Phillipsons SuperCentre

SuperScene

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Events-based-reporting set to shake up super

Major reforms to superannuation took effect from 1 July 2017 placing (among other things) new limits on the total amount an individual can transfer into retirement income stream accounts, such as pensions and annuities. This limit is known as the 'transfer balance cap' and it has been set at $1.6 million (increasing in line with CPI rounded down to the nearest $100,000).

In order to adequately deal with this new cap, the ATO have introduced an 'events based' reporting obligation.

The implication of events based reporting is that superannuation funds will be required to notify the ATO virtually in real time - not at the end of a financial year. This means that from 1 July 2018, SMSF's will need to report to the ATO, certain events occurring in relation to the members transfer balance account. These events which create either an increase or decrease to a members transfer balance will be assessed against the $1.6mil cap.

The events or transactions which give rise to a reportable movement in a members account are broadly grouped into two categories:

Credit Events

- The value of super assets supporting income streams from 1 July 2017
- Starting new superannuation income streams
- The value of reversionary income streams where an individual becomes entitled to them

Debit Events

- Lump sum withdrawals from superannuation pensions
- Certain payments arising from family law splits, fraudulent or void transactions

Whilst the reporting timeframes have not yet been confirmed by the ATO, they have released a position paper which details 2 options.

Option 1: From 1 July 2018, immediate commencement for reporting of events within 10 business days after the end of the month in which the relevant event occurs.

Exceptions (10 days will be expanded to 28 days after the end of the quarter in which the event occurs) for

- Commencement of income streams
- Limited Recourse Borrowing Arrangements where there is an increase to the value of a retirement phase benefit through that LRBA payment

Option 2: From 1 July 2018 quarterly reporting across all events but only for a transitional period (until 30th June 2020).

Exception being the commutation of an income stream where a member has an excess transfer balance determination. In this case reporting must be within 10 business days after the end of the month in which that commutation occurred.

After the end of the transitional period, reporting will revert to within 10 business days after the end of the month in which the event occurred.

These options are the subject of debate by industry representatives and we expect to hear definitive advice from the ATO soon.

Needless to say, events based reporting will require solid administration processes to ensure that funds remain compliant and super members avoid falling foul of the ATO.

Brent Butcher

How will Phillipsons handle 'events based reporting'?

We regularly review our processes and service offering to ensure they are efficient and meet your needs. As a result of this review we have recently changed the software tools we use to comply with the ATO and ASIC. Our new software is called Class Super.

Class Super offers 'real-time' reporting of all SMSF transactions through a regular data feed of bank transactions. If your SMSF receives portfolio administration via Phillipsons Financial Planning you will already comply with the new reporting rules. If your fund uses a different service or does not have portfolio administration, we will be in touch in due course to discuss arrangements for the transition.

We are excited by the new software, its capabilities and also the real time information it can provide through an online portal facility. All of this is at no additional cost to our clients and will assist in meeting the new events based reporting requirements.

SMSF Sector Scorecard

*Tracey Gordijn **

According to the most recent Australian Taxation Office report, the SMSF sector has continued to grow to almost 591,000 funds with 1.12 million members and approximately $675 billion (as of March 2017) in funds under management.

Given these numbers, the SMSF sector has held its own in representing almost a third of the total superannuation asset pool.

Despite the continued growth, it has been at a more modest rate in recent years, compared with the last decade. This softening in growth can be attributed to legislative uncertainty in the sector with respect to superannuation tax concessions. This uncertainty has stemmed from the Abbott Governments Tax White Paper which continued following the 2016 Federal Budget and extended beyond the resulting debate and speculation of the proposed legislation.

Now that the dust has settled we can move forward with a more stable and certain framework.

In terms of the demographic of the sector, there has continued to be an increase in SMSF establishments from younger trustees, between the ages 35-44. This is a real positive for the sector which historically saw SMSF establishment occur closer to retirement.

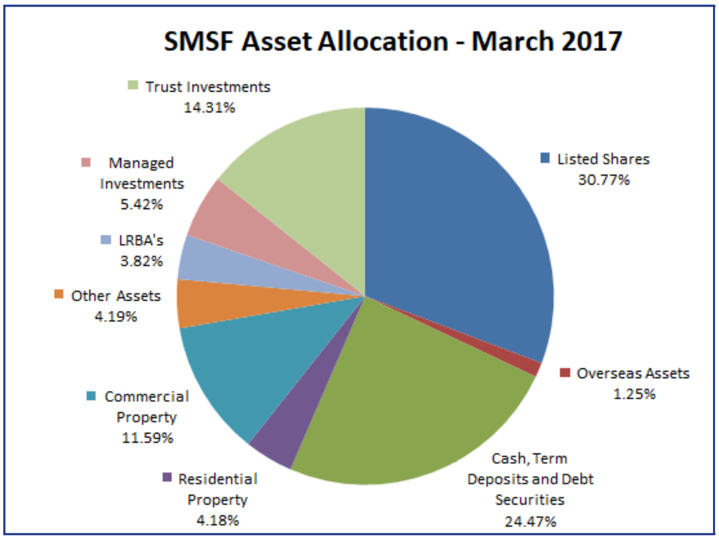
The sector however does have a large proportion (about 51%) of members who are aged between 55 and 75. Challenges presented by this ageing member population will be examined in the article *SMSF's and the ageing population*.

According to the ATO's statistical report, with SMSF assets reaching almost $675 billion, we have continued to see SMSF assets strong growth since the Global Financial Crisis with the average quarterly growth being 2.9% over the last eight years since March 2009.

The chart below shows the spread of SMSF assets across asset classes.

Moving forward, there are certainly come challenges for the SMSF sector. The changes to the superannuation laws have created an increased complexity for individuals affected by these changes such as the transfer balance cap and the need to comply with new contribution limits and transitional bring forward provisions. Further to this with the lower concessional and non-concessional contribution caps, it is expected that this will have a longer term impact on the growth of assets in the SMSF sector.

Phillipsons believes that the key to success in the SMSF sector lies in the partnership and relationship between you as our valued client and us as your accountant and advisor. We have the knowledge, skills and people to help you as a SMSF trustee, maintain a complying self-managed superannuation fund and work with you to achieve your wealth creation goals.



Source: ATO March 2017

Super and the Next Gen...

According to the latest 'Financial Health Barometer 2017' report by RaboDirect, the number of Australians who make voluntary superannuation contributions has increased by 5% to be 32% in 2016.

Generation Y are leading the way in this result with 40 per cent making voluntary superannuation contributions, followed by the Baby Boomers at 31 per cent and Generation X at 25 per cent.

It is no surprise that Australians in the workforce face increasing pressures to their lives in terms of the cost of living, mortgages and family, and the focus on longer term retirement goals is often overlooked until later on in life.

The legislative change in the past year has changed the future of superannuation. The transfer balance caps, contribution limits and the removal of some concessions are all directed at ensuring that the superannuation system is used for funding retirement rather than any ancillary purpose.

Now, more than ever, we need to encourage our next generation to include retirement wealth creation as part of their current financial focus and strategy. Current retiree's should also be putting some thought and forward planning into their own superannuation balances, especially where it is expected that superannuation assets will be passing to the next generation.

Benefit payments and estate planning - the "Deed" holds the key

*Ian Mein **

Your superannuation trust deed along with the superannuation laws, form the governing rules that self-managed super funds (SMSFs) needs to operate by. The introduction of the $1.6 million transfer balance cap (TBC) and new transition to retirement income stream (TRIS) rules are a 'game changer' for SMSFs when discussing benefit payments and estate planning. With the new super rules in effect as of 1 July 2017, now is the right time to review if your trust deed needs to be enhanced or amended to deal with the new approaches and strategies you may need to implement.

Read the Deed

The first step in reviewing your superannuation trust deed will be to read it. Trust deeds are legal documents which can be complex to read, so you may want help from an advisor with this.

It is likely that most deeds will not result in a breach of any superannuation laws and would provide the trustee with powers to comply with relevant tax and superannuation laws as they change over time.

The next step would be to review the deed in consideration with your own circumstances.

For example, a common scenario may be a restrictive deed that only provides the trustee with a discretion to pay death benefits. Therefore, if a member of that SMSF wanted to create a binding death benefit nomination, it would be irrelevant due to the deed's governing rules.

In any event, deeds which are clearly out of date will need to be amended as soon as possible.

Deeds post 1 July 2017

Post 1 July 2017, there are many approaches and strategies that will differ from the past and it is essential to ensure that your SMSF deed does not restrict you in anyway.

We note the following areas should be considered:

Paying death benefits

The $1.6 million TBC now restricts the amount of money that can be kept in super on the death of a member. This is crucially important as when a member dies, their TBC dies with them. SMSF members should review their estate planning and further review their trust deed - the specifics in relation to paying death benefits.for the following:

Reversionary pensions

Reversionary pensions are pensions which continue being paid to a dependant after your death. Under the TBC, reversionary pensions will not count towards a member's TBC until 12 months after the date of the original recipient's death. Importantly, the transfer of the pension from the deceased to the new recipient will count towards the TBC. The value of the credit to the TBC will be the value of the pension at the date of death, not the value after 12 months. This increases the complexity of reversionary pensions prompting a review of trust deeds.

Pensions

The TBC also has implications for strategies in commencing pensions and making benefit payments. Trust deeds may need to be reviewed for:

- Ensuring that commutations are able to be moved into accumulation phase rather than being forced as lump sums out of superannuation.
- Are there any specific provisions relating to the TBC? There may be value in ensuring that the deed restricts pensions from being commenced with a value greater than the TBC.
- Are there provisions which detail where commutations must be sourced from first?
- Are there restrictive pension provisions that the trustees must comply with?

Transition to retirement income streams

Tax concessions for TRISs where the recipient does not have unrestricted access to their superannuation savings (known as meeting a condition of release with a nil chasing restriction) have also been removed. Trust deeds may need to be reviewed for:

- Does the deed allow for the 10% maximum benefit payment to fall away once a nil condition of release is met?
- Does the deed deal with a TRISs character when a nil condition of release? (Does it convert into an account based pension?)

How can we help?

We can help you understand how the new laws may impact you and partner with a lawyer to review and amend your trust deed as required. Please feel free to call our office to arrange a time to meet so that we can discuss your particular requirements, especially with regard to issues that arise out of the latest super laws, in more detail.

The removal of the 10% rule in relation to personal concessional contributions, the ability for an individual to carry forward unused concessional contribution caps to future years (where their total superannuation balance is less than $500,000) and the ability to bring forward non-concessional contributions are all areas in which careful planning can have rewarding results.

If you would like to discuss in some detail how you can encourage your children to think about superannuation earlier and also how you might be able to use your own superannuation wealth NOW to assist your next generation to plan and save for theirs, please give us a call.

SMSF's and the ageing population

*Katrina Van Gunst**

The ageing SMSF population and the issue of loss of capacity was recently cited as a risk for the SMSF sector in the Australian Law Reform Commission's (ALRC) review and report titled "Elder Abuse – A National Legal Response".

The report contains recommendations to change the superannuation laws to ensure that trustee's consider planning for the loss of capacity of an SMSF member and estate planning as part of the fund's investment strategy, and for the ATO to be informed when an individual becomes a trustee of an SMSF due to appointment under an *enduring power of attorney* (EPOA).

If a trustee loses capacity to be a trustee of an SMSF (or a director of a corporate trustee) and there has been no plan in place for this event, the SMSF will become non-complaint if there is no resolution with 6 months. Resolution to having no EPOA can be lengthy and costly and can also lead to friction in the family.

Provided the SMSF deed allows for it, in order to plan for potential loss of capacity, trustees of an SMSF should have a valid EPOA. As opposed to a general power of attorney, an EPOA continues to operate in the event that you lose capacity and also allows the attorney to deal with your finances if you are unable to attend to financial matters personally and / or as a trustee of your SMSF. This includes signing tax returns and financial statements for the fund, trading of shares or real estate and accessing bank accounts.

The report by the ALRC also recognised that having an EPOA can create some risks including elder abuse by the attorney and have made some further recommendations including introducing new safeguards against the misuse of EPOA's.

It is imperative that the person you nominate to be your attorney is a person you trust, you believe would make decisions in your best interest and is not a disqualified person (for example, someone convicted of an offence involving dishonesty, or someone who is a bankrupt).

It is always good planning to leave written details of your wishes regarding the administration of the fund and clear instructions if you want them to work with your trusted advisors like financial planners, accountants and auditors, before making major decisions in relation to the SMSF.

For an EPOA to take your place as a trustee, you must resign and the EOPA is appointed in your place. This means that they become an individual trustee or a director of the corporate trustee. This may be important where the corporate trustee of the super fund also carries out other functions or activities.

EPOA's are part of a good estate plan which includes the succession of your SMSF. If you would like to discuss your estate planning needs further, please contact us – we will work with your legal advisors to create a plan that ensures peace of mind.

Contact us

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