Self Managed Superannuation Funds

2019 Update

In brief

Date	Changes and actions
Pre 30 June 2019	• **Ensure that contributions are made and received by 30 June. If contributions are by EFT, ensure that the contribution is recognised in the bank account as at 30 June.** • Where applicable, ensure minimum pension payments have been withdrawn from the fund's bank account by 30 June. • Review your fund's investment strategy including any insurance held by the SMSF. • Rectify any outstanding compliance issues noted by your auditor. • Review any salary sacrifice arrangements to ensure they are consistent with the new contribution caps and still appropriate. •
From 1 July 2018	• **Event-based reporting commences** • Ability to make 'catch up' superannuation contributions introduced for people with total super balances below $500,000. • Concessions commence for over 65s who contribute the sale proceeds of their family home to super – 'Downsizer contributions'. • Access to contributions made under the Government's 'First Home Super Saver Scheme' allowed.

What's new

Event-based reporting

A significant new reporting regime for SMSFs commenced from 1 July 2018.

From 1 July 2017, superannuation fund members have been subject to a $1.6 million transfer balance cap (TBC). The TBC is a limit on the total amount of superannuation that can be transferred into the retirement phase, which in turn limits the tax exemption on balances above this amount.

Any events that affect the value of your transfer balance cap need to be reported to the ATO.

By 1 July 2018, any pensions that were in existence on or before 30 June 2017 need to be reported. From 1 July 2018, any events that affect the value of your TBC – new pensions, some limited recourse borrowing arrangements, lump sum payments – need to be reported.

Carry forward unused concessional contributions

Where a member:

- Has a total superannuation balance below $500,000 as at 30 June, and
- Has not used their entire concessional contribution cap for the year ($25,000)

They have the ability to 'carry forward' the unused contribution amount on a rolling 5-year basis. Unused cap amounts can be carried forward from the 2018-19 financial year (with 2019-20 the first opportunity to access these unused concessional contributions).

Using super to save a deposit for first home owners

The *First Home Super Saver Scheme* (FHSS) enables first-home buyers to save for a deposit inside their superannuation account, attracting the tax incentives and some of the earnings benefits of superannuation. From 1 July 2017, home savers have been able to make voluntary concessional contributions (for example by salary sacrificing) or non-concessional contributions (voluntary after-tax contributions) of $15,000 a year within existing caps, up to a total of $30,000.

Withdrawals to purchase a first home can be made from 1 July 2018.

Mandated employer contributions cannot be withdrawn under this scheme, it is only additional voluntary contributions made from 1 July 2017 that can be withdrawn.

If you or your family are considering using the FHSS, please contact us for assistance on managing the scheme effectively.

Encouraging the over 65s to downsize

From 1 July 2018, those over the age of 65 can contribute $300,000 from the proceeds of selling their home to superannuation. These contributions will be excluded from the existing age test, work test and the $1.6 million balance threshold (but will not be exempt from the $1.6m transfer balance cap).

Both members of a couple can take advantage of the concession for the same home. So, if you have joint ownership of the property and meet the other criteria, both people can contribute up to $300,000 ($600,000 per couple).

The measure will apply to sales of a principal residence owned for the past ten or more years and where the contract of sale is exchanged on or after 1 July 2018.

Sale proceeds contributed to superannuation under this measure will count towards the Age Pension assets test.

Fund house-keeping

Minimum pension payments

In order to be able to receive the tax-free income associated with having a retirement-phase pension, the minimum pension payment needs to be withdrawn from the fund's bank account prior to 30 June.

The minimum pension amount was outlined to you prior to 30 June, but please let us know if you need reconfirm of this amount.

Valuing SMSF assets

SMSFs are required to value their assets at market value. Depending on the situation, a market valuation may be undertaken by a:

- Registered valuer
- Professional valuation service provider
- Member of a recognised professional valuation body, or
- A person without formal valuation qualifications but who has specific experience or knowledge in a particular area.

For real property, the valuation may be undertaken by anyone as long it is based on objective and supportable data. A valuation undertaken by a property valuation service provider, including online services or a real estate agent is acceptable.

However, where the value of the asset represents a significant proportion of the fund's value or where the nature of the asset indicates that the valuation is likely to be complex, you should consider the use of a qualified independent valuer.

In general, real estate does not necessarily need a formal valuation each year by a licenced valuer unless there is a significant event that occurs during the year which may affect the previous valuation. A significant event could be one that directly involves the property itself, the fund on a general level such as one of the fund's members going into pension mode, or if the asset represents a significant portion of the fund's value.

Contributions must be received by 30 June

To claim a tax deduction for super contributions (as an employer or as an individual), the payment needs to have been received by the fund before 30 June. Merely incurring a liability is not enough.

If you have made a personal superannuation contribution that you want to claim as a tax deduction, you need to write to your fund in their approved form and advise them of the amount you intend to claim as a deduction. The superannuation fund then needs to acknowledge your notice of intent and agree to the amount you intend to claim as a deduction. This will normally be in the form of a notice or certificate from the fund to confirm the tax deductibility of the contribution.

Review and rectify any outstanding compliance issues

If your auditor highlighted any breaches or issues in previous year fund audits, these should have been reviewed and rectified by 30 June. SMSF compliance is taken very seriously by the Australian Taxation Office (ATO) and they have a number of powers to address non-compliance:

- Education directions - require the trustee/director to complete an ATO approved education course within a specific timeframe. An administrative penalty of $2,100 applies for non-compliance.
- Rectification directions - requiring the SMSF's trustee/director to take specific action to rectify the contravention within a specific timeframe.
- Administrative penalties - penalties from $1,050 to $12,600 apply to specific breaches. Each individual trustee is liable for the penalty and directors of a corporate trustee are jointly and severally liable. The penalties are payable by the trustee/ director and not refunded by the SMSF.
- Informal arrangements to rectify minor breaches
- Enforceable undertakings
- Disqualification of a trustee
- Allowing the SMSF to wind up
- Notice of non-compliance
- Freezing an SMSF's assets
- Civil and criminal penalties where the fund:
  - Breaches the sole purpose test
  - Lends to members of the fund
  - Breaches the borrowing rules
  - Breaches the in-house asset rules
  - Enters into prohibited avoidance schemes
  - Fails to notify the regulator of significant adverse events
  - Breaches the arm's length rules for an investment
  - Promotes an illegal early release scheme

These powers also enable the ATO to look back to any breaches from previous years that were unresolved at 30 June 2018.

Review the fund's investment strategy

Trustees are required to 'regularly review' the fund's investment strategy. We recommend that trustees review the strategy and document the review at least annually or when the circumstances of the fund change.

Where an SMSF has entered into a borrowing arrangement to acquire an asset, trustees should consider the need for any insurance cover inside the fund to assist in meeting the on-going obligations of the debt repayments. The fund's ability to meet the on-going debt repayments can be severely jeopardised where one member of the fund dies, as the fund may have needed to utilise contributions that were being made for that member to meet the repayments. Such a scenario could result in the fund having to sell the property.

Review insurance inside your SMSF

SMSF trustees need to consider the need for insurance cover for the fund members when formulating and reviewing the fund's investment strategy.

Superannuation funds are only able to offer or take out new insurance cover where the definitions are consistent with the death, terminal illness, permanent incapacity and temporary incapacity conditions of release under the Superannuation Industry Supervision Act.

It's important that you review insurance inside your SMSF not just for compliance with the law but also effectiveness. An important issue to consider is how any insurance inside your fund should be structured; that is, from where the premiums are paid from the fund and what account any policy proceeds will be paid to inside the fund.

Correctly structuring insurance inside your fund can be complex. We recommend that SMSF Trustees seek the advice of their financial adviser to achieve the most tax effective outcomes for insurance proceeds, especially on the death of a member.

Our colleague, **Graham Slip** of Blue Chip Wealth Management is available to assist you with any questions you might have or to help you correctly structure your insurances. Please contact us and we will arrange a mutual meeting to review your insurances.

Contributions you didn't know you made

A contribution to a fund can be more than just a deposit of money into the bank account of a superannuation fund. It could include:

- Money
- In-specie asset transfers
- Paying fund expenses
- Increasing the value of a fund asset
- Forgiving a fund's debt
- Meeting a fund liability
- Rendering services to the fund at less than market value
- Guarantor arrangements
- Some Discretionary Trust distributions

Trustees can often be surprised by what is considered to be a contribution, for example:

- **In-specie transfer** - If an asset is transferred or acquired from a related party for less than fair market value, the difference may be treated as a contribution.
- **Capital improvements** - Capital improvements to existing fund assets for no consideration or less than arm's length consideration may be treated as a contribution.
- **Debt forgiveness** - A contribution is made if a loan, entered into by the fund is forgiven by the lender (related party). The contribution is made when the deed of release is executed that then relieves the fund from the obligation of repaying the debt.

- **Guarantor arrangements** - A contribution occurs if a guarantor to a debt of the fund (trustees in their own right) satisfies a loan obligation of the fund and then forgoes the right of redemption against the fund (trustees) itself.

What we need from you

This is a general list of what we need to complete your fund's tax and accounting requirements.

- **Contributions**
  - A breakdown by member of the types of contributions received by the fund.

- **Pensions**
  - A breakdown by member of the types of contributions received by the fund.
  - Documentation supporting any pensions commenced during the 2018-19 financial year.

- **Investments**
  - Portfolio valuation as at 30 June 2019 and transaction history reports (if applicable).
  - All documentation from your portfolio or wrap provider including year end tax statements.
  - All dividend & tax statements.
  - Buy & sell contracts for shares sold or purchased.
  - Any other documentation received during the year that relates to takeovers, restructures, bonus shares, consolidations etc., for shares held by the fund. Usually these documents advise you to retain them for taxation purposes.
  - Any other document relating to an investment held within the fund which has not been covered above.

- **Property**
  - Agent statements (either monthly or annual) if using an agent to manage property, otherwise, all invoices and rent receipts for the year ending 30 June 2019.
  - A copy of the current lease/rental agreement (if not already provided).
  - Documents for property bought or sold, including the date you entered the contract and the date the asset was first used or installed ready for use.
  - Rental appraisal & market valuation from an agent (if you are using one to manage your property).

- **Rollovers**
  - Copy of any Rollover Benefits Statements for money rolled into the fund during the period 1 July 2018 to 30 June 2019.

- **Insurance**
  - Copy of life insurance policy annual renewal documentation form (the ownership of the policy should always be in the name of the superannuation fund).
  - Copy of documentation relating to any new insurance policies from 1 July 2018.

- **Other**
  - If you have transactions in your fund that do not fall into the above categories, please ensure that you provide us with full details.