



Welcome

Welcome to our new-look Super Sleuth.

As you'll see, we've made some changes to both its appearance and content. Now you can get an overview of a wider range of relevant topics. Then for more detailed information, simply go to our website and view the full article. Of course, your Super team is always here to answer any questions, so please don't hesitate to contact us.

Robert Taber
PARTNER



in this issue...

You may be able to access your benefits earlier than you think...

Self Managed Superannuation Fund vs. Family Trust

Estate Planning – SMSF Wills and more..

Multiple Superannuation Accounts

Diary Dates

You may be able to access your benefits earlier than you think.

Access to superannuation benefits is determined by the preservation status of your superannuation account. There are three categories of preservation that determine when and how you can access your benefits.

Preserved Benefits

Preserved benefits are the most common form of benefits for non-pensioner members. These type of benefits are only accessible once a condition of release is satisfied (thereby converting the preserved benefits to Unrestricted Non-Preserved "URNP" Benefits) or via a Transition to Retirement (TTR) pension once a member reaches preservation age.

Restricted Non-Preserved (RNP) Benefits

RNP benefits can be accessed (that is, they are converted to URNP benefits) once employment is terminated with an employer who has made contributions into that super account on your behalf. Alternatively they can be accessed under the same circumstances as preserved benefits.

Unrestricted Non-Preserved (URNP) Benefits

These are the most ideal form of superannuation benefits as they are accessible by an individual at any point in time, regardless of age or employment status. Furthermore, URNP benefits can be accessed via a lump sum, pension or a combination of both.

URNP benefits can be created under several circumstances which include satisfying a condition of release and receiving a marriage breakdown payment from a spouse with URNP benefits.

The preservation status of your superannuation should be detailed on your annual superannuation member statement.

→ For the full article go to www.cutcher.com.au





Acquiring property from a SMSF member – it can be done.

Recently a private ruling was successfully granted to a taxpayer, allowing a group of six residential properties to be included in the definition of Business Real Property (BRP).

Usually, SMSF's are prohibited from acquiring residential property from a member. However exemptions apply if the property is considered BRP. Therefore, the ruling allowed the taxpayer's SMSF to acquire the six residential properties, where the income would be taxed at a maximum of 15%.

Self Managed Superannuation Fund VS Family Trust

Many people are now considering Self Managed Superannuation Funds (SMSF) over the traditional family trusts in order to pool their assets and allow for assets to be passed from generation to generation.

Both entities have their advantages and disadvantages. Personal circumstances, as well as objectives and goals will ultimately determine which structure is right for you.

The increasing popularity of SMSF's can be attributed to several key features. These include:

Tax Effectiveness

SMSF's are granted concessional tax treatment. As a result, any income received by an SMSF is taxed at a maximum of 15%. Gains on assets held for more than 12 months are taxed at 10% – a 33% capital gain discount.

Furthermore, once a fund is 100% pension phase, all earnings and gains are exempt from tax.

Asset Protection

Generally speaking, the assets of an SMSF cannot be claimed by creditors should one of the members become bankrupt, resulting in a very high level of asset protection.

Investment Control

Each member of an SMSF is also a trustee, or a director of the corporate trustee, of the fund. Therefore, each member has control over the assets of the fund. This can be extremely beneficial, for example, when adult children and their parents are in an SMSF together as it allows the children to maintain the assets, should their parents become incapable of doing so.

→ For the full article go to www.cutcher.com.au

Register now

Our annual Self Managed Superannuation and Investment Market Update will be held on Tuesday March 23. Featuring up-to-the minute information and key insights from our expert team, this event is always popular. To secure your place, please register now. Simply send an email to events@cutcher.com.au or phone Amanda McKee on 4928 8500.

Estate Planning – SMSF Wills

SMSF Wills can be tailored and customized to form an effective estate planning structure that suits the needs of both members and beneficiaries.

An SMSF Will allows a member to:

- Specify which SMSF assets to leave to each beneficiary (i.e. dependants, non-dependants and legal estate) while maximizing the tax efficiency of doing so. This is similar to making bequests in a Will.
- Appoint an executor to take the place of the member upon their death, until the SMSF Will is carried out.

Importantly, an SMSF Will allows a member, with several superannuation interests (see article over) to specify which superannuation interests should be paid out to each beneficiary. This can result in significant tax savings.



10% Test & Tax Deductions

Not all individuals are considered employees for Superannuation Guarantee (SG) reasons, and as such, are eligible to claim a tax deduction for personal contributions they make into superannuation.

To be able to claim a deduction for the personal contributions, the individual making the contributions must pass the “10% test”.

In order to pass the 10% test, the member’s employment income e.g. salary and wages must be less than 10% of their overall assessable income + reportable fringe benefits.

In previous years, employment income included salaries, wages, commissions, director’s fees, employment termination payments and workers compensation payments. However, with new legislation introduced 1 July 2009, reportable employer superannuation contributions (salary sacrifice contributions) will also count towards employment income.

As a result, people who previously salary sacrificed 100% of their employment income, and claimed a tax deduction against other assessable income, using personal super contributions, can no longer receive the tax deduction.

Changes to Contribution Caps

Changes that were made to the concessional contribution caps on 1 July 2009 have resulted in strategic, risk and cash-flow implications for many SMSFs.

As the contribution caps have been reduced, many members (especially those with salary sacrifice arrangements in place) run a very real risk of breaching the new contribution limits and incurring Excess Contributions Tax (ECT).

Furthermore, any excess concessional contributions are then counted towards your non-concessional contribution cap.

Death benefits to a child paid as a pension

When considering the payment of death benefits to a child in the form of a pension, be aware that this can only be done under the following circumstances:

- The child is under the age of 18.
- The child is aged between 18 and 25 years and is financially dependent on the member.
- The child is aged 18 years or older and suffers from a disability.

Failure to satisfy one of these requirements mean the member’s death benefit would have to be paid to the child in the form of a lump sum payment.

ATO focuses on SMSF compliance

The ATO has increased their focus on SMSF compliance, which has led to an increase in funds being made non-complying. For the financial year 2008/09, the ATO has made 74 SMSFs non-complying with another 53 underway. This represents a 25% increase from the previous year.

The main breaches which have resulted in a fund being made non-complying (effectively meaning that half the value of the fund will be lost) include:

- Providing financial assistance to members e.g. loans
- Breaching the In-House Asset rules
- Failing to satisfy residency requirements
- Early access to superannuation by members

→ For the full story on these articles
go to www.cutcher.com.au

February

28 2008/09 Annual Return + payment of 2008/09 tax liability due for SMSF's established within the last 12 months.

March

1 October – December 2009 (Second Quarter) Activity Statements and Quarterly Instalment Notices due for lodgement and/or payment.

April

28 January – March 2010 (Third Quarter) Quarterly Instalment Notice due for lodgement and/or payment.

May

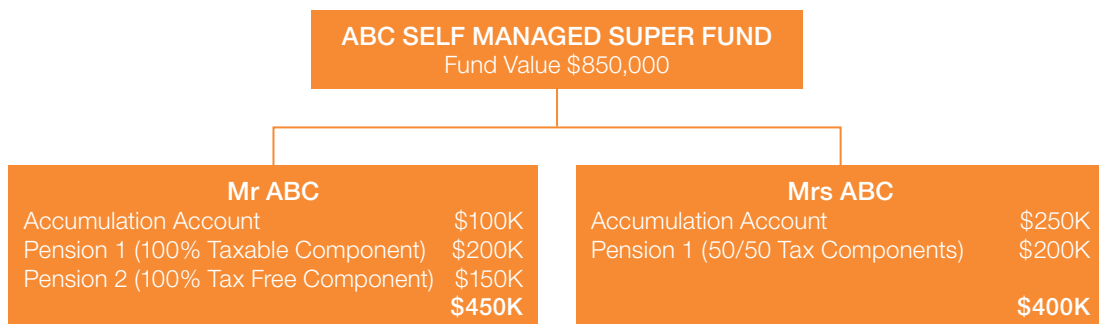
15 2008/09 Annual Return + payment of 2008/09 tax liability due for SMSF's (those not required to be lodged earlier).

26 January – March 2010 (Third Quarter) Activity Statements due for lodgement and payment.

Did you know you can have more than one 'account' within your superannuation member balance?



In our opinion, most pension members should have multiple superannuation interests. Here's an example of how members can structure their accounts.



As illustrated, one member can have an accumulation account plus an infinite number of separate pension accounts. Each account is a separate superannuation interest.

This is common for Transition to Retirement "TTR" individuals who are drawing a TTR pension, from a pension account, while still contributing towards an accumulation account (like Mrs ABC).

The concept of separate superannuation interests is also extremely useful in terms of 'recycling' taxable superannuation benefits. When Taxable benefits are drawn from and re-contributed back into a fund as Tax Free benefits (via the use of non-concessional contributions) they can be segregated into a separate pension account, quarantining the Tax Free benefits from any Taxable benefits (as demonstrated in Mr ABC's member account). This can have significant tax advantages for pensioners less than 60 years of age, as well as significant estate planning benefits for members with non-dependant beneficiaries.

→ For the full article go to www.cutcher.com.au



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