INSIDE

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FINANCIAL MATTERS AFFECTING YOUR LIFESTYLE

Event – based reporting mistakes

Lead to more SMSF audits

In the year since event – based reporting (EBR) started for SMSFs (from July 2018) The ATO says an unprecedented number of Transfer balance cap reports have required re – reporting.

The transfer balance account report (TBAR) is used to report certain events and is separate from SMSF annual return. The TBAR enables the ATO to record and track an individual's balance for both their transfer balance cap and total superannuation balance.

The ATO says the regulations in place do not provide it with a discretion for "special circumstances" regarding contraventions of the transfer balance cap, and that it is particularly important for all SMSF trustees and members to self – monitor and ensure that no member exceeds the cap.

The re–reporting incidents, says the ATO, has mostly been in response to determinations and commutation authorities it has issued. It says that in some instances the amended reporting indicates:

- The member was not actually receiving a pension during 2017-18
- The pension was commuted on 1 July 2017 so that the member was never in excess.
- The member had commuted the pension before 1 July 2017 to avoid being in excess and the trustees had incorrectly included the commuted amount in their original reporting.
- The member commenced a pension during 2017-18, however the initial value reported to the ATO was amended so the individual no longer exceeded their transfer balance cap.

The amended reporting usually results in the determination or commutation authority being revoked. ATO records show that approximately 39% of commutation authorities issued to SMSFs in the 12 months since were revoked, including commutation authorities issued to APRA funds after SMSFs had corrected reporting errors.

That to carefully check

Due to the large number of amended TBARs it is receiving for SMSFs, the ATO is reminding SMSFs that is important to check the following in the case where a member received a pension during an income year:

- That an appropriate condition of release was met
- That the pension is valued correctly in financial statements
- The commencement date of the pension and any commutations have been properly documented
- Exempt current pension income (ECPI) has been correctly calculated with respect to the pension and any commutations that occurred during the year have been considered
- The payments from the pension have actually been paid
- The minimum pension payment requirements have been met.

The ATO has also announced that any TBAR re-reporting by SMSF trustees for future income years will be closely monitored, and that it may request evidence of relevant documents and calculations to substantiate the TBAR amendment.

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The ATO is looking for personal services income diverted to SMSFs

The ATO has announced that it is reviewing arrangements where members of an SMSF (typically at, or approaching retirement age) purport to divert income earned from their personal services to their fund, which results in minimising or even avoiding tax altogether on that income.

The ATO says these arrangements typically display all or most of the following features:

- An individual performs services for a client or other “acquirer” of the personal services for which the individual does not directly receive any (or adequate) consideration for the services provided.
- The client does not pay or remit funds to the individual directly, rather the client remits the consideration for the services provided to a company, trust or other non – individual entity (which may be an unrelated third party).
- The entity then distributes the income to an SMSF of which the individual is a member purportedly as a return on an “investment” of the SMSF in the entity.
- The trustee of the SMSF treats the income received as subject to a concessional rate of tax, or as exempt current pension income of the SMS

The ATO also points out that such arrangements may also include one or more of the following characteristics or variations:

- The income may be remitted by the entity to the SMSF via a written or oral agreement between them, instead of as a return on an investment in the entity.
- The SMSF may receive the income from more than one entity or through a chain of entities. Alternatively, the entity may distribute the income to more than one SMSF of which the individual and/or associates are members.

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WHAT ARE THE ATO'S CONCERNS?

The worry for the ATO is that in order to avoid paying tax at applicable personal marginal rates, individuals are entering into these arrangements in an attempt to divert "personal services income" (PSI) to an SMSF, where the income is concessionally taxed or treated as exempt current pension income.

The ATO says that it considers that:

- The arrangement may be ineffective an alienating income such that it remains the assessable income of the individual. The income may be included in the individuals' assessable income of the individual.
- The amounts received by the SMSF, may constitute non-arm's length income of the SMSF, such that the income is not eligible to concessionally taxed and in not exempt current pension income.

Source Butler Settineri

Changes to Super – What's new

In February 2019, a number of laws were passed through Parliament that will see changes to superannuation in the coming year. They are overall positive and may signal the end of super balances being eroded by unnecessary fees. The changes are due to commence from 1 July 2019.

These reforms join other recent changes first proposed in the 2018/19 Federal Budget.

The changes include:

Fees

Accounts classified as low balance (those that have less than $6,000) will have their fees capped at 3% to assist in preventing them being eroded by fees. This may see fees reduce for some fund members.

All super fund exit fees will be banned. According to the Australian Prudential Regulation Authority (APRA), super members lost approximately $52 million in exit fees in 2016/17 alone.

Insurance

An account will be classified as inactive if, over a 16-month period, either no contributions have been received or the member has not otherwise engaged with the account by, for example, requesting a change to their investment strategy or insurance coverage.

From 1 July 2019, regardless of the balance of an account, insurance will be cancelled on it if it has been classified as inactive.

Consolidation

Superannuation accounts which have not received a contribution for 16 months and have balances below $6,000 are known as inactive low balance accounts. These will be transferred to the Australian Taxation Office (ATO), who will attempt to auto-consolidate the amounts into the member's active account, if they have one and if the combined balance will be greater than $6,000.

If the ATO cannot auto-consolidate a balance into a member's active account, the balance will remain with the ATO until it can be validly claimed.

If you are out of the workforce for 16 months and not making contributions to your account, you can inform

your super fund that you want your super balance to remain in the fund.

These accounts will be consolidated on **31 October 2019**.

If you have multiple accounts, you can currently seek to consolidate your super.

Retirees can work more

The Pension Work Bonus will increase to $300 per fortnight, from $250. This allows pensioners to earn up to $300 each fortnight without reducing their Age Pension payments. This measure also applies to self-employed members.

Tackling unpaid super

The ATO can now apply for court-ordered penalties for employers who defy directions to make compulsory contributions on behalf of their employees.

From 1 July 2019, the Single Touch Payroll system will also be extended to all employers, meaning the ATO will have up-to-date information on how much super employers owe to their workers.

Although this is a welcome development, Industry Super Australia (ISA) has long advocated that super be required to be paid to employees' accounts at the same time as their wages are paid. Currently, employers can advise their workers in payslips how much super they will receive but hold on to these funds before making a consolidated contribution as rarely as once every four months.

Allowing retirees to make voluntary contributions in the first year of retirement

From 1 July 2019, retirees aged between 65 and 74 with a superannuation balance below $300,000 will be allowed to make voluntary super contributions for the first year that they no longer meet the work test requirements.

Source: Industry Super

We are always available to discuss any questions or concerns you may have.

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