and age-based restrictions have traditionally limited the amount of non-concessional contributions that can be made.

## HIGHLIGHTS

**PLANNING – REBALANCING SUPER**

Evening up or 'rebalancing' super accounts between spouses has increased in popularity

**SUPER REFORMS – REPORT**

A recent report highlights the massive impact of the super reforms on tax payable by SMSFs

**TRUSTEE Q & A**

What is my non-concessional contributions cap for the 2018 income year?

However, under the super reforms, individuals with a total super balance of $1.6 million at the end of the preceding income year will have a non-concessional contributions cap of zero. This change applies from 1 July 2017. Refer also to the trustee Q & A below.

### Strategies to even up account balances

For the reasons outlined above, it makes sense for a couple to move towards more even super balances – particularly where one individual has accumulated substantial super savings. The following strategies can assist to rebalance super:

- **Splitting of concessional contributions** – an individual can potentially split up to 85% of their concessional super contributions (e.g., super guarantee amounts) with their spouse. Non-concessional (i.e., after-tax contributions) cannot be split.
- **Withdrawal and re-contribution strategy** – this strategy involves members who meet a condition of release withdrawing their superannuation and re-contributing it for their spouse. Caps and aged-based limits apply.

## Planning – Rebalancing Super cont'd

*"The super splitting laws allow super entitlements to be divided between a couple following a relationship breakdown. "*

**INFO**–The super laws regulate the acceptance of contributions by an SMSF (e.g., the 'work test' limits the acceptance of most contributions for individuals aged 65 to 74).

The following strategies can potentially be used to increase the super balance of one or both spouses:

- **Downsizer contributions** – new rules applying from 1 July 2018 allow a couple aged at least 65 to contribute up to $300,000 each as a 'downsizer contribution' from the proceeds of selling their own home.
- **After-tax spouse contributions** – an individual is permitted to make after-tax contributions for their spouse. A tax offset of up to $540 may also be available to the contributor.
- **Small business CGT contributions** – the sale of a business (or an interest in a family company or trust) may provide an opportunity to boost super using the 'CGT cap'.
- **Concessional contributions** – the '10% rule' was abolished – making it easier for individuals to make personal, deductible contributions.
- **Catch-up concessional contributions** – from 1 July 2019, members with a total superannuation balance below $500,000 can make 'catch-up' concessional contributions.

**INFO**–The super splitting laws allow super entitlements to be divided between a couple following a relationship breakdown. De facto couples in all states except for WA are also subject to these laws.

## Super Reforms – Report

A recent SMSF Report published by a software provider entitled 'June 2018 – SMSF Benchmark Report' provides insights on how the 2017 super reforms have affected SMSFs. SMSF data from its platform formed the basis of the report, with some of the findings outlined below:

- The introduction of the $1.6m transfer balance cap and the removal of the earnings exemption for transition to retirement income streams (TRISs) has led to around 25% of SMSF assets losing their tax-free status.
- 31% of SMSF assets were solely in pension phase as at March 2017 – with fund earnings on these assets being completely tax-free.
- However, this proportion fell to 14% as at 30 June 2018 – reflecting the action taken by SMSFs to comply with the super reforms (e.g., by commuting pension assets back to accumulation phase).
- SMSF assets in accumulation phase (of which the earnings are taxable) have increased 90% since March 2017.
- This increase in the proportion of SMSF assets held in accumulation phase from 1 July 2017 is likely to see tax payable by SMSFs close to doubling.

In conclusion, the legislated super reforms which took effect from 1 July 2017 have substantially impacted on SMSFs, with many SMSFs expected to face significantly higher tax bills as a result of the changes.

## ATO UPDATE

The ATO has reminded SMSFs receiving contributions that they need to have a unique bank account and electronic service address. Google 'QC 56689' to read more.

Fund members who exceed the $1.6m transfer balance cap should receive a notice from the ATO requiring them to deal with the excess. The ATO has released guidance on what to do in this situation – Google 'QC 56487'.

Individuals who exceed their non-concessional contributions cap need to lodge a tax return for the year. Additional tax consequences may also arise from exceeding the cap – Google 'QC 56405' to access this ATO information.

Super fund members receiving a 'defined benefit pension' (e.g., public servants) may be affected by changes to the tax treatment of these pensions from 1 July 2017.

The ATO has prepared a defined benefit income cap tool that has been designed to help defined benefit pension recipients better understand how they are affected by the changes – Google 'QC 56368'.

The ATO has now published SMSF statistics for June 2018 – Google 'QC 56994' to access these statistics.

# SMSF trustee Q & A

## Question

**I am aged 45 and have $1.3m in super. What is my non-concessional (i.e., after-tax) contributions cap for the 2018 income year?**

## Answer

**Assuming that you have not previously triggered the 'bring-forward rule', your non-concessional contributions cap is $300,000 for the 2018 income year.**

By way of background, the non-concessional contribution rules were reformed from 1 July 2017. Specifically, the following amendments were made to the non-concessional contribution caps:

- The annual non-concessional contributions cap was reduced to $100,000 (indexed) for the 2018 income year and onwards; and
- The non-concessional contributions cap is now nil if a member's total superannuation balance at the end of the preceding income year exceeds $1.6m.
- The cap under the bring-forward rule now depends on the member's total superannuation balance at the end of the preceding income year. These caps are set out in the table below (2018 income year).

| Total super balance on 30 Jun 17 | NCC cap for year 1 | Bring-forward period |
|---|---|---|
| < $1.4m | $300,000 | 3 years |
| $1.4m to < $1.5m | $200,000 | 2 years |
| $1.5m to < $1.6m | $100,000 | No bring-forward |
| $1.6m + | Nil | N/A |

Referring to the table above, your total super balance at 30 June 2017 is below $1.4 million, meaning that your non-concessional contributions cap for the 2018 income year is $300,000.

## Question

**Can my child aged 14 be a member of my SMSF?**

## Answer

**Yes. However, check that your fund's deed allows for your child to join. Also, a parent or guardian generally needs to be appointed as trustee for the child.**

By way of background, the super laws do not prevent your child from becoming a member of your SMSF.

However, if your child becomes a fund member, the super laws require all members to be trustees or directors of the corporate trustee.

Although a minor cannot legally be a director or trustee, a parent or guardian is permitted to be a trustee in place of the minor. Alternatively, the member's legal personal representative can be appointed as trustee for the child.

## Key dates and reminders

### 1 December 2018

Payment of 2018 income tax due for super funds where one or more prior-year tax returns were outstanding as at 30 June 2018. Lodgment of 2018 tax return for these funds was due on 31 October 2018.

### 28 January 2019

Second quarterly TBAR due for affected SMSFs with a reportable event during the quarter ending 31 December 2018.

### STOP PRESS – Labor and super

Labor announced that it intends to legislate the following changes to super, if elected:

- To help address an imbalance of super savings between males and females, recipients of Commonwealth Paid Parental Leave and Partner Pay payments will continue to receive super;
- The $450 minimum monthly threshold for eligibility to SG will be phased out; and
- They will make it easier for employers to contribute extra super payments for women.

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