Super Update!
Edition 3

Below is a round-up of some superannuation changes and key developments that may be relevant to you, as trustee of your SMSF. It is important that you know what changes are coming, so you can effectively understand how they may affect you and the members of your SMSF.

We intend to regularly provide you with these updates as a way of helping you plan for your retirement and identify any opportunities that can assist you to grow your superannuation savings.

13 December

Tax deductibility of financial advice fees

Following a review to its position on the tax deductibility of financial advice fees, which was set in 1995, the ATO has issued Draft Tax Determination TD 2023/D4 for industry consultation.

This draft Determination sets out when an individual may be entitled to a tax deduction for fees paid for financial advice. It outlines the requirements that need to be satisfied for an individual to claim a deduction for financial advice fees.

12 December

Diamonds as collectables? – ATO regulatory update

The ATO has published an article on the technical issue surrounding SMSF investments in pink diamonds.

In this article, the ATO confirms that natural diamonds (including pink diamonds), when held in loose form, are not considered collectable or personal use assets under the superannuation legislation. As such, the specific storage and insurance requirements that usually apply to collectables and personal use assets do not apply to these types of investments.

However, the ATO stresses that these rules ***only apply*** for 'diamonds held in loose form'. This means the diamond cannot in any way be mounted, integrated into or used as an item for adornment or other purposes which would be inconsistent with the holding of the diamond in loose form for investment purposes.

7 December

SMSF News: ATO Newsroom

The ATO issued a number of useful reminders and updates.

Some of the reminders, that are not discussed elsewhere in this bulletin include:

- TBARs are due by 28 January 2024. All fund trustees are required to lodge their TBAR by this date if a transfer balance account event occurred for a fund member between 1 October and 31 December 2023.
- The SMSF Annual Return (SAR) for some SMSFs are due by 28 February 2024. Failure to lodge their SAR by the due date, may result in further compliance action being taken.
- Fund trustees must appoint an approved SMSF auditor to audit their fund each year. Fund trustees will need to ensure this appointment is made no later than 45 days before the fund's SAR needs to be lodged.
- For the September 2023 quarter, the ATO disqualified 223 SMSF trustees, which have now been added to the disqualified trustees register.

30 November

Better targeted superannuation concessions – Bill introduced

Following a short period of industry consultation, the Government introduced Treasury Laws Amendment (Better targeted superannuation concessions and other measures) Bill 2023 into parliament.

This Bill proposes the introduction of a new tax on the earnings of superannuation balances exceeding $3 million.

This proposed new tax, which will come into operation from the 2025-26 financial year (and onwards) will broadly impact those who, at the end of the relevant financial year, have a TSB greater than $3,000,000.

26 November

ATO Statistics – SMSF quarterly statistical report (September 2023)

The ATO has published it's SMSF quarterly statistical report for the September 2023 quarter.

The report highlights a continued trend of steady growth in the number of SMSFs, with a net increase of 7,727 SMSFs in the September 2023 quarter.

What's most interesting is the demographics of members choosing to establish an SMSF:

- Out of the new funds established in the September 2023 quarter, 36.2% of new members are aged 35 to 44, compared to the overall 10.3% of current members in this age group, and
- Overall, 55% of new members in the September 2023 quarter are male and 45% are female which suggests the gender gap in SMSF membership continues to shrink over time.

Overall, SMSFs continue to be an integral and significant part of the superannuation system, collectively holding in excess of $884 billion (approximately 26%) of the $3.56 trillion in super assets under management. For more, refer to APRA's quarterly superannuation performance statistics September 2023.

18 October

Strengthening incentives to work for pensioners and income support recipients

The Government has introduced Social Security and Other Legislation Amendment (Supporting the Transition to Work) Bill 2023 – which seeks to encourage and support social security and veterans' entitlement recipients to engage in paid employment.

The Bill, once legislated, will enable eligible recipients:

- over qualifying age, to earn up to $4,000 before the income test is applied and their payments are affected – via a $4,000 increase in the work bonus unused concession balance for all newly commencing eligible recipients. Further, the current temporary $4,000 increase to the maximum unused concession balance, from $7,800 to $11,800, will be available to all eligible pensioners on an ongoing basis.
- to benefit from an extended employment income nil rate period of 24 weeks. This will allow more recipients to continue to access supplementary benefits, such as concession cards and additional child care subsidy, where their own and/or their partner's income (including some employment income) is above the relevant income limit, for a longer period.

20 September

FHSSS – Improved flexibility Bill – Now law

The Treasury Laws Amendment (2023 Measures No. 3) Bill 2023, introduced to improve the flexibility of the FHSSS, is now law.

Accordingly, individual's will now be able to:

- amend or revoke their application to the ATO to release super under the FHSSS. Under the previous law, an individual was unable to amend or revoke their application.
- request a release authority within 90 days of entering into a contract to buy or construct a home.

13 September

NALI Legislation – Introduced to parliament

The Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Bill 2023 was introduced into Parliament.

This Bill contains the previously proposed amendments to the non-arm's length expense (NALE) rules and is substantially unchanged from the exposure draft.

Where NALE arises with respect to a "general expense" the amount of NALE will be calculated as twice the difference between an arm's length and non-arm's length expense, including where the entity did not incur any expense.

Two important changes made from the exposure draft consultation:

1. Once legislated, the NALE measures will apply to expenses incurred from 1 July 2018, rather than from 2023-2024 financial year as previously proposed.
2. The exclusion of general expenses of a capital nature has been removed, ensuring that all fund general expenses are treated consistently.

What's Next?

Navigating your way through the evolving superannuation rules can be very complex, especially in the lead up to a member's retirement. If you have any questions, require assistance, or would like to discuss any of the above changes, please feel free to give me a call to arrange a time to discuss.

The contents of this Super Update are taken to be correct at the time of publication on 20 December 2023.

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