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Growing your super

Are you nearing retirement or just want to put a little extra away for the future without putting a strain on your household budget? Contributing to superannuation might be your best bet – especially if you're female.

The end of the financial year is upon us, and there is no better time than now to get your plans in place for the next financial year. If you're nearing retirement or just want to put a little extra away for the future, contributing to superannuation might be your best bet. This is especially true for women: research has shown that women retire with an average of $120,000 less in their superannuation than men, due to a combination of the gender pay gap, taking time off paid work and working part-time.

There are two main ways to increase your super balance without putting too much strain on your weekly household budget: salary sacrificing into super (if your employer makes that option available) and making personal super contributions.

Salary sacrificing into super

Put simply, salary sacrifice is an arrangement where you forego part of your salary in return for your employer paying the amount sacrificed straight into your super. You should be aware that your salary sacrificed contributions can be considered contributions from your employer (eg if you decide to sacrifice 5% of your salary into your super, your employer would only legally have to contribute 4.5% instead of the minimum 9.5% super guarantee amount).

Therefore, before you commence any salary sacrifice arrangement, it is advisable that you and your employer clearly document and agree on the terms of the arrangement. This may involve an explicit, written agreement between you and your employer that specifies they will continue to pay the minimum super guarantee amount, regardless of any salary sacrifice contributions you may make.

Salary sacrifice is a tax-effective way to boost your super, as the sacrificed component is not counted as your assessable income for tax purposes (provided the salary sacrifice arrangement itself is "effective"). This means it is not subject to PAYG withholding tax, but is taxed in the super fund at a concessional rate of 15%. Although there are no limits per se to salary sacrificing into superannuation, any sacrificed amounts are counted towards your annual concessional contributions cap. Therefore, tax-effective salary sacrificing arrangements are effectively limited to the concessional contributions cap.

Making personal super contributions

Personal super contributions are the amounts you or your spouse contribute to your super fund from after-tax income (ie your take-home pay). These contributions count in addition to the compulsory super contributions your employer makes, and do not include any contributions made through salary sacrifice arrangements.

Before 1 July 2017, only self-employed people could claim a deduction for personal super contributions, but from 1 July 2017 most people (regardless of their employment arrangement) can claim a full deduction for personal super contributions they make to their super until they turn 75. However, if you're between the ages of 65 and 75, you will need to pass the "work test" to be eligible to claim the deduction.

The "work test" requires you to be "gainfully employed on at least a part-time basis" – which means you undertake at least 40 hours of paid work within a period of 30 consecutive days during the financial year.

If you have made a personal super contribution and want to claim a tax deduction, you need to complete the ATO form "Notice of intent to claim or vary a deduction for person super contributions", lodge it with your super fund and receive written acknowledge from your fund. You need to do this before you lodge your tax return for the income year you are claiming a deduction for.

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Interested in making a personal contribution?

Would you like to make a personal contribution and claim a deduction for tax time? Or maybe you'd like to find out about setting up an effective salary sacrifice arrangement for next financial year? We can help you avoid the pitfalls and get it right.

Areas of concern for SMSF trustees

If you are a trustee of one of the approximately 577,000 self managed superannuation funds (SMSFs) in Australia at the moment, there are some areas the ATO wants you to pay particular attention to – including the sole-purpose test, the in-house asset rules, unlawful schemes and arrangements, and dividend-stripping. If it all seems a bit confusing or you're unsure about anything, we can help you find out what you need to know.

As the SMSF sector continues to grow and the number of funds to increase, the workload of the ATO as a regulator also increases. Instead of rigid enforcement of the rules, the ATO has taken an educational and early engagement approach with the SMSF sector. As a part of that push for early engagement, it has shared some insights into the common areas that cause concern, in a bid to make trustees more aware.

The sole-purpose test

This test requires that SMSFs maintain their investments for the sole purpose of providing for retirement and death benefits to members. If you're using SMSF assets to provide residential accommodation to a member or a relative, the ATO considers that to be a contravention of the sole-purpose test. This is the case even if the fund receives arm's length rent.

In-house asset rules

Under these rules, the value of an SMSF's in-house assets must not exceed 5% of the value of its total assets. Put simply, in-house assets include:

- loans to, or investments in, related parties of the fund;
- investments in related trusts of the fund;
- assets of the fund that are subject to a lease or lease arrangement with a related party of the fund.

The most common regulatory breaches the ATO sees in relation to in-house assets involve SMSFs lending money or assets to members or relatives of fund members.

Unlawful schemes and arrangements

While the ATO only sees a small number of cases where SMSF trustees are targeted in the promotion of unlawful schemes and arrangements, the consequences for SMSF trustees and their funds are very serious.

> If you or your fund are approached with promises of significant tax or financial benefits beyond what is ordinarily available, remember: if it's too good to be true, it probably isn't lawful!

Recently, the ATO has also seen an arrangement which incorrectly promotes that individuals can roll their retirement savings out of APRA-regulated funds into SMSFs to be withdrawn as a house deposit. The ATO warns that these arrangements are illegal and that you could lose all your retirement savings and be subject to enforcement action for breaching the superannuation rules.

> In the 2017–2018 financial year, the ATO acted to disqualify over 200 trustees. The majority of these disqualifications related the trustees' illegal early release of funds and making loans to members.

Dividend-stripping

In the last two years, the ATO has seen quite a number of dividend-stripping cases involving SMSFs. Dividend-stripping in its classic form involves the acquisition of controlling shares in a company that has a considerable balance in its profit and loss account and corresponding liquid assets. The acquiring entity arranges for the company to declare a large dividend then sells the shares. These arrangements are typically used to move large amounts of money into SMSFs to get concessional tax benefits.

As a result of ATO's investigations, there have been cases where the trustee has been removed, and also cases where trustees have agreed to roll their assets into APRA-regulated funds. Trustees have been required to repay franking credits and forego the benefit of future franking credits.

Need some support?

While managing super yourself can be appealing, the decisions you make in your SMSF can be complicated. If you're unsure about a new investment, are considering making additional contributions, or are looking to start paying benefits from your fund, we can help you understand your options so you can make the most of your super and retirement.