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Taxwise Business News — June 2017

Superannuation

Superannuation reform changes: what you need to know and do before 1 July 2017

The new superannuation tax laws substantially commence from 1 July 2017. Many of the measures require careful consideration for super fund members, trustees and their advisers. This includes a number of matters that need to be considered prior to 1 July 2017, including:

- **Transfer balance cap for members who will have more than $1.6 million in pension accounts in retirement phase (including defined benefit pensions)** – action will need to be taken before 1 July 2017 under the transfer balance cap measure to commute such pensions back to accumulation phase so that pension accounts do not exceed $1.6 million to ensure they do not incur excess transfer balance tax: LCG 2016/9.
- **Death benefit pensions** – will be subject to the $1.6 million transfer balance cap (with a modified cap for child pensions) with any excess being required to be cashed out of the superannuation system. From 1 July 2017, whether a pension is auto-reversionary on death, has more significance: LCG 2017/D3.
- **Transition to Retirement Income Streams (TRIS)** – consider the ongoing appropriateness of transition to retirement income streams and whether they should be continued or commuted post 30 June 2017. Some members may be in a position to convert their TRIS to a pension account in retirement phase if they have retired or satisfied a condition of release with a nil cashing restriction: LCG 2016/8.
- **Elections for transitional CGT relief (cost base reset)** – there are different applications of the relief depending on whether the fund has used the segregated method or the proportionate method – this will need to be considered. Availability for funds that have used the segregated method will require action prior to 1 July 2017. However, a decision for funds that have applied the proportionate method may be deferred up to the date of the lodgment of the fund's FY2017 tax return: LCG 2016/8.
- **Valuations** – consider whether it is prudent to obtain new or updated valuations to support any CGT relief elections (cost base reset) and the balance of any transfer balance accounts.
- **Defined benefit pensions** – will generally be counted for the purposes of the transfer balance by the application of a special value for a lifetime pension, life expectancy and marked linked pension to the annualised first retirement phase pension payment following 30 June 2017, and generally 50% of a member's annual defined benefit pensions that exceed $100,000 will be taxed at marginal tax rates: LCG 2016/11.
- **Non-concessional contributions cap of nil for members with more than $1.6 million in total superannuation benefits across all funds (including defined benefits)** – applies for each financial year commencing on 1 July 2017 with the total superannuation benefits measured at 30 June of the immediately preceding year. Considering liquidity issues for self-managed superannuation funds affected by a member's inability to make further non-concessional contributions from 1 July 2017 will be important.
- **Non-concessional contributions cap for members with less than $1.6 million in benefits** – the non-concessional contributions cap will reduce from 1 July 2017 to $100,000 ($300,000 bring-forward rule). However, the current cap of $180,000 or $540,000 under the bring-forward rule remains available until 30 June 2017.
- **The concessional contributions cap** – the concessional contributions cap will reduce to $25,000 from 1 July 2017. However, the current cap of $30,000 (or $35,000 for members aged 49+ at the end of the previous financial year) will be available until 30 June 2017.

- **Tax deductibility available for contributions made by employees** – from 1 July 2017, the 10% rule for tax deductibility of member contributions is removed and it may not be necessary for employees to maintain salary-sacrifice arrangements (but check availability for public sector funds and some corporate defined benefit funds).

Different measurements – the $1.6 million transfer balance cap (relevant for determining an excess transfer balance of pensions in retirement phase) is measured differently from the $1.6 million total superannuation balance measure (which is relevant for the non-concessional contributions cap): LCG 2016/12.

The end of the financial year is coming and it is time to start thinking about your 2017 Income Tax Return. Now is a good time to start reviewing certain assets and liabilities owned by your business and consider if there is anything you should do prior to 30 June 2017.

To do!
If you have not already you should seek advice from us regarding how these superannuation changes affect you. You should also consider if there are any impacts on the contributions you make to superannuation on behalf of your employees.

Non-payment of the superannuation guarantee

The ATO recognises the importance of the Superannuation Guarantee (SG) to the community and its vital role in providing for people's retirement.

The ATO website has calculators and guidance to help employees determine whether they are being paid enough SG. When the ATO recovers outstanding superannuation amounts from employers, payments are then sent to the employee's superannuation fund.

On 14 March 2017, the Senate Economics References Committee held a public hearing on the Committee's inquiry into the impact of non-payment of the superannuation guarantee. The transcript was released on 22 March 2017 and can be found on the Parliament website.

Note!
If you have any concerns about whether you are meeting your superannuation guarantee requirements, you should contact us to discuss.

2017-18 Federal Budget measures on superannuation

a) **Integrity of non-arm's length arrangements**

On Budget Night, the Government announced that from 1 July 2018 the non-arm's length income (NALI) provisions applying to superannuation fund earnings will be amended to consider expenses associated with a transaction.

b) **Integrity of limited recourse borrowing arrangements**

On Budget Night, the Government announced that limited recourse borrowing arrangements (LRBAs) entered into after 30 June 2017 will be treated differently to improve the integrity of the superannuation system.

The outstanding balance of a relevant LRBA will be included in a member's Total Superannuation Balance (TSB).

Repayments of a relevant LRBA from a member's accumulation account that result in an increase in the value of a retirement phase account will become credits for Transfer Balance Account purposes.

Common errors on SMSF annual returns

Trustees are reminded that it is now a requirement for all SMSFs to provide the ATO with your fund's superannuation bank account details. In addition, if your SMSF has an electronic service address (ESA) alias, you should include this information in your annual return.

For more information, visit the ATO website.

Tip!

There are a lot of changes affecting superannuation – both for individuals and for business-owners – that you need to be aware of. It is always a good idea to sit down with us and review all relevant aspects of superannuation.