Super Concepts

Fact Sheet

CGT Relief

Purpose of CGT relief

As a result of the introduction of the $1.6 million transfer balance cap and, the new taxation requirements applying to transition to retirement (TTR) pensions, some funds who sell assets after 1 July 2017 may incur capital gains tax which would not have otherwise been payable if the transfer balance cap had not been introduced. To compensate members, CGT relief measures have been introduced.

Eligibility to apply CGT relief

There are a number of requirements that need to satisfied in order to be eligible for CGT relief. The first requirement is that a member either:

- Is in receipt of a TTR pension between 9 November 2016 and 30 June 2017;
- Is required to commute an amount from their pension to comply with the transfer balance cap.

The remaining requirements differ depending on whether the asset to claim CGT relief on was a segregated or unsegregated current pension asset and held by the fund throughout the period 9 November 2016 until 30 June 2017.

Segregated or unsegregated SMSF

An SMSF is treated as segregated if either specific assets are identified as supporting a pension balances or, the SMSF has only account based pensions and is fully in pension phase (no accumulation accounts).

A SMSF is treated as unsegregated if either specific assets are not identified as supporting the pension balances or, the SMSF does not consist wholly of account based pensions.

If the asset was a segregated current pension asset as at 9 November 2016, the following conditions must also be satisfied in order to be eligible for CGT relief – the asset must have been a segregated current pension asset throughout the period 9 November 2016 until 30 June 2017.

If the asset was an unsegregated asset as at 9 November 2017, the following conditions must also be satisfied in order for CGT relief to apply:

- The fund held the asset throughout the period 9 November 2016 until 30 June 2017.
- For the 2016/2017 income year a proportion of the fund's assets was supporting both an accumulation and pension interest in the fund.

- The asset was not a segregated current pension asset at any time from 9 November 2016 to 30 June 2017.

> It is important to note that the decisions to apply the CGT relief (pay the tax on the notional CGT or, defer the tax on the notional CGT) are made on an asset by asset basis. It is not made on an asset-class basis.

My SMSF is unsegregated

If the asset was an unsegregated asset as at 9 November 2016, and satisfies the CGT relief eligibility conditions, the fund is eligible to claim CGT relief for all the fund's assets. Resetting the cost base results in the deemed sale and re-purchase of the asset. As some portion of the asset is supporting an accumulation interest, the actuary's exempt current pension income (ECPI) percentage is used to calculate a notional capital gain. The notional capital gain is calculated by reducing the capital gain by the 1/3rd general discount (assuming the asset has been held for more than 12 months) and then reducing the gain further by the ECPI percentage. The remaining capital gain is the taxable gain that can either be brought to account in the fund's 2016/2017 tax return or, deferred until the asset is actually sold.

CGT relief is not automatic. The trustee(s) must choose for CGT relief to apply and they will need to make an election for those assets to be treated as disposed and re-acquired. This election is irrevocable and must be made on the CGT schedule which is part of the fund's annual tax return.

Based on the actuarial certificate for the 2016/2017 year a proportion of the notional capital gain from the selected assets is taxable The trustees then also decide whether to treat this tax on the proportion of notional capital gain as assessable in the 2016/2017 year or defer until the asset is actually sold.

My SMSF in segregated

If the asset was a segregated current pension asset as at 9 November 2016, you only have the choice of resetting the cost base for assets which are transferred from the segregated pension pool to the segregated accumulation pool. However, if the asset was a segregated asset as at 9 November 2016 and throughout the 2016/2017 financial year and the fund chooses to convert to an unsegregated fund, all the assets which were previously supporting the payment of a pension are eligible for CGT relief.

Again CGT relief is not automatic. The trustee(s) must choose for CGT relief to apply and they will need to make an election for those assets to be treated as disposed and re-acquired. This election is irrevocable and must be made on the CGT schedule which is part of the fund's annual tax return.

If specific assets cannot provide the amount to be rolled back to accumulation, the fund will be treated as unsegregated for tax purposes. Any assets can be elected for CGT relief for under the unsegregated method.

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Considerations impacting asset selection for CGT relief

There are several factors that will influence how an SMSF decides which assets are likely to apply the CGT relief. The key drivers are:

- The relief is available for each CGT asset. If a fund has bought multiple parcels of shares or units at different dates and prices, then the calculation and the election may be done for each share rather than either per parcel or the whole holding.
- The deemed disposal and re-acquisition timeframe for the discount on capital gains is reset. Any future gain will not be discounted until 12 months passes after the date of the election. This means, if it is likely the asset is to be disposed of before 30 June 2018 any new capital gain could be taxed at a higher tax rate.
- If an asset's value has fallen such that there is currently an unrealised capital loss at 30 June 2017, electing relief on this asset results in the loss being realised.
- Consideration should be given to what will be the proportion of assets supporting pensions of the total fund when an asset is likely to be sold in the future. If the portion is likely to be higher when the asset is sold, then electing for the CGT relief may actually result in a higher tax bill.

Trustees should obtain professional advice based on accurate and up to date information as the consequence of acting or not acting could result in higher than necessary tax liabilities.

More information

For additional resources and insights visit http://www.superconcepts.com.au/news-insights/SMSF-tech-hub

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