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SEPTEMBER 2018

Taxable SMSF assets double: is your fund affected?

New research has shown the transfer balance cap and reduction of tax concessions for transition to retirement pensions have achieved their policy outcome and made more self managed superannuation fund (SMSF) assets taxable. This may be considered bad news for the SMSF sector, but one ray of sunshine is the policies' unintentional outcome of improving gender imbalance in SMSF assets and balances. Find out whether your SMSF has been affected and what strategies you can implement to minimise the impact.

It's been a little over a year since the pension transfer balance cap and the reduced tax concessions for transition to retirement pensions were implemented by the government. Recent research has indicated that these changes have achieved their intended purpose, by making almost 25% of previously tax-free SMSF assets lose that status and become taxable.

To recap, a pension transfer balance cap of $1.6 million has applied from 1 July 2017 to limit the total amount of accumulated superannuation that can be transferred to the retirement phase, where the earnings on assets are tax-exempt. The transfer balance cap will be indexed in line with the consumer price index (CPI), but adjustments are unlikely to occur until at least 2023–2024.

The ATO uses a transfer balance account to track each person's net pension amounts against their transfer balance cap. Where an individual's transfer balance accounts exceed the transfer balance cap, the ATO will issue a determination that requires person to remove the excess amount from retirement phase.

Excess transfer balance amounts are subject to tax, initially at 15% but increasing to 30% for breaches in subsequent years.

Similarly, the tax exemption on earnings for pension assets supporting transition to retirement income streams (TRISs), also known as transition to retirement pensions (TTRs), was removed from 1 July 2017. From that date, earnings from assets supporting TRISs were taxed at 15% instead of being tax-free. TRISs have traditionally been used by individuals who have reached preservation age but do not want to retire. According to recent research, at June 2018, one year after the sweeping superannuation changes were enacted, SMSF asset value in accumulation phase was approximately $422 billion. This was a 90% increase from March 2017 (before the changes came into force) when asset value in accumulation was around $222 billion.

Based on simple modelling (not taking into account contributions tax, deductible expenses and rebates), assuming a modest return of 5% on assets for the 2018 income year. This increase of SMSF asset value in accumulation phase would result in $3.2 billion worth of tax on SMSF earnings, equating to a $1.5 billion increase from the 2017 year.

However, it's not all doom and gloom for the SMSF sector – the changes have led to new strategies being implemented that significantly the improved gender imbalance in SMSF assets and balances. Two of the most notable strategies used are:

- contributions splitting, which involves a member of an accumulation fund splitting superannuation contributions with their spouse to equalise their total superannuation balances and counter the $1.6 million transfer balance cap; and
- recontributions, which involve a fund member making super withdrawals and then recontributions to their spouse's super account to equalise total superannuation balances up to $1.6 million each (subject to the non-concessional contributions limits).

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Are you affected?

Is your fund affected by the tax changes for SMSFs? Talk to us today – we may have a strategy to help you reduce the taxable proportion of your SMSF assets. We can help you navigate the tricky laws around this area and make sure you get the maximum benefit from your hard-earned superannuation.

What does "independent" mean for financial advisers?

With all the media coverage around the negative behaviour of many large financial advisory firms and their affiliates, you may be forgiven for wanting to deal with a smaller, more independent financial adviser in the future. But what exactly does "independent" mean in in terms of financial services?

The terms "independent", "impartial", "unbiased" and similar descriptions can only be used to describe financial advisory businesses that meet certain conditions under the *Corporations Act 2001*. These conditions include not receiving commissions or volume-based payments for the advice given. The independence of financial advisers is an important issue for both consumers and investors, and may sway decisions about investments as well as choice of advisers. The Australian Securities and Investments Commission (ASIC) is responsible for continually monitoring the financial advice industry, and will take steps to intervene when it discovers false independence claims.

In a recent example of ASIC's activities, the regulator investigated and required four financial advice companies to cease and amend false claims of independence that could mislead consumers. The claims were made on websites and, in some cases, in the marketing materials of the companies.

ASIC has said it "will continue to publicly name advisers who do not comply with their obligations … and where appropriate, take action to enforce the obligations … to ensure consumers are not mislead about the nature of the service they are receiving".

So, what are the conditions that a financial services business has to satisfy to use terms such as "independent"? Basically, the business must not receive "conflicted remuneration" for the advice it gives. Conflicted remuneration includes payments such as:

- commissions (other than commissions that are rebated in full);
- volume-based payments – that is, payments for sending a certain amount of business to an issuer of a financial product; and
- other gifts and benefits from product issuers that could reasonably be expected to influence the advice given.
- In addition, an "independent" financial services business is expected to operate without direct or indirect restrictions on the financial products it recommends, and must not have relationships with product issuers that cause (or could reasonably be expected to cause) conflicts of interest. ASIC has said that businesses also need to satisfy these conditions if they want to use descriptions such as "independently owned", "non-aligned", "non-institutionally owned" and other similar expressions.

If you go to a financial adviser who holds themselves out as "independent" or the like, you can expect them to not receive commissions or volume-based payments or have conflicts of interest. However, independent financial advisers are still allowed to receive asset-based fees for their advice.

An asset-based fee is a charge based on a percentage of the assets that the adviser helps you to invest. For example, if you're investing $500,000 and the adviser charges 1% for their advice, you would pay $5,000 in asset-based fees.

Independent financial advisers are more likely to have an open list of products in their approved product list (APL), and use an easy process to recommend products that are not on the APL if you wish to invest in those particular products. If an adviser restricts your product choices or makes it harder to access products not on their APL, the financial services business is not permitted to describe itself usinng restricted terms such as "independent".

Looking for a financial adviser?

The independence of financial advisers is an important issue and may sway your decisions about investments as well as choice of advisers. If you're looking for a financial adviser that's independent, remember to look out for the use of restricted terms.

If you're after some simple financial advice about your super fund or just some general advice, an accountant with a limited Australian financial services license (AFSL) may be able to help. Contact us today to find out more.