



Relief for Pensioners

Last week, the Treasurer Wayne Swan and Senator Nick Sherry, Minister for Superannuation and Corporate Law, announced relief from minimum account-based pension draw down requirements.

They claim the measure responds to concerns that meeting the minimum draw down amount in 2008-09 will mean superannuants having to sell investments assets and realise losses in a depressed market.

"The Government recognises that the significant downturn in global financial markets has had a negative effect on retirees' superannuation capital in account-based pensions," the Treasurer said.

"In response to these legitimate concerns, the Government will suspend the minimum drawdown requirement for account-based pensions for the second half of 2008-09".

"This will occur through a 50 per cent reduction in the minimum payment amount for 2008-09," Minister Sherry said.

This announcement affects SMSF members currently in pension mode. Each year, pension members are provided a 'minimum amount' that they must draw from their superannuation balance in order to satisfy pension conditions.

In current market conditions, in order to be able to meet the 'minimum' requirement, many SMSFs with a lower % of their fund assets in cash, have been forced to dispose of assets and realise losses at a time when the market is suffering.

Therefore, to minimise losses for people in this situation, the Government have effectively halved the minimum amount pensioners are required to draw in the 2008/09 financial year.

Pensioners wishing to preserve their superannuation and minimise the withdrawals from their funds, will therefore need to review the pension documentation for 2008/09, and in particular the 'minimum' figure provided to them by their accountant or administrator. The new minimum withdrawal is effectively half of what may have been previously prescribed.

If the pension minimum has already been met for the year to date, pensioners can suspend any further pension withdrawals between now and 30 June (provided they can afford to do so).

For those people who have already taken half of the current minimum payment for 2008-09, given the timing of the withdrawal of the minimum pension amount is at trustee discretion, this means you can suspend any further withdrawals until June 2010.

The new pension minimum figures are calculated as follows:

Age of Member	Normal Minimum	Proposed Minimum
Under 65	4%	2%
65 – 74	5%	2.5%
75 – 79	6%	3%
80 – 84	7%	3.5%
85 – 89	9%	4.5%
90 – 94	11%	5.5%
95+	14%	7%

The temporary suspension of the minimum payment requirement will apply to account-based annuities and pensions (payable since 1 July 2007); allocated annuities and pensions (pre-dating the Better Super changes); account-based and allocated pensions payable from retirement savings accounts, and market-linked (term allocated) annuities and pensions.

As legislation on the changes to pension minimums has not yet been released at the time of press, further information will be forthcoming as legislation is released.

Recontribution Strategies

There are various reasons why someone would perform a recontribution strategy. A recontribution strategy generally entails a super fund member withdrawing some or all of their super fund balance, then re-contributing the amount back into the super fund.

The Proportioning Rule

As of 1 July 2007, when a lump sum is drawn from a fund, there is a taxable component and a tax exempt component.

The taxable component relates to contributions made to the fund post 1983 and earnings of the fund.

The tax exempt component includes any undeducted/ non-concessional contributions members have made, capital gains tax exempt amounts and any pre 1983 component.

When a lump sum is drawn, the components will be determined by the proportion of the taxable component and the tax exempt component.

For pension payments and lump sums from a pension account, this proportion is locked in at the date of the commencement of the pension and the fixed proportion will apply to all payments from the pension balance thereafter.

For those under 60 and therefore still subject to tax on withdrawals, the exempt proportion of a withdrawal will remain tax free, but the taxable component may be taxed.

Under 60 pension recipient

For those between the ages of 55 and 60, tax is still payable on pension payments to the extent that the member balance comprises the taxable component.

However, for those in this age bracket who are eligible to take lump sums (i.e. they may be retired), the first \$145,000 of withdrawals from the taxable component (which must be taken in proportion with the tax free component) are tax free if taken as a lump sum rather than a pension.

Subject to the contribution limits as discussed briefly below, the withdrawal can then be recontributed back into the super fund as a non-concessional contribution, which forms part of the tax free component, hence increasing the overall proportion of tax free component versus taxable component. What this means is that if they now commence a pension income stream from the super fund, a higher amount will be tax free, representing the higher proportion of the tax free component.

Estate planning

When a death benefit is paid to non-dependants (including adult children), tax is generally payable on the taxable component at a rate of 16.5%. Therefore, regardless of age, there is an incentive to increase the tax free component as this would reduce tax payable to beneficiaries of superannuation fund money in the event of death.

For those over the age of 60, the withdrawals are tax free – so there is an opportunity to withdraw a significant balance from the fund, and re-contribute to the SMSF to maximise the tax free component. The only restraint on this strategy is the contribution caps which limit the amount that can be contributed back into super.

Concessional re-contribution strategy

The re-contribution strategy is not limited to making non-concessional contributions.

Consider a self employed person over the age of 55, who generates significant taxable income. Taxable income does not necessarily always convert to surplus cash, for example the money may be used to fund living expenses, a holiday, or to repay debt. Therefore, there may not be sufficient personal funds to pay a concessional (or tax deductible) superannuation contribution to offset the tax bill. However, the self employed person may be eligible to take money from the super fund (which could be tax free depending on age), then re-contribute an amount back into the super fund to generate the tax deduction.

Contribution caps

The annual contribution cap of \$150k for non concessional contributions per annum, of which the following two years entitlement may be brought forward for those under 65 to permit a \$450k contribution, can be a hindrance to the re-contribution strategy.

These limits would restrict the amount that can subsequently be re-contributed back into the super fund once it has been drawn out. If the individual had other assets earmarked to be contributed to super, then this may use the majority of the cap, making the strategy difficult.

Spouse

If the contribution cap causes an issue, the individual could consider making the contribution for a spouse, using the spouse's contributions cap entitlement. Depending on whether the spouse has reached preservation age (currently 55), the spouse however may not be eligible to immediately draw down on their super fund balance.

Age related issues

Those under preservation age, currently being 55, generally cannot draw down payments from their super fund. On the other side, those over 65 cannot use the 2 year bring forward rule for non-concessional contributions. In addition, those over the age of 65 must meet a work test, being 40 hours in a 30 day period, for each year that they contribute to super. Those over 75 can generally no longer contribute to super.

Transition to retirement

If a member of a super fund is between 55 and 65 and still working, depending on their circumstances, they may be eligible to take up to 10% of their super fund balance each year in the form of a transition to retirement pension. The 10% limit restricts the amount that can be withdrawn to facilitate the re-contribution strategy.

SMSF Growth Continues

Growth in the SMSF sector remains steady despite market conditions as more Australians decide to take control over their superannuation investments on the back of declining balances.

As recently as January 2009, SPAA (SMSF Professionals' Association Australia) Chief Executive Andrea Slattery, said the number of SMSFs established has remained constant between 2,500 to 3,000 funds each month. "Three years ago, people wouldn't have a clue about super and now we have people taking an active interest in it particularly management and executives," she said.

With the increasing complexity of accounting for SMSFs including pensions, rollovers and tax components, SuperGuardian has continued to grow with an increasing number of Accounting firms referring clients and outsourcing their work to us.

At SuperGuardian, we proudly maintain our independence and do not pay referral fees. Any referrals made to us are based on the quality of our service and value for money we provide.

For more information relating to any topics covered in this edition of Your Guardian, call **Olivia Molina** or **Brendan Daw**