2017 Autumn Newsletter

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Please find your copy of our Autumn Newsletter. We have attempted to include ideas on being prepared, highlighting recent legislative changes in relation to Centrelink, fuel tax credit rates and what the Superannuation Reform may mean for you, an update in preparation for simplified BAS for small business, AUSkey fraud alert and how to protect you and your business, together with an article regarding Deed signatories.

In light of the recent loan announcement by the Commonwealth Bank, if you have not yet taken the opportunity and you wish to review business loans, property loans and vehicle and equipment loans, we are able to point you in the right direction.

We hope you find our newsletter of value and extend to you a happy Easter and hope you are all enjoying a prosperous start to the Year of the Rooster.

If there is any area within this newsletter that you would like to discuss, please call us. We are always here to help.

General Advice Warning

Information provided on this newsletter is general in nature only and does not constitute personal advice.
The information has been prepared without taking into account your personal objectives or needs. Before acting on any information in this newsletter you should consider the appropriateness of the information having regard to your objectives and needs.

Legislative Updates and Implications - Super and Pensions

Superannuation

The Fair and Sustainable Superannuation Bill and Excess Transfer Balance Tax Bill legislation which passed in November 2016, introduce the 1 July 2017 changes to superannuation.

It is important for SMSF trustees and their advisers to review investment and contribution strategies before the end of this Financial Year to make any changes necessary. In particular, consideration should be given to:

- Whether to continue any transition-to-retirement pensions.
- Ensuring pension balances do not exceed the $1.6 million cap.
- If existing pension balances exceed $1.6 million, deciding whether to reset the capital gains tax cost base.
- Maximising the level of contributions in the current financial year.
- Winding up anti-detriment reserves.
- Implementing splitting where couples have unequal balances, particularly if the $1.6 million cap may be a problem. (See details in article on page 9.)

Centrelink

Legislative changes that effect entitlements to age pensions became effective from 1 January 2017:

- The assets test taper rate, for assets over the lower threshold increased from $1.50 to $3. This significantly reduced the cut-off thresholds.
- If moving to residential care after 31 December 2016, the rental income from the former home is counted as assessable income under the income test. In addition, these clients remain assessed as homeowners for only the first two years in care. At the end of two years they switch to non-homeowner status and the market value of the home becomes an assessable asset.

If you lost access to the age pension on 1 January 2017 due to the changes, you should have automatically been issued with a non-means tested Commonwealth Seniors Card.

Source: Self Managed Super Magazine

Fuel Tax Credit Rates for Business

Fuel tax credit rates vary depending on when you acquire the fuel, what fuel you use and the activity you use it for.

Fuel tax credit rates are indexed twice a year, in February and August, in line with the consumer price index (CPI). In line with the 6-monthly CPI inflation adjustments, fuel tax credit rates for heavy vehicles on public roads have increased to 14.2 cents per litre, along with changes to a number of other rates from 1 February 2017.

Rates may also change for fuel used in a heavy vehicle for travelling on public roads. This is due to changes to the road user charge which is reviewed annually.

For links to all the current rates, see the ATO website. There are time limits for claiming fuel tax credits, making adjustments and correcting errors - generally, you must claim or amend your claim within four years.

Simplified fuel tax credits

If you claim less than $10,000 in fuel tax credits in a year, there are simpler ways to record and calculate your claim.

You are now able to:

- use one rate in a BAS period – the rate that applies at the end of the BAS period
- work out your litres based on the cost of the fuel you purchased.

You can choose to use either or both of these methods that best suits your needs and can change them at any time. You do not need to register or tell the ATO you are using these methods. You can also use a range of documents to support your fuel tax credit claims for your past and future BAS.

Use one rate in a BAS period

When there is a change of rate during the BAS period, you can calculate your fuel tax credit claim by using the rate that applies at the end of the BAS period. There is no need to split your fuel purchases during the period and use two different rates. Simply total your litres for the period and use the rate that is current on the last day of the BAS period to work out your claim.

You can use the Fuel tax credit calculator or the ATO app to work out your fuel tax credits and get your claim right.

You can use a range of documents to support your claim and entitlement for a fuel tax credit. You need to keep these for five years. These documents must show that the quantity of fuel claimed was used in your business.

Accepted documents include:

- contractor statements
- financial institution business credit/debit account statement
- financial institution personal credit/debit account statement
- point-of-sale docket
- fuel supplier statement or invoice.

Heavy vehicles used mainly off public roads

If you use certain heavy vehicles mainly off public roads, you no longer need to apportion on and off-road travel when calculating your fuel tax credit claim.

Your vehicle may be on the list the ATO has created of heavy vehicles which are considered used off public roads – for example, a harvester or backhoe. You can now claim all fuel used at the 'all other business uses' rate, even if you sometimes drive the vehicle on a public road.

How to check the rates and calculate your claim

The ATO has a fuel tax credit calculator, containing the latest rates and is simple, and it is quick and easy to use. You can use it to work out the fuel tax credit amount to report on your business activity statement (BAS). Alternatively, to find the latest rates, use the ATO fuel tax credit rates table which is now easier to read, located at fuel tax credit calculator. For further information visit the ATO website or give us a call, we're here to help.

SIMPLER BAS

If you are a new small business, you can start using the simpler BAS ahead of the full implementation date of 1 July 2017.

To start reporting GST using the simpler BAS, you need to have:

- Started your business and registered for GST on or after 19 January 2017, and
- An annual turnover of less than $2 million.

With the simpler BAS, you only need to report:

- GST on sales (GST collected).
- GST on purchases (GST entitled).
- Total sales.

Why not take advantage of this option and simplify your GST bookkeeping and reporting before simpler BAS becomes the default GST reporting method for all small businesses.

Simpler BAS reporting for all small businesses will officially kick in on 1 July 2017

As reported recently in AccountantsDaily, following intense industry lobbying, the ATO has made progress in testing simpler business activity statement (BAS) reporting for small businesses.

As part of the federal budget released in May 2016, the Commonwealth Government announced that simpler BAS would be rolled out to all small business from 1 July 2017.

"Small business, software developers, tax professionals and industry professionals have raised concerns that the complexity of the BAS places an unnecessary burden on small business and increases their GST compliance costs," an ATO spokesperson told AccountantsDaily.

"The questions on the BAS are being removed because small businesses have told us additional questions and classifications are difficult, complex and small businesses find it hard to report with complete accuracy. A simpler BAS will give small businesses time and cost savings by simplifying account set-up, reducing GST bookkeeping and reducing BAS preparation time. Small businesses will be able to more easily classify transactions and prepare and lodge their BAS."

AUSkey fraud alert

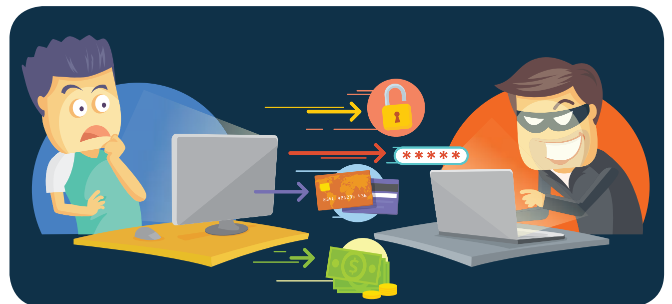
AUSkey is a secure login that identifies you when you use participating government online services on behalf of a business. AUSkey allows you to access and send business information to government, online. It simplifies the way you can interact with government – from changing your Australian Business Number (ABN) details, to lodging your Business Activity Statement (BAS).

The ATO has announced they have recently detected cases of identity thieves fraudulently obtaining AUSkeys linked to legitimate businesses.

Once an AUSkey has been allocated, access is gained to the Business Portal so that fraudulent BAS can be lodged and bank details updated to accounts that are not controlled by the entity.

The ATO confirmed they were able to detect the activity and take preventative action quickly. These AUSkeys have been cancelled and the ATO is working with the affected businesses to protect their online security and monitor activity on their accounts.

You can take the following steps to protect your business and to ensure your identity has not been compromised:



- check Access Manager to understand who in your business has AUSkey access and that their level of access is appropriate to their role.
- remove access for employees who no longer work for you.
- check the financial institution and contact details you have recorded with the ATO are correct.

Report any unknown or suspicious AUSkeys allocated to your organisation by calling AUSkey on **1300 287 539** between 8.00am and 6.00pm, Monday to Friday.

It is good business practice to conduct these checks on a regular basis.

Do we really need to sign on the dotted line?

WHEN SIGNING TRUST DEEDS, DOES PEN NEED TO BE PUT TO PAPER?

In today's electronic age, we can get by pretty well without the need of pen and paper. However, it's important to question whether, just because we can sign something electronically, does it mean we should?

When it comes to executing trust deeds, you really want to get it right to ensure that the signatures are valid and binding. There are a lot of issues to be mindful of and it may be best to be safe and put pen to paper.

There Must Be a Witness Present

Individuals' signatures need to be witnessed when executing a trust deed. It wouldn't be acceptable for a party to a trust deed to use an electronic signature in such a way that the witness to their signature is not present when they sign.

Whilst there is no requirement at common law for witnessing of trust deeds, most States and Territories have passed legislation requiring witnessing.

Most trust deeds are worded on the assumption that any witness is actually present. For example, the attestation clause for NTAA Corporate's discretionary trust deed for the settlor and individual trustees reads: "Signed, sealed and delivered by [trustee or settlor] in the presence of…" Thus it is necessary for the witness to physically be present when the trust deed is signed by the relevant party, and the use of electronic signatures cannot remove this requirement.

If a party and their witness were to both use electronic signatures, this may raise doubt as to whether the witness was actually present during signing, which in turn may invalidate the deed.

Assuming Witness is Present

Subject to the above, it would be legally effective for parties to a trust deed to use electronic signatures, provided that any witness is actually present when the party signs the trust deed.

Note that it is not strictly necessary for the different parties (the settlor and the trustee/s) to a trust deed to be present when they each sign the trust deed, although this would be preferable.

Notwithstanding, it is preferable for all parties and their witnesses to be present when the trust deed is signed. It would then be less likely for there to be any question that the trust has not been properly established.

Legislative Basis for Electronic Signatures

Subject to the witness issue, electronic signatures should be legally valid for trust deeds, having regard in particular to the Electronic Transactions Act 1999 (Cth), which (in part) refers to:

"The following requirements imposed under a law of the Commonwealth can be met in electronic form:…

(b) a requirement to provide a signature;

(c) a requirement to produce a document…".

The Electronic Transactions Act and its regulations provide for various exclusions in relation to when electronic signatures should not be used. These exclusions do not appear to include trust deeds. NTAA Corporate's in-house legal support refers us to the references to the Superannuation Industry (Supervision) Act 1993 and its regulations in items 142 and 143 of schedule 1.

Whilst electronic signatures should be acceptable from a strictly legal standpoint (subject to the witness issue), wherever possible, parties should physically sign trust deeds to be absolutely safe, for the reasons discussed above.

Companies Signing as Trustee

In relation to companies (i.e., where a trust has a corporate trustee), directors of the company could sign electronically, and this would be legally effective, subject to the constitution for the company.

Continued on page 8 >>

Protecting Your Business

Many business owners don't hesitate to insure physical assets such as motor vehicles, plant and equipment. However, they often overlook the importance of insuring themselves (and other key people in the business) in the event of illness, injury, disability or death.

This can be a very risky oversight, as the long term absence or loss of a key person can have a dramatic impact on your business and each owners' interest in the business. Insurance can help to minimise the financial impact of events beyond your control.

What are the risks?

Statistically, before the age of 70 [1]:		
Before the age of 70	Male	Female
Will be diagnosed with cancer	21%	20%
Will have a heart attack	12%	4%
Will suffer a stroke	4%	3%
Will suffer from another critical illness	15%	14%
Will die from something other than a critical illness	7%	1%
Will not have suffered a critical illness	41%	58%

Source: Munich Reinsurance Group in Australasia, 2009. (1) This is general population data based on those who are currently 30.

Who is a key person?

Most businesses have one or more key persons whose skill, knowledge, experience and leadership ensures the success of the business. A key person in any business may generally be defined as one whose death, disablement or early retirement may have an adverse economic effect on the business.

It is important to identify these key people and to quantify the adverse effect that is likely to be suffered by the business in the event of death, disablement or illness.

Protecting your business

Most businesses use debt to start up and grow their operations. Whilst few businesses could exist without entering into these types of arrangements, problems can arise if you, or another key person, are lost to the business, either temporarily or permanently.

Your business could therefore have difficulty meeting its loan commitments. If the lender has concerns regarding the business' cashflow and credit position, they may require the outstanding loan to be repaid immediately. You may even be forced to sell personal or business assets used as security so the debts can be cleared.

One way to reduce these risks is to insure yourself and other key people in the event of death, total and permanent disability and critical illness. If any of these events should occur, the lump sum insurance payment may be used to:

- reduce or pay off the debts
- release any loan guarantee or security provided
- protect your personal and business assets, and
- ensure the business can continue as a viable operation.

Business insurance as part of a business succession plan

Whether your business is structured through a partnership, company or trust, it is important to have effective mechanisms in place for the transfer of equity and/or control, if one of the owners is lost to the business due to death, disablement or a critical illness.

In many cases the loss of a business owner results in the demise of an otherwise healthy business simply because there was no succession plan and funding agreement in place.

A business succession plan incorporating insurance funding protects your investment and helps to ensure your business survives the loss of a key person.

Case study

Alex and Bill each owned 50% of the shares in a successful engineering business when Bill died suddenly.

Bill's shares were inherited by his wife Lynn via his Will. Because there was no Buy Sell agreement in place, Lynn is not obliged to sell the shares to Alex and Alex is not obliged to buy the shares from Lynn.

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Protecting Your Business

Furthermore:

- there was no agreed price or timeframe for the transfer of Bill's shares
- there was no insurance in place to enable Alex to buy the shares, and
- Alex doesn't have enough funds to buy out Lynn and doesn't have the capacity to borrow the money.

To further complicate matters, Lynn is entitled to the same management rights and share of profits as her deceased husband, while Alex is doing 100% of the work and only receiving 50% of the profits.

This outcome could have been avoided if Bill and Alex had sought financial and legal advice and executed a Buy Sell agreement, funded by insurance. By using this strategy, Lynn would have received the insurance proceeds in exchange for handing over her interest in the business to Alex.

As a result, Lynn would have been fully compensated, while Alex would have taken ownership of 100% of the business and received 100% of the profits.

Note: This case study highlights the importance of speaking to a financial adviser and solicitor about establishing a Buy Sell agreement funded by insurance. A financial adviser can also address a range of potential issues and identify other suitable protection strategies (see Tips and traps).

In this example, the insurance proceeds would be paid directly to Lynn. However, different payment arrangements may be preferable for businesses set up under certain ownership structures, or due to the preferred approach recommended by your solicitor and/or accountant.

Tips and traps

- Because a Buy Sell agreement affects your legal rights, it should always be prepared by a solicitor (preferably one that specialises in this area).
- There are a number of ways to structure the ownership of insurance policies used to fund a Buy Sell agreement. As each ownership method will have different legal, tax and stamp duty implications, the ownership should be reviewed by the advising solicitor and registered tax agent.
- It may be more cost-effective over the longer term if you pay level premiums, rather than stepped premiums that increase each year with age.
- You should consider using insurance to protect your assets and business revenue.

How do you best protect your business' future?

A financial adviser, specialising in business insurance, can help you better protect your business by undertaking a business needs analysis and then delivering advice relevant to your business.

For more information

To find out the types and amounts of cover you may need to protect your assets, you should speak to a financial adviser who specialises in business insurance. A financial adviser can also review your insurance needs over time to help you make sure you remain suitably protected.

Based on information from MLC, brought to you by InterPrac

From page 5

Do we really need to sign on the dotted line?

Referring to S.127 of the Corporations Act 2001, a document being 'signed by' directors, is not defined, and there is no specified requirement, where there is more than one director, to be in each other's presence when they sign.

Stamping Trust Deeds

For the purpose of stamping trust deeds, the NSW Office of State Revenue has stated that it will accept a printed copy of the electronically signed trust deed for stamping. An Office of State Revenue representative further stated that: "There may be a ruling forthcoming regarding electronic contracts which could address electronic signatures." Of course, it does not necessarily follow that the state revenue offices in other States and Territories would take the same view.

A final word...

Although you may gain time efficiencies by signing documents electronically, awareness of the issues is important and caution must be taken, particularly with the witnessing of individuals' signatures. It may be best to continue with the standard 'pen to paper' approach to ensure the validity of your deed doesn't come into question.

Based on article by NTAA Corporate

Investment Home Loans - CBA Announces Changes

Commonwealth Bank (CBA) recently announced that from Monday 13th February, they have suspended the acceptance of new refinance applications for standalone Investment Home Loans, until further notice.

CBA Summary of 2017 Changes to Investment Home Lending:

- New refinance applications for Investment Home Loans are no longer accepted until further notice.
- Refinance Rebates are no longer available for Investment Home Loans.

Whether you are a property investor or have an investment portfolio with CBA or another lender, contact our office and we can direct you to appropriate reviews and funding options for your next purchase and refinance.

Brought to you by Troy Starevich, InterPrac Mortgages

Are You Ready for the Superannuation Reforms?

SMSFs now hold more than $622 billion under investment. Trustees and members who are in a position to, should take a look at boosting their balances ahead of the end of Financial Year, keeping in mind the impact of the legislative changes introduced in November 2016.

There are a large number of considerations and a short time to implement the changes. The challenge is also that there is no 'one-size fits all' approach. Members' individual circumstances will need to be considered when, for example determining whether CGT relief should be applied or whether excess pensions remain in the fund. New strategies such as multiple SMSFs are being considered to ensure the members' structure is best to handle the current arrangements as well as future estate planning considerations.

The below is a summary of the changes, a view of what member groups are impacted and some considerations as a consequence of these considerations.

DETAILS	IMPACT OF CHANGES	CONSIDERATIONS
ACCUMULATION		
Reduction of concessional (pre-tax) contributions cap to $25,000 per annum		
From 1 July 2017, the government will lower the annual concessional contributions cap to $25,000 for all members.	Impact may affect members planning to make concessional (pre-tax) contributions in excess of $25,000 p.a.	• Existing members with concessional contributions in-excess of $25,000 p.a. • Existing members with salary sacrifice arrangements to ensure they don't exceed the cap
Reduction of Division 293 income threshold to $250,000		
From 1 July 2017 the tax threshold is reduced from $300,000 to $250,000	Members with income in excess of $250,000	• Review & discuss any potential restructuring of personal tax affairs of affected members – particularly those with income between $250k and $300k who are now likely to be impacted • From 1 July 2018, release authorities must be returned to ATO with Payment
Carry-forward concessional contributions of unused caps over five years		
From 1 July 2018, members will be able to make 'carry-forward' concessional super contributions if they have a total superannuation balance of less than $500,000. They will be able to access their unused concessional contributions cap space on a rolling basis for five years. Amounts carried forward that have not been used after five years will expire.	Members with balances of less than $500,000	• Consider strategies including contribution-splitting, restructuring of member benefits and potentially investment reserving.

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Are You Ready for the Superannuation Reforms?

DETAILS	IMPACT OF CHANGES	CONSIDERATIONS
ACCUMULATION		
Lowering the non-concessional (post-tax) contributions cap to $100,000 per annum		
From 1 July 2017, the government will lower the annual non-concessional (after tax) contribution cap from $180,000 to $100,000 per year. This will remain available to members between 65 and 74 years old if they meet the work test. The cap will be indexed in line with the concessional contributions caps.	Members making non-concessional (post-tax) contributions	• Members under 65 may be able to make non-concessional contributions of up to three times the annual non-concessional contributions cap in a single year. If eligible, when contributions greater than the annual cap can use 'bring forward' arrangement. • From 1 July 2017, the non-concessional contributions cap amount that you can bring forward and whether you have a two or three year bring forward period will depend on your total superannuation balance.
Spouse tax offset		
From 1 July 2017, the spouse's income threshold will be increased to $40,000 from the current $13,800 extend the current spouse tax offset	Couples that support each other in saving for retirement, low-income earners and people with interrupted work patterns	• Identify opportunities for members to make future spouse contributions
Personal Super contributions deductions		
The condition that less than 10% of their income is from salary and wages will be removed from the determination as to whether a member qualifies for deductions	Primarily self-employed members that meet certain conditions	• Identify opportunities and consider timing of concessional contributions • Prepare for additional reporting requirements - Notices of intent could be received and will lead to acknowledgements needing to be issued. • Review to see if additional members may now be eligible to claim a tax deduction
Low Income Superannuation Tax Offset (LISTO)		
Low Income Superannuation Contribution (LISC) will be replaced. From 1 July 2017, eligible members with an adjusted taxable income up to $37,000 will receive a LISTO contribution to their super fund equal to 15% of their total concessional (pre-tax) super contributions for an income year, capped at $500.	Low Income earners	• Identify possible members that can benefit from the changes and ensure they claim the contribution

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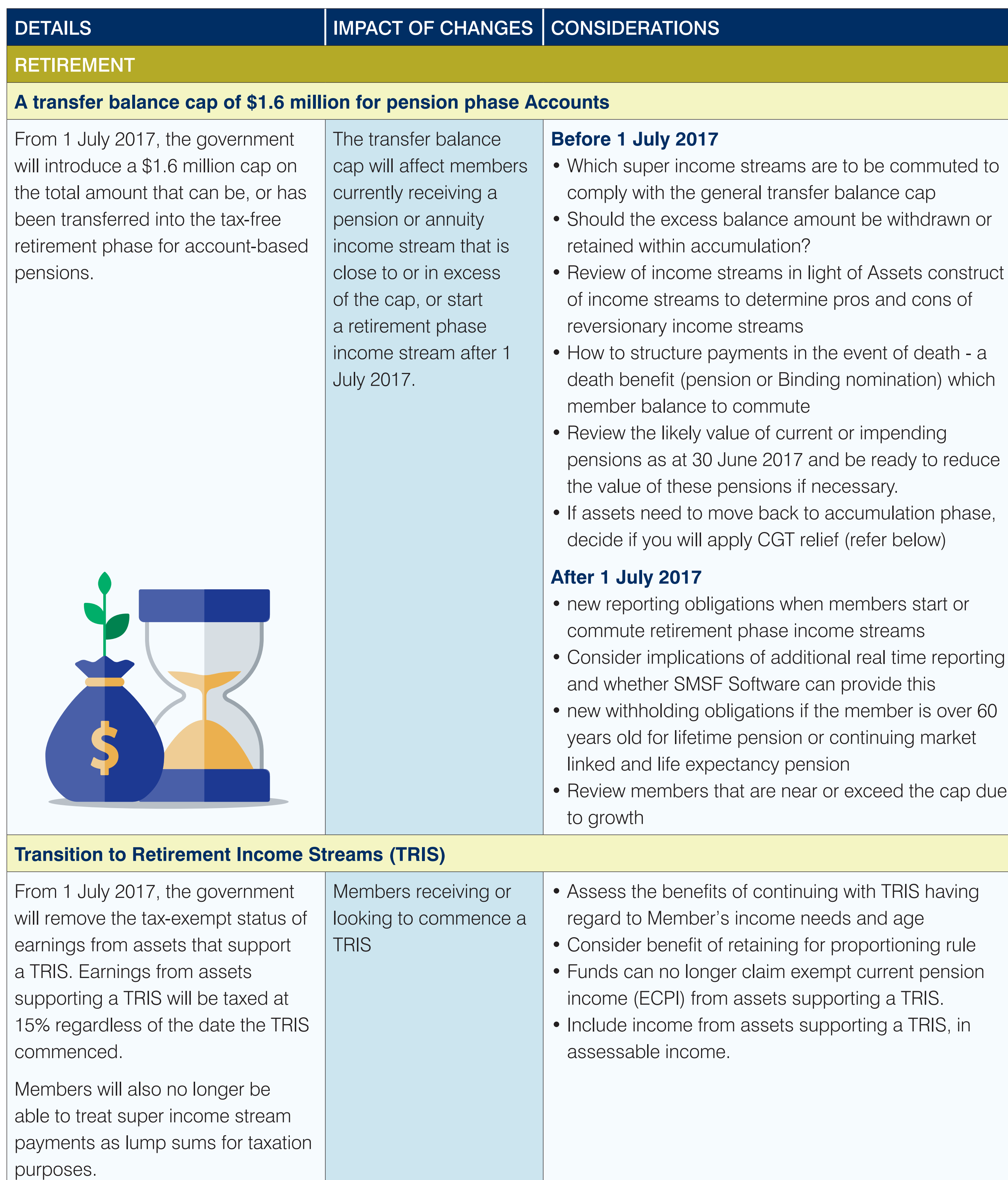
Are You Ready for the Superannuation Reforms?



DETAILS	IMPACT OF CHANGES	CONSIDERATIONS
RETIREMENT		
A transfer balance cap of $1.6 million for pension phase Accounts		
From 1 July 2017, the government will introduce a $1.6 million cap on the total amount that can be, or has been transferred into the tax-free retirement phase for account-based pensions.	The transfer balance cap will affect members currently receiving a pension or annuity income stream that is close to or in excess of the cap, or start a retirement phase income stream after 1 July 2017.	**Before 1 July 2017** • Which super income streams are to be commuted to comply with the general transfer balance cap • Should the excess balance amount be withdrawn or retained within accumulation? • Review of income streams in light of Assets construct of income streams to determine pros and cons of reversionary income streams • How to structure payments in the event of death - a death benefit (pension or Binding nomination) which member balance to commute • Review the likely value of current or impending pensions as at 30 June 2017 and be ready to reduce the value of these pensions if necessary. • If assets need to move back to accumulation phase, decide if you will apply CGT relief (refer below) **After 1 July 2017** • new reporting obligations when members start or commute retirement phase income streams • Consider implications of additional real time reporting and whether SMSF Software can provide this • new withholding obligations if the member is over 60 years old for lifetime pension or continuing market linked and life expectancy pension • Review members that are near or exceed the cap due to growth
Transition to Retirement Income Streams (TRIS)		
From 1 July 2017, the government will remove the tax-exempt status of earnings from assets that support a TRIS. Earnings from assets supporting a TRIS will be taxed at 15% regardless of the date the TRIS commenced. Members will also no longer be able to treat super income stream payments as lump sums for taxation purposes.	Members receiving or looking to commence a TRIS	• Assess the benefits of continuing with TRIS having regard to Member's income needs and age • Consider benefit of retaining for proportioning rule • Funds can no longer claim exempt current pension income (ECPI) from assets supporting a TRIS. • Include income from assets supporting a TRIS, in assessable income.

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Are You Ready for the Superannuation Reforms?

DETAILS	IMPACT OF CHANGES	CONSIDERATIONS
RETIREMENT		
CGT Relief implications		
Complying superannuation funds are able to reset the cost base of assets to their current market value where those assets are reallocated or re-apportioned 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 an interest in the accumulation phase, tax will be paid on this proportion of the capital gain made to 1 July 2017. This capital gain may be deferred until the asset is sold. CGT relief applies differently and is subject to different conditions depending on whether the superannuation fund segregates assets to support its current pension liabilities or whether it applies the proportionate method. The relief applies to reallocation or re-proportioning made between 9 November 2016 and 30 June 2017 in relation to assets a complying superannuation fund held through that period.	Members receiving a TRIS or are over the $1.6 million transfer cap	• Determine if the fund is segregated or unsegregated • Determine if the fund meets a criteria to enable the election of CGT relief (only available where done in order to comply with the transfer balance cap or new transition to retirement income stream arrangements) • Assess unrealised CGT position of fund assets having regard to: - Tax exemption methodology - Future Tax exemption - Future cash flow needs of members - Future investment performance - Length of time holding fund asset • Determine whether one or more assets in the SMSF should have CGT relief applied • The superannuation fund must formally elect to apply the relief if they wish to do so. The superannuation fund must make this choice and notify ATO in the approved form on or before the day the trustee is required to lodge the fund's 2016–17 income tax return.

Based on information from the ATO and SMSF Association, brought to you by Gerard Hannan, Manager at SMSF Engine.