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# Super News

**JULY 2015**



## Superannuation, SMSF and Retirement Information

### IN THIS ISSUE:

- **Binding Death Benefit Nominations**
- **Making Sure you are Superstream ready**
- **Benefits of Corporate Trustees for SMSFs**
- **Important things to know about Contributions**
- **Commonwealth Seniors Health Card income test**

- **SMSF Trustee Education Programs**
- **Ways to save and boost your Super**
- **Benefits of Corporate Trustees for SMSFs**

**Super Guarantee  
Rates increased  
to 9.5%**



### **An important message**

*While every effort has been made to provide valuable, useful information in this publication, this firm and any related suppliers or associated companies accept no responsibility or any form of liability from reliance upon or use of its contents. Any suggestions should be considered carefully within your own particular circumstances, as they are intended as general information only.*

## Binding Death Benefit Nominations

It is important that you have valid binding death benefit nominations (BDBN) in place. Recently there have been some interesting judgements that provide more guidance on what is a BDBN and what could happen if your BDBN is not valid. It is a reminder that your will or informal wishes do not override the subjective discretion the remaining trustees have, if your BDBN is not valid and binding.

The impact of *Munro v Munro* [2015] QSC 61–  
Supreme Court of Queensland

The Court held that a purported superannuation BDBN which nominated the “Trustee of Deceased Estate” was invalid as the SMSF Trust Deed (and Reg. 6.22 of the SIS Regulations) only allowed a binding nomination of a dependant or legal personal representative (LPR).

The Court rules that “executor” is legally distinct to LPR, and the nomination was invalid.

It also confirmed that a BDBN for an SMSF can be non-lapsing and last indefinitely.

It is time to review your BDBN to ensure that they are binding (by being completed the correct way) and the nomination is valid. In this way, your superannuation death benefits will go to whom you want them to go.

## Consequences of no BDBN

The deceased wanted, in her will, that her children would receive her superannuation benefits upon her death. This did not happen – the case was heard in 2013 and then on appeal in 2015 in the WA Supreme Court.

*Ioppolo v Conti* [2015] WASCA 45, confirmed that a legal personal representative does not automatically step into the role of trustee of the SMSF. This is important, as remember, whoever is left holding the “purse strings” has tremendous power. The deed determines who will be trustee upon death.

It also held that, despite the deceased’s will directing all benefits to be paid to her children, the remaining trustee’s decision to pay the

benefits to himself and the children was upheld. There was nothing to conclude that the trustee had acted outside his authority and did not act in good faith.

Had the deceased put a valid BDBN in place, her death benefits would have been paid to her LPR and then through her estate to her named beneficiaries in her will.



## Make sure you are SuperStream ready

Do you have a self-managed superannuation fund (SMSF) that receives contributions from an employer with more than 20 employees? If you do, then the SuperStream changes may have an impact now.

If your SMSF receives contributions from an employer with less than 20 employees then SuperStream will have an impact from 1 July 2015.

SuperStream is a new data standard for all superannuation funds, large and small, which requires employers to pay all superannuation contributions electronically to the fund.

This includes superannuation guarantee, award, salary-sacrifice and after-tax contributions that an employer may make to the SMSF. To allow this to happen there is one, two or three things you need to do.

If your SMSF is currently receiving contributions from an employer you have probably provided some details about the names of the members and the SMSF, as well as bank account details.

An employer that is required to comply with SuperStream will not only need the member, fund and bank account details but will also need the fund to notify its electronic service address (ESA). Our SMSF clients with their data on Class Super just need to ring us for an ESA form to provide this to the employer.

## Non-concessional contributions cap

Income Year	Cap	Bring Forward Rule
2015/2016	\$180,000	\$540,00
2014/2015	\$180,000	\$540,000
2013/2014	\$180,000	\$540,000

## Important things to know about Contributions

### Concessional contributions cap\*

Income Year	Under 50	50yrs to 59yrs	60yrs and over
2014/2015	\$30,000	\$35,000	\$35,000
2013/2014	\$25,000	\$25,000	\$35,000
2012/2013	\$25,000	\$25,000	\$25,000

\*Concessional contributions cap for older Australians applies in the following way for different financial years:

**2013/2014 year:** If you were 59 years of age or older as at 30 June 2013 then you were eligible for the higher concessional cap of \$35,000 for the 2013/2014 year. If you were 58 years or younger as at 30 June 2013, then you were eligible for the general concessional cap of \$25,000 for the 2013/2014 year.

**2014/2015 year:** The concessional cap for older Australians was broadened to those in their fifties from 1 July 2014. If you were 49 years of age or older as at 30 June 2014, then your concessional contributions cap for the 2014/2015 year is \$35,000.

**2015/2016 year:** If you were 49 years of age or older as at 30 June 2015, then your concessional contributions cap for the 2015/2016 year is \$35,000.

### Maximum superannuation contribution base

Income Year	Per Quarter	Annualised
2015/2016	\$50,810	\$203,240
2014/2015	\$49,430	\$197,720
2013/2014	\$48,040	\$192,160

### Co-contribution income thresholds

Income Year	Lower Income Threshold	Upper Income Threshold
2015/2016	\$35,454	\$50,454
2014/2015	\$34,488	\$49,488
2013/2014	\$33,516	\$48,516

^^For the 2015/2016 and 2014/2015 years (and for the 2012/2013 and 2013/2014 years), the co-contribution matching rate is 50% of the non-concessional (after-tax) contributions that you make, and also note that the maximum co-contribution that you can receive is \$500.

### Minimum annual pension (income stream) payments

		Back to normal	Temporary relief	
		2015/16, 2014/15 & 2013/14 years	2012/13 & 2011/12 yrs	2010/11, 2009/10 & 2008/09 yrs
Age	Percentage Factors	No relief	75% of PF	50% of PF
55-64	4%	4%	3%	2%
65-74	5%	5%	3.75%	2.5%

75-79	6%	6%	4.5%	3%
80-84	7%	7%	5.25%	3.5%
85-89	9%	9%	6.75%	4.5%
90-94	11%	11%	8.25%	5.5%
95 or older	14%	14%	10.5%	7%

\*For the 2012/2013 year and for the 2011/2012 year, the annual minimum pension payment factors were 75% of the usual factors.

### Low-rate lump sum cap

A **low-rate cap** is a lifetime limit that applies to superannuation lump sums paid from a taxed benefit after the age of 55 but before the age of 60.

Income year	Cap
2015/2016	\$195,000
2014/2015	\$185,000
2013/2014	\$180,000

### Tax-free super for over-60s, except for some

If you withdraw your super benefits after you turn 60 years of age, you can expect to pay no tax on those super benefits, unless you are a member of certain public sector super funds

### Commonwealth Seniors Health Card income test: What is untaxed superannuation and taxed super?

Under the new eligibility rules from 1 January 2015, any new tax free pension payment received from an SMSF or retail/industry fund is classified as untaxed superannuation for a CSHC. This differs from a pension from untaxed source, such as a public sector fund.

All superannuation account-based income streams held by CSHC holders on 1 January 2015 before the implementation date will be grandfathered under the existing rules. If you start a new pension, including changing pension providers, then you will be subject to the new

rules & your deemed pension income will count when assessing your eligibility for the CSHC.

### SMSF Trustee Education Programs

If you would like to learn more about your roles and responsibilities as an SMSF Trustee, our website [www.kilara.com.au](http://www.kilara.com.au) now has links to ATO and SMSF Association short webinars or courses.

### Ten ways to save your super

1. Check that your super fund has your TFN
2. Find out how many super funds you have, and update your contact details
3. Consider combining your super accounts to reduce how much you pay in fees
4. Check that your employer is making compulsory super contributions (SGC) for you, and that the amount is correct
5. Check your life insurance cover in your super fund
6. Ask yourself, how much super do I need for my life in retirement?
7. Review your super fund
8. Monitor your super fund's investment returns
9. Review your investment option, and change if necessary
10. Identify your nominated beneficiaries: who'll receive your super if you die?

### Ten ways to boost your super

1. Set a date for your retirement, even if you change it later
2. Make a plan – do nothing, do a little or do heaps
3. Focus on 3 key factors to super success – (long-term investment earnings after fees and taxes), super contributions and lower tax
4. Calculate how much you pay in fees
5. Change investment options, if necessary
6. Change super funds, if necessary
7. Consider making concessional (before-tax) contributions

8. Consider making non-concessional (after-tax) contributions
9. Check if you're eligible for a co-contribution
10. Fully appreciate the tax advantages available with super



You can access your investment, member and pension information online

We have switched to Class Super to administer our SMSF Clients.

For funds with shares and bank accounts, we get direct feeds to transactions, dividends, share sales & purchases. Valuations are usually daily. Trustees can view these transactions and reports by contacting us to arrange an email link to their file. This information is available on-line 24/7 "in the cloud". Contact Kylie Heagney to set up your access.

Below are a few examples of information you can see on your desktop, laptop or iPad.

Example 1:

Pension Limits				
	Under min	Over min and under plan	Over min/plan but under max	Over max
<b>Mrs Tooth Fairy</b>				
New Pension Account				
Gross drawdowns				
PAYG tax				
<b>Net Cash Drawdowns</b>				
	Drawdowns to date	Minimum		
	\$11,250.00	\$12,500.00		
	\$11,250.00	\$12,500.00		
	\$0.00	\$0.00		
	<b>\$11,250.00</b>	<b>\$12,500.00</b>		

Example 2:

Contributions			
	Concessional	Non-Concessional	Bring Forward Rule
<b>Lord James Bond</b>			
Caps	\$25,000.00	\$250,000.00	Applied last year
Contributions	\$0.00	\$0.00	
Available/(Excess)	\$25,000.00	\$250,000.00	
<b>Mr Alan Davidson</b>			
Caps	\$25,000.00	\$250,000.00	Applied two years ago
Contributions	\$0.00	\$0.00	
Available/(Excess)	\$25,000.00	\$250,000.00	
<b>Mr James Smith</b>			

Example 3:



Example 4:

Statement of Financial Position	
Financial Year: 2013-14	As At 06 Feb 2014
<b>Assets</b>	
Investments	\$460,200.00
<b>Total</b>	<b>\$460,200.00</b>
<b>Liabilities</b>	
Unsettled Trades	\$270,200.00
Member Payments	\$35,850.00
<b>Total</b>	<b>\$306,050.00</b>
<b>Net Assets</b>	
<b>Total</b>	<b>\$154,150.00</b>
<b>Member Entitlements</b>	
Member Entitlement Accounts	\$154,150.00
<b>Total</b>	<b>\$154,150.00</b>

## Benefits of Corporate Trustees for SMSFs

The use of a corporate trustee makes a fund's asset ownership much clearer and reduces paperwork considerably when there are membership changes, and can reduce costs significantly if ATO penalties are levied against trustees. ATO penalties for breaches are increasing from \$170 to \$180 per penalty point.

## Asset Protection

### Corporate Trustees

As Companies have limited liability, they provide greater protection where a party sues the Trustee for damages.

### Individual Trustees

If an individual Trustee suffers any liability, the Trustee's personal assets are also exposed.

## Continuous succession

## Corporate Trustees

A Company has an indefinite lifespan, in other words, it cannot die. A company makes succession to control more certain on death or incapacity.

## Individual Trustees

Timely action must be taken on death to ensure the Trustee/Member rules are satisfied. (SMSF rules do not allow a sole individual Trustee/Member SMSF).

## Change in members

### Corporate Trustees

On the admission or cessation of membership, that person becomes, or ceases to be, a director of the company. Thus, the title to all assets remains in the Company's name.

### Individual Trustees

When a member joins or leaves a fund, that person must become, or cease to be, an individual Trustee. As trust assets must be held in all Trustees names, the title to all assets to be transferred to the new Trustees.

## Estate Planning

### Corporate Trustees

A company offers greater flexibility for estate planning, as the trustee does not change as a result of the death of a member.

### Individual Trustees

The death of a member gives rise to considerable administrative work and costs at an inopportune time

## Penalties

### Corporate Trustees

The administrative penalty regime that commenced from 1 July 2014 typically only applies to a company once for each contravention.

## Individual Trustees

From 1 July 2014 a penalty can be imposed on each individual trustee for each contravention. Thus, having two individual trustees can double the administrative penalty that would otherwise apply to a corporate trustee\*.

*\* These penalties can be as high as \$10,200 per Trustee*



## Sole Member Fund

### Corporate Trustees

An SMSF can have one individual as both the sole member and the sole director.

### Individual Trustees

A sole member SMSF must still have two individual Trustees.

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