



## The aftermath of the Global Financial Crisis & Strategies for your SMSF

In the aftermath of the Global Financial Crisis (GFC) many SMSF trustees are shifting their strategic focus to other ways to maximise their superannuation including contributions and tax minimisation.

In this newsletter, SuperGuardian identifies some of these strategies.

### Realised Capital Losses

Most SMSFs have experienced capital losses over the past two years and many Trustees do not realise that once a fund moves to full pension mode the fund disregards capital losses!

When a fund is in full pension mode (i.e. there are no accumulation assets), tax is essentially no longer a consideration, as all of the earnings of the fund are tax free. Therefore expenses are mostly non-deductible as there is no assessable income to offset and capital gains; and losses are disregarded.

#### **SPECIAL NOTE for funds moving to pension mode**

Unless the fund maintains an accumulation balance, capital losses are disregarded. They are not carried forward to offset gains in future income years.

Trustees should consider the implications of this, which are not necessarily immediate but will become relevant upon the death of a member.

If a member dies without eligible reversionary beneficiaries, the member's pension account may be forced back into accumulation phase. The earnings and any capital gains of that balance now in accumulation phase are subject to 15% income tax. If the fund is forced to sell assets to enable the fund to pay the death benefit then tax will be payable on capital gains accordingly.

However, if the fund has carried forward capital losses these could be applied to the capital gain, reducing the tax liability and increasing the overall death benefit to the beneficiaries.

SMSFs that have members in both accumulation and pension phase are able to obtain an Actuary Certificate to determine the portion of their fund not subject to tax. This portion is applied to earnings, expenses and capital gains but not capital losses.

These funds are able to carry forward the entire amount of unapplied capital losses for use in later income years.

SMSF Trustees should consider retaining an accumulation balance in the fund where there is the potential for realised capital losses. This can be achieved by either having at least one member in the fund in accumulation phase or retaining part of a member entitlement in accumulation when commencing a pension.

Operating an accumulation and pension account may incur additional administrative fees. However depending on the size of the capital losses, it could be money well spent and a strategy worth visiting – as demonstrated by the Case Study below.

#### **Case Study**

The Smith Superannuation Fund has one member John aged 65 receiving an account based pension, which commenced on 1 July 2007

At the time the pension commenced the fund has carry forward capital losses of \$1,500.

The fund has net capital losses in 07/08, 08/09 and 09/10 financial years of \$5,000, \$12,000 and \$4,000 respectively.

#### **Scenario 1**

The entire fund is supporting John's pension, no accumulation balances, all losses are disregarded. At 1 July 2010, the Smith Superannuation Fund has carried forward capital losses of **\$1,500**.

#### **Scenario 2**

John has retained a small accumulation balance in the fund, while the rest of the Smith Super Fund is supporting John's pension balance. The fund has incurred small additional administration fees in each financial year as well as obtaining an Actuary Certificate.

At 1 July 2010, the Smith Superannuation Fund has carried forward capital losses of **\$22,500** – a far better result than had he converted the entire balance to pension mode.

## Transition to Retirement Income Streams

For members aged 55 and over, there is the opportunity to commence a Transition to Retirement Income Stream regardless of employment arrangements. This will mean that the member needs to draw a pension from the fund of between 4% (reduced to 2% in the 09/10 financial year) and 10% of their member balance and the taxable component of the amount is included as taxable income for members aged under 60.

From the fund perspective, the member's balance is now in a tax free environment, i.e. any taxable income or capital gain earned by that portion of the fund is not subject to the usual tax and any franking credits remain refundable thus increasing the funds in super.

It is worth noting that commencing a transition to retirement pension will not prevent the member from making further contributions to the fund.

## Unrestricted Non-Preserved Balances

While commencing a Transition to Retirement Income Stream is available to members aged 55 and over, members considering this should take careful note of the preservation components of their balance, which are usually found on their Member Statement.

If there is an 'Unrestricted Non-Preserved' component of the member benefit, this means that a condition of release has already been satisfied for this portion of the member balance. In simple terms, subject to the rules of the super fund, regardless of age, employment situation or financial position, the member can access this money.

For members commencing a transition to retirement income stream where benefits are capped to 10% of the members balance, it would be wise to discuss separating the preservation components of the balance with a financial adviser. Unrestricted Non-Preserved benefits are accessible without restriction and can be either held separately in accumulation phase or used to commence an Account Based Pension.

If commencing an Account Based Pension, the balance enters a tax free environment, any income earned by that portion of the fund is not subject to the usual 15% income tax and franking credits remain refundable thus increasing the funds in super.

## Take advantage of the Government Co-Contribution

Sometimes forgotten, the super co-contribution scheme is a great way for eligible members earning less than \$61,920 in the 2009/10 financial year to boost their superannuation savings. Eligible members earning under the threshold can attract co-contributions of up to \$1,000 on non-concessional contributions to their super funds of up to \$1,000.

Neither the non-concessional contribution nor the co-contribution are taxed in the fund.

## Avoid Excess Contributions Tax

It is critical that SMSF Trustees and Members understand the current contribution caps. The caps were halved by the federal government from 1 July 2009 and many members have not yet adjusted their contribution arrangements (in particular salary sacrifice agreements) in line with the new contribution caps. The caps are as follows:

	Concessional Contributions		Non-Concessional Contributions
	Aged Under 50	Aged 50 – 75**	All Members to 75**
2008/09	\$50,000	\$100,000	\$150,000
<b>2009/10</b>	<b>\$25,000</b>	<b>\$50,000</b>	<b>\$150,000</b>
2010/11	\$25,000	\$50,000	\$150,000

\*People aged under 65 may be able to access the 'bring forward option' which allows the member to contribute up to three times their non-concessional contributions cap over a three-year period, currently \$450,000.

\*\* Members between 65-75 need to meet a work test.

Amounts contributed in excess of the concessional caps will be subject to an additional 31.5% tax, resulting in a total tax payable on the amount of 46.5%. Beware though - this excess amount is then also counted towards the member's non-concessional cap.

Although non-concessional contributions are not initially taxed at all, excess non-concessional contributions will be taxed at 46.5% in the fund.

Potentially, members exceeding both the concessional and non-concessional caps in same financial year, could find themselves faced with a tax liability of 93% of the excess contributed amount.

We recommend SMSF Trustees exercise particular care with contributions and review their year to date contributions prior to 30 June.

For more information relating to any topics covered in this edition of Your Guardian, please call **Kate Kehl** or **Monte Engler** of our office on **1300 787 576**.



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