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2022 December Superannuation Update

Carry-Forward Concessional Superannuation Contributions

Those aged under 75 with a total super balance of less than $500,000 at the start of the financial year may make extra concessional (deductible) contributions by accessing any unused concessional super contribution limits from 2018-19 onwards for up to 5 years. For example, a 2018-19 unused cap that is not used by the end of 2023-24 will expire. Those aged 67 to 75 must still satisfy the work test.

Downsizer contributions extended to 60 plus

Eligible individuals aged 60 years or older can choose to make a 'downsizer' contribution of up to $300,000 per person ($600,000 per couple) from the proceeds of selling their principal residence (if owned for 10 years or more).

Cut off Age Raised to 75 for Non-Concessional Contributions

From 1 July 2022, a member can make a personal concessional or non-concessional contribution until the 28th day of the month after the month in which they turn 75 without first meeting the work test, provided the contribution does not breach their contribution caps. In the case of personal concessional contributions, they must still meet the work test in the same year as the contribution, but this can be done before or after the contribution is made. This raising of the cut off age for making non-concessional contributions from age 67 to age 75 provides a longer period in which recontribution strategies or spouse balance equalisation strategies can be implemented.

A recontribution strategy is generally undertaken with the aim of increasing the "tax free" (as compared to the taxable) component of a member's balance in a fund. The distinction becomes significant when a member's death benefits are paid to non-dependent adult children whereby the taxable component is taxed at 15% plus Medicare levy.

A recontribution strategy involves the member who has satisfied a condition or release (eg. retired, reached age 75 or ceasing an employment arrangement after age 60) withdrawing an amount from their fund (usually a mixture of tax free and taxable components) and recontributing the amount as a non-concessional contribution (which is added to the tax free component in the fund). Importantly, the total of non-concessional contributions made during a year should not exceed the member's non-concession contributions cap for that year. Non-concessional contributions cap can vary but are nil if the member's total superannuation balance at the preceding 30 June was $1.7m or more.

A spouse equalisation strategy is sometimes considered where there is a large difference between the super balances of two spouses or partners. It involves the transfer of super benefits from the member with the larger balance to the member with the smaller balance and can maximise the use of each spouse's contribution caps and can assist in estate planning. Importantly again, the first member must meet a condition of release to be able to withdraw their funds and the second member should not exceed their non-concessional contributions cap.

Some additional things to remember:

- to maintain tax-free earnings of a pension it is important to ensure the pro-rated minimum pension is taken before the partial or fully commutation; and
- consider if changing a pension may lead to the loss of the Centrelink grandfathering provision applying to pensions started before 1 July 2015.

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ATO advice for SMSFs considering investing in crypto assets

The ATO recommends that trustees of self-managed super funds ('SMSFs') thinking about investing in crypto assets should seek professional advice from a licensed financial adviser.

When investing in crypto assets, trustees must ensure:

- it is allowed under the fund's trust deed;
- is made in accordance with the fund's investment strategy; and
- the trustee has considered the level of investment risk given the highly volatile nature of the investment.

Administratively it is important that:

- the crypto assets are owned by the fund and are held separately (the fund must have its own digital wallet) from the trustee's own personal or business assets;
- the investment is valued at market value in line with the ATO's valuation guidelines.
- the investment is consistent with the sole purpose test and does not involve the giving of financial assistance to a member; and
- no crypto assets that a member or related party hold personally are sold to the fund or transferred to the fund as a contribution.

ATO targeting SMSFs that fail to lodge annual returns

The ATO has observed an increase in the number of SMSFs that fail to lodge their first annual return and become what the ATO refers to as 'NEVER' lodgers. The ATO is particularly concerned where there has been a roll-over into these SMSFs, as this is a strong indicator illegal early release of superannuation benefits may have occurred. A minority of SMSF trustees continue to ignore ATO reminders about lodging annual returns. This group is now being targeted with a compliance campaign the ATO calls '3 strikes and you're out'.

The ATO's compliance action starts with a blue letter, that encourages trustees to take immediate action and lodge their return and provides a pathway for those in need of support. If they do not receive a response to the blue letter, it will issue an amber letter warning the trustees of the consequences of failing to lodge their return. If there continues to be no response the ATO will issue a red letter advising the ATO is commencing the disqualification process and considering other enforcement action.

The easy way to collate SMSF information for us and the auditor

Our wish-list of how we prefer to receive SMSF documentation for a particular year is to have three folders/batches of information, without any staples, as follows:

1. All statements for each bank account in chronological (date) order;
2. All other information (invoices, rollover statements, dividends slips, lease documents and property valuations) in date order as received during the year; and
3. CHESS statements and contract notes matching up to a Share Transactions Report Listing in date order plus, a portfolio listing as at 30 June.

Please remember that the auditor is trying to verify overall compliance of the fund and the correct recording of each fund transaction. Hence providing information to support each transaction will be very helpful if not necessary. If we can avoid queries from the auditor it keeps their cost down and speeds up the lodgement process.

Please note that for some funds we may send out paperwork inviting you to establish automatic bank and/or share broker data feeds (your SMSF bank account transactions amounts and/or share transactions are pre-populated in our software). This can be particularly useful where your fund has a lot of transactions.

The material and contents provided in this publication are informative in nature only. It is not intended to be advice and you should not act specifically based on this information alone. Please contact our office with any specific accounting or taxation questions.