Super Concepts

Super and the 2021/22 Federal Budget

Anthony Cullen
SMSF Technical Specialist

May 2021

But first….what you need to know

The content of this presentation has been prepared to provide you with general information only. It is not intended to take the place of professional advice and you should not take action on specific issues in reliance on this information. In preparing this information, we did not take into account the investment objectives, financial situation or particular needs of any particular person. Before making an investment decision, you need to consider (with or without the assistance of an adviser) whether this information is appropriate to your needs, objectives and circumstances. You should obtain a copy of the relevant Product Disclosure Statement (PDS) before making a decision to invest in any financial product.

Any advice in this presentation is provided by SMSF Administration Solutions Pty Ltd, ACN 097 695 988, AFSL No. 291195 which is part of the AMP group of companies.

This session will cover

- The 2021/22 Budget
  - Abolishing the work test for contributions
  - Age reduction to qualify for downsizer contributions
  - Residency of SMSFs
  - Legacy pensions
  - Other proposed changes
  - What we didn't see
- What's in the parliament at the moment?

Abbreviations

Super Concepts

- APRA – Australian Prudential & Regulatory Authority
- CM&C – Central Management & Control
- NCC – Non Concessional Contributions
- SMSF – Self Managed Super Fund

The 2021/22 Federal Budget

Super Concepts

Abolition of the work test

Abolition of the work test for super contributions – proposed from 1 July 2022

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

Current work test rules

Once a person reaches 67, before they can contribute to super the *work test* is required to be met in the financial year before the contributions can be made to the fund

Case Study

Mark is age 66 as at 1 July 2021 and meets the work test during the financial year. He will be able to make contributions to the fund during the 2021/22 year.

Work test rules proposed from 1 July 2022

There is no requirement for a person to meet the work test for NCCs or salary sacrifice contributions from 67 – 74. However, if a person wishes to claim a tax deduction for personal concessional contributions they will need to meet the work test.

Case Study

Roger is 72 years old and has retired. Providing he has a total super balance that is less than the cap he will be able to make NCCs to super. However, as he does not meet the work test he will not be able to claim a tax deduction for the contributions he has made to the fund.

Benefits of abolition of the work test

- Non-superannuation assets such as cash, listed shares and other permitted investments can be transferred to super and may provide a better tax outcome
- Possible to transfer inheritances to super as non-concessional contributions prior to meeting the age restrictions
- Enables couples to even up their superannuation balances and make the most of their Total Super Balance Cap which applies to NCCs and Transfer Balance Cap which applies to pensions.

Case study

- Louise and Benjamin are both 68 in the 2022/23 financial year
- Louise has a super balance of $1.7 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.

Change to downsizer contribution

Current Downsizer rules

- Anyone 65 and older can use the proceeds of their main residence to make a downsizer contribution to super of up to $300,000 or the value of the proceeds, if less
- The person's spouse can also make a downsizer contribution even if they are not an owner of the main residence
- The downsizer contribution is a once only opportunity and must be made within 90 days of the settlement of the sale
- An election must be made to the fund to show that the contribution is a downsizer contribution
- There is no upper age limit cap applying to the downsizer contribution.

Downsizer contribution proposed from 1 July 2022

Super Concepts

The current rules will continue to apply, except that the age 65 requirement to make the downsizer contribution will be age 60.

Benefits of the age reduction in qualifying for the downsizer

- Greater flexibility in funding for retirement for an individual or couple who sell their main residence from age 60
- The downsizer contribution is not restricted by the amount of the person’s total super balance

Issues

- The downsizer contribution is a preserved benefit until the person reaches a ‘nil’ condition of release such as retirement or reaching age 65
- Anyone who has used all of their Transfer Balance Cap prior to the downsizer contribution being made will need to leave it in accumulation phase
- For social security purposes the amount of the downsizer in the super fund will be counted for means test purposes.

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.

Residency of SMSFs

Residency tests for SMSFs

To qualify as an Australian superannuation fund, 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 from 1 July 2022

- 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.

Benefits of the relaxation of the residency tests

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

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

Case Study

- 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 the fund while they are overseas as well.

Window of opportunity for legacy pensions

Legacy income streams

Super Concepts

- A legacy income stream is a market linked income stream, life expectancy or life time pension that was in existence as at 20 September 2007
- 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.

Concessions for legacy income streams proposed from 1 July 2022

- 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 reserves can also be transferred but will be taxed at 15% in the fund at the time of transfer.

Benefits of converting legacy income streams

Super Concepts

- The value of the legacy income stream will be transferred to the pensioner’s accumulation account
- The amount transferred to the accumulation account can be used to withdraw a lump sum or commence a new account based income stream or a combination

Issues:

- Any amounts transferred to the pensioner’s accumulation account or to commence a new pension will become subject to the social security means tests
- The commutation of the legacy pension and commencement of a new pension may have total super balance implications.

Case Study

- Jane is 80 years old and in receipt of a life time 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 assets 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.

Other proposed changes

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
- Unclaimed super can be transferred to KiwiSaver
- 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

What we didn't see

- Extension of reduced pension requirements
- Changes to indexation of Transfer Balance Cap
- Freezing of increase in superannuation guarantee.

What’s in parliament at the moment?

What's in the parliament for super at the moment

- Objectives of superannuation legislation
- Increase in SMSF members from 4 to 6 members
- The 3 year bring forward rule for non-concessional contributions for age 65/67.

Thank you