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Changes to superannuation to watch out for

The budget handed down by the government in May announced changes that will effect superannuation. The major aspects of change are as follows:

Lifetime cap for after tax contributions

You can currently make up to three year's worth of after-tax (non-concessional) contributions in a single year ($540,000) under the current rules. If using the three years worth, you have to wait until that three years has passed before you can once again 'bring forward' more of this type of contribution.

With the budget changes there will now be a lifetime limit of $500,000 on these after-tax contributions, and will count all such contributions made since 1 July 2007.

What effect will this have? If you were planning on using the transfer of assets or proceeds from the sale of assets over time to maximise this type of contribution to your superannuation fund, this strategy can only be used up to an amount of $500,000.

Currently you could contribute $540,000 this year, then a further $540,000 in another three years time. If any future planning involved this sort of strategy it will need to be reconsidered.

Also, any future planning with this type of contribution will also need to take into account any non-concessional contributions made since 1 July 2007 where this was not the case previously.

Changes to concessional contributions

From 1 July 2017, where a person (whose individual super balance is less than $500,000) doesn't use all of their concessional contributions cap (the before-tax maximum contribution amount) the unused amount can be contributed in the following five years.

This makes up (to some extent) for another change announced - the reduction in the concessional cap to $25,000 from 1 July 2017, no matter the age of the member.

What effect will this have? The reduction in the cap will reduce the amount of tax deductible contribution that can be made for fund members, but those members who have only been contributing their superannuation guarantee amount each year will see them able to contribute more when their cash flow may allow it.

Removal of the work test

From 1 July 2017, if you are age 65 – 74 you will be able to make after-tax contributions to superannuation without having to work a certain numbers of hours.

This is because the requirement to work a certain number of hours in a certain time frame (known as the 'Work Test') will no longer apply.

What effect will this have? Those planning to sell assets to help fund retirement will be able to extend the time frame in which they wish to do this, whether this is due to wanting to retire later than 65 or simply to wait for the asset to come to the market price they are seeking.

In using such a strategy though, the super fund member's contribution will need to fall under the $500,000 lifetime cap noted above.

A cap on Pension balances

From 1 July 2017, the amount of money held in all pension accounts in a person's name may not exceed $1.6M (this does not include fund earnings after that time).

What effect will this have? For those with pension balances above this amount they will need to transfer the excess figure out of the pension. This can be transferred into a superannuation account in the members name in the accumulation phase.

While these changes have not passed into legislation yet, it would be a good time to consult your adviser as to how they may affect your situation now and the impact on your retirement planning.

Risk protection not just about insurance

While we all regard protection against risk as some type of insurance, there are other things to consider in relation to your superannuation.

Enduring Power of Attorney
If you were to become unable to make decisions on your own behalf you would be unable to continue as a trustee of an SMSF, or as a director of the corporate trustee.

In such a case, if you do not have an Enduring Power of Attorney ('EPOA') in place, you would generally be required to be removed as a member of the fund, and your account balance rolled over to a commercial superannution plan.

With an EPOA in place, your attorney is able to make decisions on your behalf. On this basis they can represent you and perform your trustee duties.

Further, this will ensure that the assets of the SMSF won't be disturbed by the need to move your member balance elsewhere. Such an action might see assets needing to be cashed when they are below their true market value.

Binding Death Benefit Nomination ('BDBN')
Many consider that because the SMSF is within a family group that there is no need to use a BDBN – especially where the trustees/members are husband and wife.

What must be considered alongside this is whether there is a 'blended' family involved (i.e. with children from previous marriages), or if there is any estrangement within a single family unit.

There are many examples of situations where, in the event of the death of a member of the SMSF, others in the family who are not members of the fund have made claim to the death benefit.

In such situations the benefit can be tied up while subject to court proceedings, and the results of those proceedings can see benefits paid to someone other than the SMSF member who was expecting to receive them.

The use of a BDBN in such circumstances removes any doubt from the intention of who is to receive the death benefit, due to the trustees of the SMSF being bound to pay death benefits in accordance with the directions of the BDBN.

It is not a requirement of a superannuation fund to offer its members a BDBN, however where intending to use one, an SMSF trustees should check to ensure that the fund trust deed allows this.

While reviewing personal risk insurance is part of the investment strategy requirements, a review of risks in these areas should form part of the annual review. Your adviser will be able to guide a discussion in relation to your needs in this area.

SMSF advice now licensed

From the first of July an adviser needs to be licensed to provide advice about an SMSF.

In providing licensed advice, there may be some changes to how this has been provided in the past:

- You will be given a document telling you about the licence under which the advice is given;
- A fact finder will be completed with details of your current situation and what you want your superannuation fund to achieve; and
- The advice will be provided to you in writing in a document called a 'Statement of Advice'.

An adviser can choose not to be licensed and still be able to provide you with factual information. This might include:

- The minimum pension payment based on the account balance and percentage;
- Whether you can withdraw benefits from the fund or not; and
- What the maximum amount is that can be contributed to a super fund.

However, unlicensed practitioners will have to refrain from giving an opinion about your superannuation, even in relation to what contributions should be made to the fund.

Please ask us about our arrangements, and what we will be able to advise you on in relation to your superannuation situation in the future.
