# Sweeping super reform a reality

## Earlier this month the Senate passed a series of the broad ranging superannuation reforms originally proposed in the 2016-17 Federal Budget.

*Treasury Laws Amendment (Fair And Sustainable Superannuation) Bill 2016* and the *Superannuation (Excess Transfer Balance Tax) Imposition Bill 2016* passed the Senate without amendment.

Amongst other measures, the Bills:

- Introduce a $1.6 million cap on the amount of capital that can be transferred to the tax-free earnings retirement phase of superannuation.
- From 1 July 2017 individuals with a superannuation balance of more than $1.6 million will no longer be eligible to make non-concessional (after tax) contributions.
- Reduce the annual concessional contributions cap to $25,000 and the annual non-concessional contributions cap to $100,000
- Remove the requirement that an individual must earn less than 10% of their income from employment activities to be able to claim a deduction for personal superannuation contributions
- Amend the earnings tax exemption on transition to retirement pensions
- Enable 'catch-up' concessional contributions from 1 July 2018 for people with super balances below $500,000
- Reduce the threshold at which high-income earners pay Division 293 tax on their concessional taxed contribution to superannuation to $250,000
- Remove the anti-detriment benefit provisions
- Extend the spouse superannuation tax offset

## $1.6m lifetime limit on non-concessional contributions

A $1.6m lifetime non-concessional contributions cap will apply from 1 July 2017. Where a member's super balance exceeds $1.6m as at 30June of the previous year, that member will no longer be eligible to make further non-concessional contributions.

The $1.6m balance is assessed on the member's **entire** super balance, not only on the level of non-concessional contributions that have been made.

Where the member's balance is close to the proposed $1.6m limit, further access to the annual non-concessional contribution cap will be restricted:

| Superannuation Balance | Contribution and bring forward available |
|---|---|
| Less than $1.3 m | 3 years ($300,000) |
| $1.3 - <$1.4 m | 3 years ($300,000) |
| $1.4 - <$1.5 m | 2 years ($200,000) |
| $1.5 - <$1.6 m | 1 year ($100,000) |
| $1.6 m | Nil |

*Source: Budget Fact Sheet Annual non-concessional contributions cap*

Super balances in excess of this $1.6 million cap (including earnings on these excess transferred amounts) will be taxed in a similar way to the tax treatment that applies to excess non-concessional contributions.

Where an individual accumulates amounts in excess of $1.6 million, they will be able to maintain this excess amount in an accumulation phase account (where earnings will be included in the funds assessable income which can than be subject to tax at the concessional rate of 15%).

Members already in retirement phase with balances above $1.6 million will be required to reduce their retirement balance to $1.6 million by 1 July 2017 by either withdrawing the excess amount from their super fund(s) or have the excess balance converted to a superannuation accumulation phase account.

In a similar system to the current treatment of excess non-concessional contributions, the deemed earnings will based on a formula and these amounts will then be subject to tax at 15% for the first breach. Where further breaches to the transfer cap are made in subsequent years, these notional earnings will be taxed at 30%.

Capital Gains Tax relief applies where assets are transferred (in-specie) back to accumulation phase prior to 1 July 2017 (including TTRs).

Market linked pensions that are in existence at 1 July 2017 will receive some tax concessions on earnings up to a pre-determined threshold. This is in recognition of the inability to roll-back amounts to the accumulation phase for these types of pensions.

Death benefit pensions (trustees decision) are not exempt from the $1.6m cap.

Where a death benefit is accessed as a reversionary pension, the recipient will have a 12-month time frame to consider what they want to do with the reversionary pension. These members may wish to partially or fully commute any reversionary pension. The balance of the reversionary pension will not count towards the $1.6m cap for the first 12 months.

Transition to retirement pension balances will not count towards the $1.6m balance until the member meets a full condition of release (and therefore no longer a transition to retirement pension).

# Reduction in concessional and non-concessional contributions caps

## Non-concessional contributions

The current annual non-concessional contributions cap of up to $180,000 per year (or $540,000 every 3 years for individuals aged under 65 using the 'bring forward' rule) will be reduced to $100,000 (or $300,000 every three years for individuals aged under 65) from 1 July 2017.

Clients under 65 can trigger the 'bring forward' rule and utlise the full 3 year amount of $540,000 in the 2017 financial year. The client would then not be able to make additional non-concessional contributions in the 2018 or 2019 financial years (until the 3 year period concludes).

For clients who have 'triggered' the 3 year bring forward rule in a previous year but have not yet fully utilised the 3 year limits as at 1 July 2017, the 'remaining' bring forward amount will be reassessed on 1 July 2017 to reflect the new reduced annual caps.

- Where the bring forward rule was triggered in the 2016-17 financial year and the amount contributed did not fully utilise the full 3 year amount, the transitional cap will be $380,000 ($180,000 (2017) + $100,000 (2018) + $100,000 (2019)).
- Where the bring forward rule was triggered in the 2015-16 financial year and the amount contributed did not fully utilise the full 3 year amount, the transitional cap will be $460,000 ($180,000 (2016) + $180,000 (2017) + $100,000 (2018)).

## Concessional contributions

The concessional contributions cap will be reduced to $25,000 from 1 July 2017. The cap will be indexed in line with wages growth in $2,500 increments. The caps will no longer be based on age.

## Carrying forward unused concessional contributions

Where a member's superannuation balance is less than $500,000, from 1 July 2018 they will be able to make additional (carry forward) concessional contributions where they have not fully utilised their concessional contributions cap in previous years. Amounts are carried forward on a rolling basis for a period of five consecutive years.

With the delayed start date of this reform, the first year that the carry forward amount can be utilised is 2019-20.

Contributions in excess of the concessional cap (and the carry forward rules) will be taxed at the members individual marginal tax rate.

The assessment date for determining if the member's superannuation balance is below the $500,000 limit is 30 June of the prior year. When calculating the member's superannuation balance at that time, you will need to include the value of all accumulation and transition to retirement pensions, other pension accounts and any rollovers that are "in-transit".

# Claiming a tax deduction on super contributions

Individuals under age 75 will be able to claim an income tax deduction for personal superannuation contributions from 1 July 2017. This effectively allows all individuals, regardless of their employment circumstances, to make concessional superannuation contributions up to the concessional cap.

It will no longer be necessary for individuals to pass the 10% test in order to claim a deduction for personal superannuation contributions.

Currently, an individual can only claim a deduction for personal contributions where less than 10% of their adjusted income for the year relates to employment activities.

## Removal of tax exemption on earnings from a transition to retirement pension

The tax exemption on the earnings on assets supporting Transition to Retirement Income Streams will be removed from 1 July 2017. For tax purposes, earnings on transition to retirement pensions will be treated in a similar way to accumulation account earnings.

Also note that the rule that allows individuals to treat certain superannuation income stream payments as lump sums for tax purposes will also be removed from 1 July 2017.

## Limitations on using segregated assets inside a SMSF

SMSFs will no longer be able to use the segregated asset approach where:

- At least one account is in retirement phase, and
- At 30 June of prior year, one member:
    - Is in receipt of super income stream (incl. from another fund)
    - Has a total superannuation balance which exceeds $1.6m

Further guidance is needed from the regulator on this as there are many unanswered questions on how funds will claim exempt current pension income moving forward.

*Article sourced from Knowledge Shop*