TOP FIVE QUESTIONS FOR SMSF TRUSTEES

Australian Government
Australian Taxation Office

Superannuation changes announced by the Australian Government start on 1 July 2017 – with SMSFs amongst some of those who may be affected.

To debunk some of the misconceptions surrounding the reforms, we have outlined five of the most frequently asked questions, to help SMSF trustees prepare for and better understand the changes ahead.

1. I am currently paying a retirement phase income stream to a member worth more than $1.6 million. What do I need to do prior to 1 July 2017?

You'll need to discuss reducing the value of the income stream to below $1.6 million with your member. You can do this by:

- Transferring the excess back into an accumulation account or withdrawing the excess;
- Making additional pension payments prior to 1 July 2017.

Note that this $1.6 million cap applies across all of an individual's accounts in all of their funds.

2. What will happen if a member has an account-based retirement phase income stream in excess of $1.6 million after 1 July 2017?

You will need to discuss with your member reducing the value of the income stream to below $1.6 million, by commuting the excess amount as well as any excess transfer balance earnings that have accrued.

Where a member has not provided direction to you to reduce their income stream by the necessary amount, we will issue you with a commutation authority, directing you to commute the necessary amount out of retirement phase.

3. What are the consequences of not complying with a commutation authority?

Where you do not comply with a commutation authority within the required timeframe, you will lose your entitlement to exempt current pension income (ECPI) in relation to that particular income stream from the start of the financial year in which you failed to comply with the commutation authority and all later financial years.

If your member wishes to have an income stream that is eligible for ECPI in the future, they will need to commute the existing income stream and start a new one.

The requirement to comply with a commutation authority is also an obligation for trustees under law. Failure to comply with a commutation authority could also lead to regulatory action under that law.

4. How do I make an election for CGT relief?

From 1 July 2017, the capital gains tax (CGT) schedule will be updated to enable super funds to make use of the CGT relief.

Super funds will need to report:

- That they've elected to apply the relief; and
- Any amount of tax to be deferred to a later year.

A super fund must notify us of the above by completing the CGT schedule on or before the day they are required to lodge the fund's 2016–17 tax return. Remember that if a fund lodges their 2015–16 return late they might be required to lodge their 2016–17 return early. We have deferred the lodgement due date for SMSF's 2015–16 returns to 30 June 2017, so there is still time to lodge that return.

5. What do I need to do to be ready for the introduction of the transfer balance cap?

- Be aware of the value of any current or impending retirement income streams that may arise for your members and be ready to assist them in reducing the amounts if necessary. If your SMSF usually doesn't complete valuations and other financial discussions until close to the end of the next financial year, you may need to consider ways to bring forward valuing your member's interests. This is particularly important where your members may need to take advantage of the six months transitional period to rectify small excesses without penalty. Practical compliance guideline 2017/5 - *Superannuation reform: commutation requests made before 1 July 2017* may provide helpful information to funds who are unable to value their income streams at 30 June 2017.
- You need to be aware of the new CGT relief provisions. Under the super changes, complying super funds are able to reset the cost base of assets to their market value where those assets are reallocated or re-apportioned from the retirement phase to the accumulation phase prior to 1 July 2017 in order to comply with the transfer balance cap or new transition to retirement income stream arrangements.
- Where the assets are already partially supporting interests in the accumulation phase, tax will be calculated on this proportion of the capital gain that is not tax exempt on 30 June 2017. This capital gain, as calculated, may be deferred until the asset is sold.
- CGT relief applies differently and is subject to different conditions depending on whether the super fund segregates assets to support its current pension liabilities, or whether it applies the proportionate method. The following conditions apply to both methods.
  - The relief applies to reallocation or re-proportioning made between 9 November 2016 and 30 June 2017. This applies to assets a complying super fund held throughout that period.
  - If a super fund wishes to apply the relief, they must make this choice and notify us in the approved form on or before the day the trustee is required to lodge the fund's 2016–17 tax return. A choice to apply the relief cannot be revoked.
- Under the transitional law provisions a breach of the transfer balance cap by less than $100,000 is to be disregarded if it is rectified within six months. This concession only applies to income streams the member was receiving just before 1 July 2017.
- You need to be aware of each member's total superannuation balance across all of their super interests. If a member has a total superannuation balance of more than $1.6 million you will have to use the proportionate method to calculate exempt pension income across all members.