



Welcome...

By Bob Taber, Partner

They say a change is as good as a holiday and so we hope you enjoy the 'journey' of our new look newsletter.

Our aim is to provide you with information on what is important in superannuation and demonstrate how it applies to real life scenarios.

As always, please contact us if you require further information or assistance on any of the issues covered.

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Over age 55 and want to pay less tax?



An excellent opportunity exists for members who have reached preservation age (generally 55 years) to access their superannuation from 1 July 2005 without permanently retiring from the workforce, which provides a number of other advantages too!

How does this work?

One strategy is to sacrifice your salary into superannuation, and replenish your pay packet by taking a pension. Salary sacrificing may potentially drop your marginal tax rate to 15%, while drawing down on your super moves you from 15% to zero tax on investment earnings and gives a 15% tax offset as well!

By simultaneously salary sacrificing and going into pension phase, you're getting the best of both worlds. Other benefits arise when combined with strategies, including paying off the mortgage or

taking advantage of other superannuation breaks such as the Government's co-contribution scheme.

For example, if you sacrifice your salary down to \$28,000, cutting your tax from a high marginal rate to 15%, and then take \$1,000 from your pension and pay it into your superannuation fund, you'll get a \$1,500 co-contribution from the Government.

As a further example of the diverse benefits of the new rules, if a member

"The member may access some or all of their preserved, restricted, and unpreserved benefits as a Non-Commutable Allocated Pension or Non-Commutable Market Linked Pension."

was close to their lump sum RBL (\$648,946 for 2005/06) a Non-Commutable Market Linked Pension could be used to access the higher

Pension RBL (\$1,297,886 for 2005/06). The benefits of using a Market Linked Pension are:

- it sets an amount for RBL purposes at the outset allowing the receipt of at least as much in an Allocated Pension at a later stage;
- future growth in this pension is not tested against the RBL thereby allowing the member to shelter growth on the account;
- income from the assets attached to the pension is tax free to the fund;
- 15% tax rebate on pension payments.

The investment strategy of the fund could be adjusted by the trustees to segregate assets and run a high growth strategy in the Market Linked Pension. Also, the imputation

credits received by the fund through the Market Linked Pension assets can offset the tax payable on the salary sacrificed contributions.

Investment Strategies: Pooled or Segregated?

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The SIS Act imposes an obligation on the Trustees of a SMSF to formulate, document, and implement an investment strategy. An investment strategy is a plan developed by the Trustees of the Fund to achieve one or more objectives regarding retirement and estate planning.

Failure to comply with this requirement may result in a fine of up to \$11,000 and/or in extreme cases the Fund becoming non-complying.

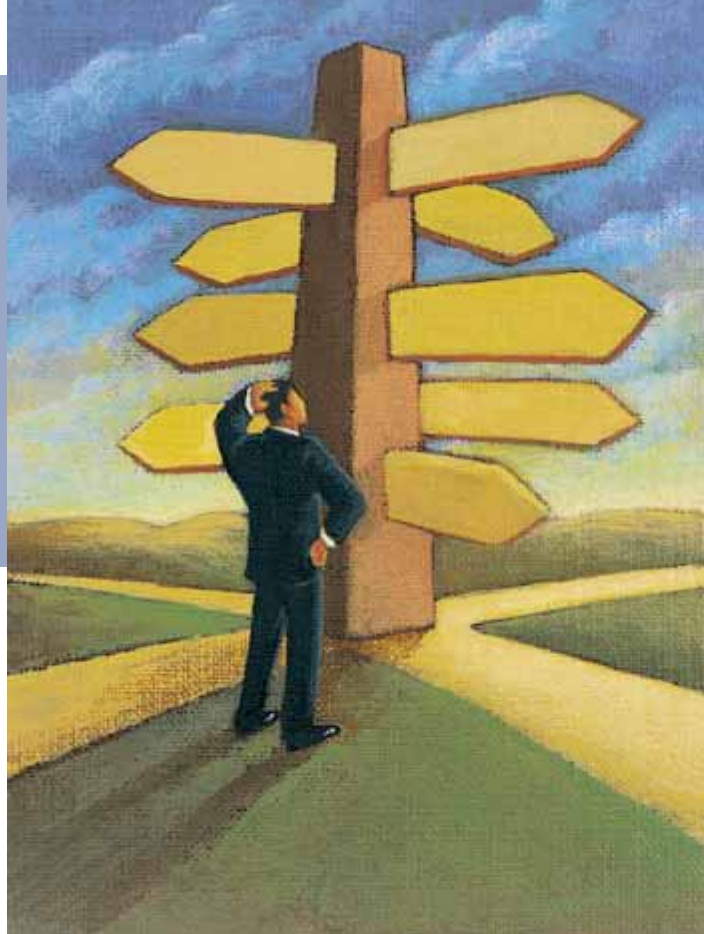
A pooled investment strategy is one where the members of the Fund share in the fortunes of the Fund's investments on a proportional basis.

Advantages

- Simplicity, only one investment strategy is needed.

Disadvantages

- It is risky from a compliance view point.
- Provides little flexibility in allocating earnings.
- Does not suit mixed accumulation and pension funds.



- Minimum control over how individual member balances are invested.

A segregated investment strategy is one where each member can have their own strategy for investing their member balance.

Advantages

- Suited to funds with member of different ages and investment profiles.
- Tailored to investment objectives of each member.
- Easy allocation of earnings.
- Provides for some RBL and tax planning.

Disadvantages

- Multiple strategies are needed.

The investment strategy can be changed at any time to keep inline with specific investment objectives and changes in circumstances. Serious

consideration of your Fund's investment strategy is important as it can impact on the Fund's performance, is a good tool for RBL management, and allows for the equalisation of member balances.

Is a Self Managed Superannuation Fund for you?

Establishing your own superannuation fund has many advantages, primarily having control over your own super and having choice in how it is invested.

However it is vital to understand the responsibilities and requirements of operating a SMSF. The ASIC has recently issued a statement detailing the important questions to be considered when determining whether a SMSF is for you:

Is the fund strictly for retirement benefits only?

The assets in your fund are strictly for retirement benefits only. The fund cannot run a business or benefit you or anyone else outside the fund. The personal use of holiday homes, art to decorate your home, and your golf club membership almost certainly will not comply.

Do you have the time and skills?

Before establishing your own fund it is vital to ensure you have the time and skills to manage the fund to make certain it remains complying with the law. This includes developing an investment strategy, selecting and managing investments to meet the fund's objectives, ensuring

the fund is correctly structured, keeping meticulous records of all decisions and actions, and meeting reporting requirements.

Will the benefits be worth the costs?

For a SMSF to be worthwhile, it is generally accepted that a minimum initial balance of \$200,000 is required.

A basic SMSF would cost approximately \$2,000 to run each year, which includes fees to have the fund's financial accounts prepared and audited, and to meet statutory reporting requirements.

How will switching to a self managed fund affect your current super?

Changing funds means changing benefits, services and fees. It is important that you do not leave yourself without life or other important insurances, and that you compare costs, especially management and exit fees.



Can my SMSF buy my factory?

In general, Section 66 of the SIS Act prohibits Trustees from acquiring assets from related parties, that is, members and their associates.

However the following assets may be acquired from a related party at market value without breaching Section 66:

- listed securities
- business real property
- an "in-house asset" (within limitations).

Business real property is real property used wholly and exclusively in one or more businesses. This may even include hotels and a residence in a primary production business.

For example, Dave owns a factory that is located in the Eastern Suburbs of Sydney. He currently leases the factory to John's Panel Beaters, who carry on their panel beating business from the factory. The factory is in a state of disrepair and Dave is considering transferring the factory to his superannuation fund at its market value of \$120,000.

Dave's superannuation fund can buy the factory as it qualifies as business real property.

An opportunity exists if you have a mortgage and want to sell your factory to your SMSF in order to release funds and reduce your non-deductible interest. If capital gains tax applies to the sale, this can be reduced to nil with appropriate structuring.



Thinking of cashing in your pension?

Are you in receipt of a pension? Have you rejoined the workforce and are now earning a sufficient salary to cover your costs of living? If you have answered yes to the above questions, cashing out or “commuting” your pension back into accumulation phase might be beneficial for you in planning for your future retirement. But be careful!

There are Reasonable Benefit Limit “RBL” consequences with commuting a pension, rolling the funds back into accumulation phase and then re-commencing a pension at some point in the future.

When recommencement of a pension is being considered, the normal formula for determining the previous benefit received (which was an income stream) that has been rolled over is slightly different. The receipt of an Eligible Termination Payment “ETP” or the commencement of a new income stream from a superannuation fund arising from the rolled over benefit will trigger RBL reporting and an RBL assessment from the Australian Taxation Office “ATO”.

To ensure that the amount rolled over is not double-counted for RBL purposes, the capital value of the original income stream is reduced to take into account the rolled over amount. The new benefit is then assessed as normal, with the reduced amount or the original income stream included as a benefit previously received.

What does it mean?

Bob, who on 1 July 1998 – aged 55 – ceased employment and commenced an allocated pension with \$450,000 (Capital Value), with the intention of permanently retiring from the workforce.

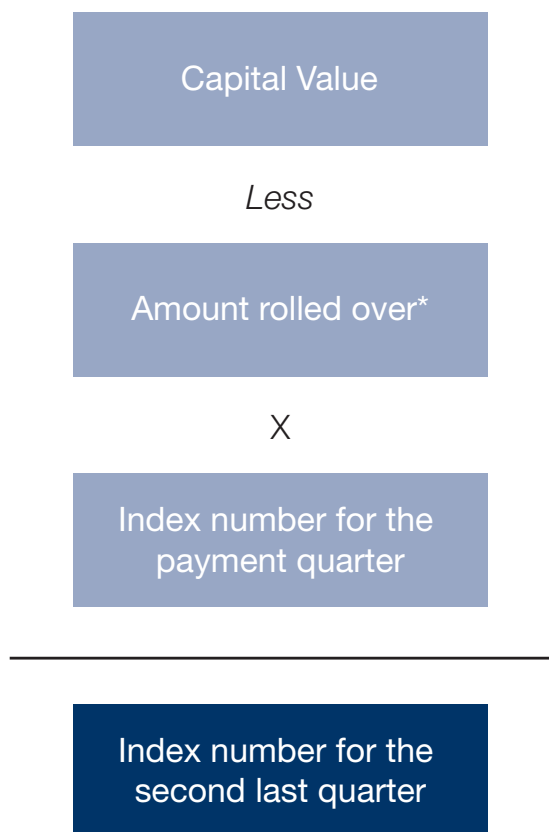
However, later that year Bob was persuaded to re-enter the workforce as a consultant to a former colleague, who had established his own business. The consulting fees Bob was paid was more than adequate to cover his income

needs, so on 1 June 1999 he fully commuted his allocated pension – account balance \$350,000 – and rolled over the proceeds into a superannuation fund.

Bob intends to continue working until age 62, at which time he will once again commence an allocated pension.

The RBL amount of the initial allocated pension will be \$450,000 (assuming no prior benefits have been taken by Bob) which is under the applicable Lump Sum RBL for 1998/99 of \$471,088. Therefore, there is no excessive benefit assessed in relation to the first allocated pension.

When Bob commutes the first allocated pension and rolls it over, its capital value for RBL purposes is reduced using the following formula:



*Note: Amount Rolled Over excludes undeducted contributions, concessional and invalidity components)

Indexation does not apply if the payment occurs within 12 months of the previous benefit taken, so the reduced capital value of Bob's first allocated pension is:

$$\$450,000 - \$350,000 = \$100,000$$

There is no RBL assessment at this stage to Bob's superannuation fund. So, at this point, Bob simply has \$100,000 from the first allocated pension counted as a "benefit previously received".

The RBL amount of the second allocated pension starting on 1 July 2005 has a capital value of \$640,000.

However, the roll-over of Bob's previous benefit (\$100,000) needs to be indexed from the quarter of the initial commencement of the pension. This will give the following result:

$$\$100,000 \times (976.40 \div 735.40) = \$132,771$$

This means that Bob's qualifying benefits for RBL purposes are now \$772,771 (\$640,000 + \$132,771).

However, the Lump Sum RBL for the 2005/06 year is \$648,946. This means that the second allocated pension is excessive by \$123,825, resulting in taxation at the highest marginal rate.

This is despite the fact that both allocated pensions in isolation did not exceed the relevant Lump Sum RBL at their respective dates.

In deciding whether commuting your pension will be of benefit to you, it is vital to consider:

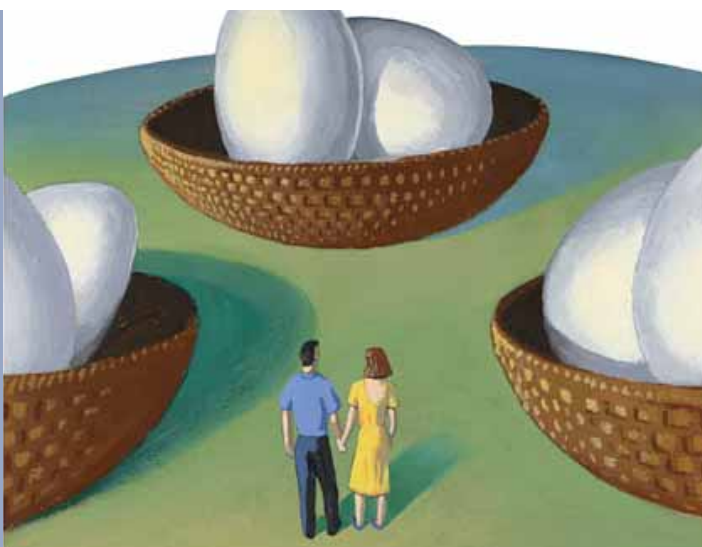
- Previous benefits taken
- The RBL implications of the commutation and starting a second pension.

It's Official: Superannuation Surcharge Abolished?

The Federal Government announced in the May 2005 Budget that the surcharge payable on superannuation contributions and relevant termination payments will be abolished, with effect from 1 July 2005.

What does this mean for you? Tax savings for your super! Superannuation contributions made on your behalf or relevant termination payments you receive from 1 July 2005 will no longer incur the additional surcharge of 12.5% on top of the 15% tax applying to superannuation contributions.

With the resumption of the Senate on 10 August 2005 and the majority held by the Howard Government this legislation was passed. However it should be remembered that surcharge will still apply to all surchargeable contributions and relevant termination payments made up to 30 June 2005.



Contributions Splitting – It's Almost Here!

Blah blah text here (tba)

The Federal Government announced in the May 2005 Budget that the splitting of superannuation contributions between spouses will apply from 1 July 2006. This will allow up to 60% of contributions to be split. This provides the opportunity for low income or non-working spouses to accumulate their own superannuation and give families

greater choice in how they prepare for retirement. The ability to split contributions with your spouse will have an extraordinary impact on the taxation of your superannuation benefits, effectively allowing you access to two Post 83 low rate tax thresholds for lump sums together with two RBL's.

LAST CHANCE!

Extension on Defined Benefit Pensions

The government has extended the 30 June 2005 deadline on the use of Defined Benefit Pensions by SMSFs until 31 December 2005 and the same conditions will apply. Until 31 December 2005 a SMSF may still provide a Defined Benefit Pension to a person who was a member of the fund on 11 May 2004, and:

- retires from the workforce
- ceases an arrangement of gainful employment on or after age 60 or
- attains age 65.

What are Defined Benefit Pensions?

Any pension with the exception of account based pensions, such as an Allocated Pension or Market Linked Pension, and includes Commutable and Non Commutable Lifetime and Fixed Term Pensions.

Defined Benefit Pensions offer many advantages, and the following case study demonstrates their effectiveness.

Case Study

Fred, a SMSF member, has accumulated benefits of \$1,000,000 consisting of \$800,000 taxable benefits and \$200,000 undeducted contributions.

Fred's Lump Sum Reasonable Benefit Limit (RBL) for the 2005/06 year is \$648,946 and as such has an excessive benefit of \$151,054 (\$800,000 taxable benefits less \$648,946 RBL). This means that Fred would be forced to take a Market Linked Pension which restricts access to capital, or an excessive Allocated Pension which has adverse tax implications.

Using a Defined Benefit Pension and Fred's undeducted contributions, Fred would be able to take an Allocated Pension for \$648,946 (Lump Sum RBL) and a Commutable Lifetime Pension for the remaining balance of \$351,054.

Fred's Commutable Lifetime Pension would have a RBL value of ZERO!

Fred can take 2 pensions with a 15% rebate available on both AND retain the option of taking lump sum payments.

This is very effective RBL management! Also the Commutable Lifetime Pension is not being returned to the member as quickly as an alternative Market Linked Pension would, so it makes a very effective estate planning tool.

Financial Diary

October 2005

- 1** Superannuation guarantee quarter 2 commences.
- 28** Last date for superannuation guarantee contributions to be made to a superannuation provider for quarter 1 (1 July – 30 September 2005) of the 2005 – 06 financial year.

January 2006

- 1** Superannuation guarantee quarter 3 commences.
- 28** Last date for superannuation guarantee contributions to be made to a superannuation provider for quarter 2 (1 October – 31 December 2005) of the 2005-06 financial year.

Did you know?

The key superannuation thresholds for the 2005/06 year are:

Reasonable Benefits Limits

Lump Sum	\$648,946
Pension	\$1,297,886

Post June 1983 Low Rate Threshold **\$129,751**

Superannuation Guarantee

Maximum Contribution Base **\$33,720 per quarter**

Age Based Limits

Age	Maximum Deductible Contributions
Under 35	\$14,603
35 – 49	\$40,560
50 and over	\$100,587

All Fund assets must be held in the name of the Fund as well as the names of the individual Trustees.

However in some cases state legislation does not allow an asset to be held in the name of a superannuation fund. In these cases, the ATO expects a declaration of trust to be executed for the asset.

To overcome this problem Cutcher & Neale recommend the use of a corporate trustee.

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We would also love to hear from you if you have suggestions on what you would like to read in future issues.

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