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Super News

JULY 2014

Superannuation, SMSF and Retirement Information

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From 1 July 2014

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Super Guarantee Rates increasing to 9.5%

Latest News

New Income test rules mean less Age Pension

A change to the Age Pension deeming rules passed law on 31 March 2014.

They apply to new superannuation pensions from 1 January 2015, if you commute or change your pension type after 1 January 2015 or first apply for an Age Pension after 1 January 2015.

The entire super payment will be subject to the deeming rates, currently at 2% then 3.5% above the lower value threshold.

Currently superannuation pensions are counted against Age Pension income test through a special calculation that recognises the return of capital portion in every pension payment.

The super account balance is counted against the Age Pension assets test. This will continue for existing Age Pension recipients.

Check your eligibility to even a small amount of Age Pension before 1 January 2015 to access the current deeming rules.

Superannuation changes in Budget 2014

The following are proposals, yet to be law

SGC contributions by employers rise from 9.25% to 9.5% from 1 July 2014 remaining there for 3 years until June 2018.

Low Income Super Contribution to be repealed from 1 July 2013 (calculated so tax on your super contributions is no more than your other non-super income).

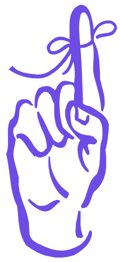
Excess Non-Concessional (undeducted) Contributions over the cap to be allowed to be withdrawn rather than pay the penalty tax.

Company tax reduced to 28.5% from 30% - this will reduce franking credits available to SMSFs.

Untaxed superannuation income included to determine eligibility for Commonwealth Seniors Health Card (CSHC) from 1 January 2015.

All superannuation account-based income streams held by CSHC holders before the implementation date will be grandfathered under the existing rules.

Important things to know about Contributions



Maximising your superannuation contribution cap

You can contribute up to but do not contribute over your Contribution Cap. The maximum now depends upon your age.

Changing concessional caps	**2013-14**	**2014-15**
General concessional cap	$25,000	$30,000
Concessional cap – aged 50 to 59	$25,000	$35,000
Concessional cap – aged 60 or more	$35,000	$35,000

Exceeding your Concessional Cap will incur an "Excess Concessional Contributions Tax Charge" on the excess plus the excess is included as assessable income and taxed at your marginal tax rate. If you do not choose to have them refunded to you, they also count towards your Non-concessional Contributions Cap.

Beware the Non-concessional Contributions Cap

- Personal contributions for which you do not claim an income tax deduction.
- Excess concessional contributions.

Changing non-concessional caps	**2013-14**	**2014-15**
Under 65	$150,000	$180,000
Under 65 Bring forward maximum	$450,000	$480,000
Between 65 and 74 satisfying the "work test" (no bring forward)	$150,000	$180,000

Making Superannuation contributions count in 2013/2014 tax year

Payments for tax deductible or non-concessional contributions need to have cleared into the superannuation fund bank account by end of business 30 June 2014 to be included in 2014 Contribution Caps. If the deposits did not clear, they must be counted towards the 2015 Contribution Caps.

Are you turning 65 after 30 June 2014?

There is a planning opportunity for those turning 65 after 30 June 2014, particularly if you wish to trigger the “bring forward” option for maximising your non-concessional contributions.

How can a member aged 75+ contribute to superannuation?

Superannuation Guarantee legislation has been changed to remove the cap of 75 years of age for employees. Therefore the maximum age for compulsory superannuation has been abolished altogether.

There is a maximum amount of mandated employer contributions for the year ended 30 June 2014 is $17,774.80. These are contributions made under a post 1/7/86 award or industry agreement or contributions an employer is required to make under the superannuation guarantee legislation. There cannot be any non-concessional (undeducted) contributions, only these limited mandated contributions, but it is an opportunity for our older hardworking men and women to increase their superannuation.

More important things

Take out insurance using your SMSF

From 1 July 2014, new “any occupation” TDP will not be available through your superannuation fund. Existing policies can continue.

Insurance through super may be more cost effective for you than holding the cover outside super. So, you should speak to Kilara Financial Services and review your insurance needs to make sure.

Market Valuations of SMSF Assets

From 1 July 2012 it has become mandatory to value all assets within SMSFs at market value. While this is simple enough for many assets, such as shares and trusts, it can be difficult for property and unlisted shares. Therefore Trustees should carefully consider the asset, its condition, potential market, and general economic conditions to determine whether there has been any significant change in all assets and obtain an independent valuation where appropriate. These considerations should be documented.

Each year the Trustee must provide to the auditor the rationale for the current year valuation of an asset in the accounts, in particular if the same value is kept as the previous year. Whilst it is not a requirement to obtain an independent valuation, trustees are required to demonstrate that there has been some endeavour made to determine the current market value.

Check minimum pensions have been paid out for the year

Each pension account must pay out a minimum amount by the end of the tax year, based on the age of the member and the account balance at either the start of the tax year or the start of the pension if later.

The minimum rate that has to be paid out before the end of this tax year for members age 55 to 64 is 3%, for members 65 to 74 it is 3.75% and for those 75 to 79 it is 4.5% of the balance at the start of the financial year. This can be found on your member statement.

If you are currently drawing Transition to Retirement pension (TRIS), you cannot draw out over your maximum of 10% of your balance on 1 July of the previous year. Any amount taken over 10% is an illegal access and you should talk to us at the earliest opportunity.

Review fund investments

Trustees must now review the fund’s investments on a 'regular basis' instead of 'at least annually'. This means you should review the fund's investment strategy during each income year from 1 July 2012, to ensure that it continues to reflect the purpose and circumstances of the fund and its members.

Notes of reviews which occur on a ‘regular basis’ should be evidenced by documenting decisions made in minutes of Trustee meetings held during the income year.

From 1 July 2013 SMSFs must report all investments at market value so those not listed, like direct property, will need to be valued by 30 June 2014.

Review insurance for all fund members, including outside super

Trustees now are required by SISA to review the insurance provisions in place for the members, and document that as part of the investment strategy review.

Insurance within SMSFs has been showing strong signs of growth since new rules were introduced in August 2012 as some insurance is more tax efficient when held within super. You should talk to Kilara Financial Solutions to help you assess your risks and whether you have a need for more cover, in or out of your super fund.

New Penalty Regime for Trustees from 1 July 2014

Prior to 1 July 2014, if an SMSF contravenes an applicable regulatory provision the ATO could either:

- *Overlook the contravention (if breach trivial or rectified).*
- *Seek an enforceable undertaking (tend to ineffective in practice).*
- *Issue a notice of non-compliance (lose tax concessions) or*
- *Impose interest or other penalties.*

The Cooper Review recommended that the ATO be given the power to issue administrative penalties against SMSF trustee on a sliding scale reflecting the seriousness of the breach, rather than the "all or nothing" nature of non-compliance notices.

From 1 July 2014 the ATO will be able to also;

- *Issue a rectification direction:*
  - After regard to the financial detriment from complying with a rectification order, can order a trustee to take specific action to rectify the contravention within a specific timeframe, including putting in place arrangements to prevent further contraventions of a similar kind.
  - If a trustee or director does not comply with a rectification direction and provide evidence to the ATO of compliance, you are liable to a fine of $1,700 for each breach payable by the trustee or directors.

- *Issue an education direction:*
  - It can require a person to successfully complete a free, ATO-approved education course within a specified time.
  - If a trustee or director does not complete the education course and notify the ATO, each trustee or you are liable to a fine of $1,700 and an administrative penalty of $850.
  - Once an education course has been completed, a trustee declaration form must be re-signed confirming you understand your duties as a SMSF trustee.

- *Impose an administrative penalty:*
  - This only applies in relation to specific contraventions *(eg breaching lending, borrowing, signing & keeping minutes & accounts rules)* and may result in a penalty of up to $10,200 for each breach.
  - If a trustee or director of a corporate trustee breaches specific sections of the Superannuation Industry (Supervision) Act 1993 then you will be liable to an administrative penalty ranging from $850 to $10,200, depending on the provision breached.
  - Where the administrative penalty is payable by the corporate trustee, each director will be jointly and severally liable for the penalty, meaning one penalty per fund.
  - **Where individual trustees, each can be fined up to $10,200, effectively doubling the penalty.**

Costs and penalties cannot to be passed on to the SMSF:

- The costs of complying with an education direction must be paid for by the person to whom the notice was issued — it cannot be refunded by the SMSF.
- Similarly, an administrative penalty is payable personally by the offending trustee or director and cannot be reimbursed out of the SMSF assets.
- Interestingly, no such prohibition applies in relation to the costs of complying with a rectification direction.

As a result of the ATO now having a middle ground, it can be presumed that the ATO will be less likely to overlook contraventions. It remains to be seen how the ATO will apply its new powers in practice. The ATO presently receives considerable information in relation to SMSF breaches through Auditor Contravention Reports (ACRs) and its own compliance activities.

We have been informed that in the future, the ATO is likely to be more inclined to impose penalties — particularly for repeat offenders or where recklessness, disregard for the law or lack of reasonable care is present.

Also from 1 July 2014

Review your strategy if you're transitioning into retirement

If you are over 55, the combination of salary sacrificing pre-tax income into super, and drawing an income from super benefits can be very tax effective. Not only does it get more into your super fund but your cash flow remains the same. The income tax reduction comes about thanks to receiving less salary income (and therefore paying less tax) and more concessionally taxed pension income from your super fund.

If you are using a transition to retirement (TTR) strategy to grow your retirement savings, you may need to alter your strategy from 1 July this year in light of some pending changes.

On 1 July 2014, the cap on concessional super contributions will increase from $25,000 to $35,000 if you are aged 49 or over on 30 June 2014, so if you are eligible for the higher cap, you may want to increase your concessional contributions and draw more from your TTR pension to replace the extra money you contribute.

Watch the Super Guarantee (SG) contribution level increases as these contributions count towards you cap.

What is SuperStream & What is our good news?

From 1 July 2014, SMSFs will be required to receive employer super contributions using the Government's SuperStream Data and Payment Standard.

There are varying start dates for large and small employers to make contributions electronically using SuperStream, but there is good news for our SMSF clients.

As we have upgraded to Class Super to manage the administration, all funds on Class will automatically be registered and will be SuperStream ready with no additional registration on your part.

The Standard is part of the Government's Stronger Super initiative and introduces a streamlined method of sending superannuation payments and associated information electronically, including rollovers between funds.

If your fund will receive employer contributions, and you are asked to provide an ESA notification, please contact Kylie Heagney on 02 60331133 or email kheagney@kilara.com.au

Trust Deed & Corporate Trustee Reviews

Due to significant changes to the superannuation law and regulations since 2007, we have undergone a review of finding a replacement deed to recommend to any fund that came into existence before 1 January 2012 or where the latest amendment was before 1 January 2012.

The latest deeds make provision for successor trustees, transition to retirement income streams, auto and non-auto reversionary pension nominations, limited recourse borrowing arrangements and contribution splitting.

For those super funds that have individual trustees, we are recommending that they change to a corporate trustee; mainly to assist trustees comply with the more stringent "Separation of Assets" changes in SISA from 7 August 2012 and in the event of the death of member/trustee, the fund can operate as a single director trustee company without the need to change title of fund assets or appoint another trustee.

For those funds that already have a corporate trustee, we are recommending an update to their Constitution, to allow Legal Personal Representatives to be successor director and provide flexibility to pay both lump sums and pensions without commutation.

If your corporate trustee is an old company, it may not have the ability to be a sole purpose SMSF Trustee company. By upgrading your Corporate Trustee Constitution or Memorandum & Articles, this means that the annual return fee with ASIC can be reduced from $236 down to $44 (indexed every year).

We will be sending out details shortly.

ATO Super Trustee webinars

From 14 May 2014 to 31 July 2014 the ATO is running a series of free online webinars for self-managed super fund trustees to view on your computer or mobile device.

If you cannot attend, you can download a recording or access a transcript. The topics are; Self-managed super funds for trustees – an overview; Accepting contributions; Accessing your super. To register - Google "Free ATO Super webinars" and follow the links.