Super Concepts

Super and the 2021/22 Federal Budget

Philip La Greca
Executive Manager – SMSF Technical & Strategic Solutions

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But first....what you need to know

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This session will cover

- 2021/22 Budget superannuation announcements
  - Earlier eligibility for downsizer contributions
  - Partial removal of the work test between 67 and 74
  - Revised residency rules for SMSFs
  - Legacy pension shutdown opportunity
  - Other proposed changes
- Pending legislation

Budget 2021 - Superannuation changes

Contribution rule changes

- Designed to provide accessibility to superannuation for more people
- Proposed to commence from 1 July 2022
- Changes are
  - Earlier age eligibility for Downsizer contributions
  - Partial removal of work test between ages 67 to 74

Earlier eligibility for downsizer contributions

- Current rules to apply but will now be available from age 60 rather than age 65
- Still must
  - Qualify for principal residence exemption
  - ownership timeframe - 10 years
  - Maximum of $300,000 per person or total sale proceeds whichever is lower
- Not subject to work test or standard non-concessional contribution caps

Case Study

- Margaret (66) and Steve (63) have decided to sell their four bedroom house and move to a smaller place
- They have owned the house for 20 years
- Under current rules only Margaret would be able to consider using a downsizer contribution

- Under proposed rules, both Margaret & Steve could consider the option.

Impact of earlier eligibility

- Greater flexibility to use proceeds to fund both downsizer and "normal" non-concessional contributions
- Better deals with potential age gaps in a couple

HOWEVER

- Downsizer contributions could be preserved until retirement or age 65
- Potentially merged with any existing accumulation account

Partial work test removal

- Available to anyone between 67 and 74
- No requirement to meet the *work test* of 40 hours in 30 consecutive days
- Applicable to certain voluntary contributions
  - Personal non-concessional contributions (NCCs)
  - Salary sacrifice contributions
- Personal deductible contributions will still require the work test.

How it works

- Louise and Benjamin are both 68 in the 2022/23 financial year
- Louise has a super balance of $2 million
- Benjamin has a super balance of $1 million
- They wish to even up their super
- Louise withdraws $100,000 from her super and makes a spouse contribution for Benjamin
- Over time if Louise continues to withdraw amounts from her super it can even out their super balances.

Impacts of partial work test removal

- Personal assets such as cash, listed shares and other permitted investments may be transferred to super and provide a better tax outcome
- Opportunity for couples to even up their superannuation balances and make the most of their Total Super Balance Caps and Transfer Balance Caps

BUT

- Limits ability to use concessional contributions to offset capital gains tax

Revised residency tests for SMSFs

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To qualify as an Australian superannuation fund, currently three tests are required to be met:

- The establishment test
- The central management and control test (CM&C)
- The active member test

Note: failure to meet one of these tests results in the fund being treated as a non-complying superannuation fund.

Proposed residency tests for SMSFs

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- The central management and control test will continue where the trustees are temporarily overseas for up to 5 years
- The current rules have a 2 year limit
- The active member test is to be abolished.

How it works

- Dibjot and Gurleen have an SMSF
- They decide to leave Australia temporarily while they are looking after their parents in India
- They expect to be absent from Australia for up to 4 years
- From 1 July 2022 the fund will continue to meet the definition of Australian superannuation fund while they are overseas as they will meet the CM&C test
- They can continue to make contributions to their SMSF while they are overseas as well.

Benefits of proposed residency tests changes

- Members can be **temporarily absent** from Australia and still make important 'policy decisions' about their SMSF

- Contributions can be made to their SMSF while the trustee/members are overseas rather than having to contribute to an APRA based fund which is required under the current rules.

Legacy income streams

- A legacy income stream was in existence as at 20 September 2007 and is:
  - a market linked income stream,
  - a life expectancy term based income stream, or
  - a lifetime income stream
- The value of a legacy income stream is calculated by an actuary into its current pension liabilities and the reserve
- Under the current rules it is not possible to commute a legacy income stream until the death of the pensioner or their reversioner.

Legacy income streams rules proposed

- For a two year period, probably commencing from 1 July 2022, it will be possible to commute legacy income streams and transfer the balance to the member's accumulation account
- If a pensioner elects to commute the legacy income stream the current pension liabilities can be transferred to the member's accumulation account
- The surplus reserve can also be transferred but will be taxed at 15% in the fund at the time of transfer.

How it will work

- Jane is 80 years old and in receipt of a lifetime income stream from her SMSF
- She decides to commute the income stream including the reserve back to her accumulation account in the fund
- The current pension assets in the fund are valued at $1 million and the reserves are valued at $600,000
- The current pension liabilities will not be taxed when transferred to Jane's accumulation account
- The value of the reserves will be taxed at 15% which is $90,000
- Jane can use the amount in the accumulation account to commence an account based pension providing the value of the new pension stays within her transfer balance cap.

Impact of legacy income streams changes

- The amount transferred to the accumulation account can be withdrawn as a lump sum or used to commence a new account based income stream or a combination
- The commutation of the legacy pension and commencement of a new pension may have Total Super Balance, Transfer Balance Cap & social security implications
- Decisions will need to consider the on-off 15% tax vs surplus drip feed vs possibility of death

Other Proposed Changes from 1 July 2022

- Expansion of the First Home Super Saver Scheme from $30,000 to $50,000
- Abolition of the $450 minimum monthly income threshold for super guarantee contributions
- Early release arrangements for victims of family and domestic violence not proceeding as other legislation has been passed to cover these situations.

What we didn't see

- Announcements about
  - Continued reduction in minimum pension drawdown rates for 2021/22
  - Commitment to legislated Superannuation Guarantee rate increases
- Releasee of 5-year intergenerational report due by 30 June 2021
- Response to the Retirement Incomes Review

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Pending legislation

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Superannuation (Objective) Bill 2016 – Statutory objective of superannuation

- Will enshrine the primary objective and subsidiary objectives of the super system in legislation
- Will establish a legislative framework to guide the development of future super policy
- Primary objective – *'To provide income in retirement to substitute or supplement the age pension'.*

Pending legislation

Treasury Laws Amendment (More Flexible Superannuation) Bill 2020

- Will extend the bring forward non-concessional contribution rules from age 65 to age 67
- Alignment of these rules with the SIS contribution acceptance work test rules
- Alignment with the increased age pension age of 67
- Will introduce significant strategy opportunities between ages 65 & 67

Pending legislation

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Treasury Laws Amendment (Self Managed Superannuation Funds) Bill 2020

- Will extend the maximum number of members permitted in an SMSF from four to six members
- Will introduce opportunities for cost savings as SMSFs become larger in size
- Care will be needed in relation to decision making processes

QUESTIONS?

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