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YOUR Knowledge

Where to now for superannuation?

The recent round of superannuation reforms might make you question the future of superannuation and whether it is still a safe investment vehicle. The answer is, yes, for now.

There is no question, however, that the $1.5 trillion sitting in superannuation accounts is a very large tax temptation. The problem for any Government is that once you have a concession in place, it's almost impossible to remove it without enraging voters. Increasing tax on superannuation is not something you can slip through unnoticed as it affects almost every taxpayer. Treasury is already forecast to collect $9.05 billion in tax from superannuation in 2013/2014.

One of the big questions for the latest round of superannuation changes is whether the reforms will be legislated prior to the election. While there are some reforms that many will be happy to forget, like the increased tax on superannuation pensions and annuities, there are others, like the reforms to the operation of the excess contribution tax, that are sorely needed.

Either way, constant change means that you need to keep one step ahead and constantly reassess your position. This applies to everything from salary sacrifice agreements to investment and retirement planning. We look at the key pros and cons of the proposed reforms:

The Pros

Refunding excess contribution tax

The impact of the excess contribution tax (ECT) has been contentious for quite some time. In the 2011/2012 financial year, the Australian Taxation Office issued 66,435 ECT assessments with a value of $174.3m.

Under current arrangements, concessional contributions that exceed the annual cap are taxed at the top marginal tax rate of 46.5%. In one case, a 93% tax rate was applied to an excess concessional contribution. In another, a payroll error meant a superannuation contribution was made late and was inadvertently made in the wrong financial year. The error meant that the employee breached her contributions cap and ended up with a total ECT assessment of just under $70,000. The horror stories are endless.

In a welcome move, the proposed reforms will allow individuals to withdraw excess concessional contributions from their super fund. These excess concessional contributions will then be taxed at the individual's marginal tax rate plus an interest charge.
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Director warning on PAYG

If your company has fallen behind on it's PAYG withholding tax, the Australian Taxation Office is looking very closely at you. Not the company, but you, the Director.

Under the Director penalty regime, Directors are personally responsible for unpaid superannuation guarantee and PAYG withholding amounts. In addition, if a Director is personally entitled to a tax credit, the ATO may offset this credit against the company's liability.

Last month, the ATO started contacting Directors of company's with unpaid PAYG withholding obligations. This is the first step in the process – voluntary compliance. If these amounts remain unpaid for three months, the Commissioner will issue a Director's penalty notice. If the liability remains after 21 days, the penalty applies – even if the company is placed into administration.

If a company is experiencing difficulty paying its tax liability, it is important for the Directors to address the issue. Often the ATO will work with a company to put in place repayment schedules.

Quote of the month

"Courage is what it takes to stand up and speak; courage is also what it takes to sit down and listen."

Winston Churchill

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Where to now for superannuation? *continued*

Unfortunately if you have already paid ECT, you can't get your money back. The reforms, if enacted, will apply to excess concessional contributions made from 1 July 2013.

Changes to the contributions cap

Back in 2010, the Government announced an increase to the concessional contribution limit to $50,000 for those aged 50 and over with superannuation balances below $500,000. At the time, the start date was to be 1 July 2012 but this was then deferred until 1 July 2014.

In this latest round of proposed changes, the Government has now announced that a contributions cap of $35,000 will now apply from 1 July 2013 for those 60 and over, and 1 July 2014 for those 50 and over.

In addition, the Government has decided not to limit the higher cap to just those with super balances below $500,000. It will now apply to everyone who meets the age tests.

For everyone else, the contributions cap will remain at $25,000 (with indexing returning to the cap from 1 July 2014).

The increased contributions caps and higher contribution base will allow more people to benefit from tax planning opportunities, particularly for salary sacrifice and those transitioning to retirement.

The Cons

Changing how earnings on super are taxed

At present, all new earnings (such as dividends, rent and interest) on assets supporting income streams (superannuation pensions and annuities) are tax-free. Whereas the earnings you make on superannuation assets when you are building your super (accumulation phase), are taxed at 15%.

Under the reforms, from 1 July 2014, the tax exemption for earnings on superannuation assets supporting income streams will be capped at the first $100,000 of future earnings per individual per annum. Earnings above $100,000 will be taxed at 15% (the same concessional rate that applies to earnings in accumulation phase).

So, earnings on superannuation assets supporting income streams will be tax free up until $100,000 each year and then taxed at 15%.

Special transitional arrangements apply to capital gains on assets purchased before 1 July 2014 that in some circumstances will push the impact of the new tax out until 2024.

The proposed change will more than likely affect:

- People whose fund balance exceeds $2 million (assuming a 5% cash rate return);
- People whose fund assets produce a higher level of income return than usual; or
- Situations where a CGT event occurs and pushes fund income above the threshold.

People holding property inside their superannuation fund are particularly exposed.

So, what can you do about it? If you have a spouse, then think about contribution splitting or withdrawing super and recontributing it into your spouse's super account. This might result in a more equitable distribution of earnings on superannuation balances and reduce the likelihood of one member's fund earnings exceeding $100,000.

Centrelink and pensions

Another reform seeks to tighten Centrelink's income test. Currently, account based pensions receive preferential concessional treatment under Centrelink pension income testing arrangements compared with income from other assets, such as dividends from shares or interest. This reform will have a greater effect on people assessed under Centrelink's income test as opposed to the assets test. In some circumstances, the reform will increase the level of income assessed under the income test for Centrelink support.

If you need to make any changes to how your pension is structured going forward, you should look at making these changes prior to 1 January 2015.

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