TAX TALKS

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47 | Pension Strategies Post 1 July 2017

Pension Strategies post 1 July 2017 have changed. Originally we all focused on optimising contributions and staying clear of the $1.6 cap. But focus has now shifted to the impact these changes will have on pension strategies and estate planning.

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Pension Strategies Post 1 July 2017

High net wealth clients are now likely to have multiple interests in accumulation and pension phase. You should also consider

- Death nominations to deal with interests
- Need to know all super accounts when providing advice
- Start using disclaimers to ensure you can't get blamed for incorrect NCC advice due to 'hidden' super accounts

Transfer Balance Account (TBA)

Payments from retirement pensions do not reduce the Transfer Balance Account (TBA).

Consider taking any payments above minimum pension as a lump sum from accumulation account (if available), since these haven't cost a credit to the TBA yet. Or consider a partial commutation of pension to take lump sum to obtain a debit to the TBA.

Managing TBA on death of members from 1 July 2017

- 6 month cashing rule removed
- Death benefit can be commuted and rolled over (must retain death benefit status)
- Components remain crystallised after death
- Cannot roll back death benefit to accumulation

Reversionary pensions

- In order to be reversionary, trustee can't have any discretion as to who receives the benefit
- Deceased's market value on date of death is credited to beneficiary's TBA
- Amount is credited to beneficiary's TBA within 12 months of death
- Cannot elect to pay child pensions if reversionary nomination made to spouse first
- Only applicable to pension being paid (not other super interests)
- Check whether trust deed and pension documentation permit a reversionary pension

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- Check how the reversionary pension works with any binding death benefit nomination – any contradictions?

Example

Take the Belcher Super Fund as an example. Bob Belcher is 73 years of age and dies on 1 July 2018. He has an ABP with a TBA of $1.6 and a market value of $2.1m as of 1 July 2018. The market value of his super assets increases to $2.2M on 1 July 2019. His wife Linda is 70 years of age and has an ABP with a TBA of $700k and a market value $1M.

After 1 July 2018, Linda commutes her existing ABP within 12 months of death and so now has a negative balance of $300k in her TBA. $700K TBC – $1M = ($300,000). Linda receives Bob's super assets from the reversionary pension and her TBA receives a credit of $2.1m, the market value at the time of death. This puts Linda's TBA back at $1.8M, which means that she needs to move $200k to accumulation or cash it out completely.

Non-reversionary pensions from 1 July 2017

- 6 month rule removed but should be paid as soon as possible
- New pension commences including components and minimum pension
- Counts towards beneficiaries TBC at date of transfer and not date of death

Example

Take Bob and Linda again as before. Same facts, just now it is a death benefit pension (non-reversionary) and no longer a reversionary pension that Bob leaves behind. Just as before Linda Belcher commutes her existing ABP ($700K TBC – $1M = ($300,000) and has now a negative TBA balance of $300k.

As before Linda receives a $2.1M credit to her TBA from the non-reversionary pension. This puts Linda's new TBC at $1.8M. The excess of $200,000 has to be paid out as lump sum. The difference to a reversionary pension is that she won't have 12 months before she receives the credit but needs to deal with it at the start of the pension.

Active pension accounts post 1 July 2017 can still segregate for investment purposes even if member has TSB of over $1M.

- Different assets to pension and accumulation
- If trust deed permits
- Multiple investment strategies required

Pros

- Potential to build greater percentage of tax exempt income within fund
- Investment growth does not count against TBC

Cons

- Negative investment growth does not count towards TBC
- Increase in complexity of administration

Contribution Splitting

Split 85% of concessional contribution to spouse provided spouse is under 65 and if over preservation age still gainfully employed.

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Depending on age gap in some cases it may pay to split to older spouse as older spouse will reach a condition of release sooner. He or she can then commute excess funds and make NCC for younger spouse. But your clients will need advice around this.

Transition to Retirement Income Streams

TRIS might still play a part in a strategy

1. Access to benefits and re-contribution
2. Preserving tax free components
3. Still tax benefit of salary sacrifice and TRIS for members over 60 years of age

TRIS from 1 July 2017

Precondition of release

- Remains as a separate pension interest
- Not required to be reported under TBA
- TRIS income taxed at 15%

Postcondition of release

- Remain as a separate pension interest
- Required to be reported under TBA
- Eligible for tax exempt income under $1.6M TBC
- Lump sums don’t count to minimum pension payment

Market Linked pensions

To calculate TBA effect of existing MLP at 1 July 2017

- Annual entitlement multiplied by remaining term
- Commutation and repurchase post 1 July 2017, value of MLP counts as debit and credit

Caution! Client might lose 50% exemption and there are timing issues.

Summary

Super issues not just for high net wealth clients with over $1.6M in super, but also for clients

- With over $1M in super or combined wealth over $1.6M
- Clients where one member has a much higher balance than the other
- Requiring advice around withdrawals and eligible contributions
- Requiring strategies to ensure maximum benefit ECPI

Advisers need to have a full snapshot of all super accounts

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