SUPERMATTERS

superannuation strategies for you and your business

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Collins & Co

BUSINESS & WEALTH ADVISORS

Downsizer Contributions into your SMSF

As of 1 July 2018, people aged 65 years or older are able to make downsizer contributions into their superannuation fund of up to $300,000 from the proceeds of selling their main residence, as long as certain eligibility requirements are met. In the recently announced Federal Budget, the government has announced that the age to make downsizer contributions will be reduced from 65 to 60. This will not come into effect however until the legislation has been passed.

If you make a downsizer contribution to your Self Managed Superannuation Fund ('SMSF'), you will need to provide sufficient evidence to your Fund's auditor that it was a contribution that was made properly and in line with what is required. The auditor will expect to see:

- Proof that **the member is aged 65 years or older at the time the contribution was made** (if the budget announcement is passed into law, this age requirement may be reduced to 60 or older)
- That a tax file number (TFN) for the member has been provided
- That the SMSF trust deed allows the fund to accept a downsizer contribution
- An **approved downsizer contribution into super form (NAT75073) from the member** (if you are making your contribution to a fund that is not an SMSF, you may be able to use the Fund's own form)
- **Evidence the contribution was made either at the same time or after the form was received by the fund**, and that the contribution does not exceed the $300,000 cap per member
- The member has not previously made downsizer contributions to the fund from a previous sale of a property
- The contribution was made within 90 days of receiving the proceeds
- The contribution has been correctly allocated to the member's account.

If you are currently aged between 60 and 65 years old and are in a position where you may wish to take advantage of a downsizer contribution, the recent Budget announcement to reduce the age to 60 should be taken into consideration when making the decision as to when you sell your property. Contributions must be made within 90 days of selling your property, so you do not want to be in a position where you just miss that cutoff because you sold before the new age limit came into play.

Downsizer contributions can also be made in conjunction with other contributions.

If the funds available are sufficient, a couple may be able to contribute as much as $1.2 million into their super fund in one go after selling their main residence (or another property that has been their main residence).

If you are over 60 and intend to sell a property in the near future, or have recently sold a property, it is important that you speak with us so that we can determine your options when it comes to contributions.

We will ensure that the required information is correctly provided to the Fund's auditor and that your deed is up to date.

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Corporate Versus Individual Trustee

If you have a Self Managed Superannuation Fund ('SMSF'), the Fund is considered to be a trust and must therefore have a trustee. There are two options as to who the trustee can be.

Barring a few exceptions, it can be the members individually or alternatively can be a company with the members as the directors and shareholders of the company. The choice, either way, is that the trustee of an SMSF can be either individual trustees or a company as a trustee.

When choosing the appropriate trustee structure for your SMSF, a closer examination of the advantages and disadvantages will assist you in determining what is right for your needs.

Looking at the cost, a company as a trustee could cost around $1,000 or more to establish initially. An annual fee of roughly $50 will also need to be paid to ASIC, and when you are finished with the company, there will also be costs associated with deregistering it. Using individual trustees, there is no initial cost associated.

But price is about where it ends in terms of the advantages of using individuals over companies as trustees. While price-wise, it may seem advantageous at first glance, companies as trustees possess more benefits over individual trustees.

First, and most importantly, you have asset separation. The assets are held in the name of a separate entity and if the individuals are ever attacked financially there is nothing to point towards the super fund. Even though the assets of the fund should be protected even with individual trustees, if assets are in the individual names you will need to spend legal fees to prove they are fund assets.

If the members of the fund are changed, you will need to change the trustees, and if you change the trustees, you need to change the ownership of all the assets. This will be a major administrative burden, as a lawyer will need to be engaged to do the necessary documentation to change the trustees, and is required to be engaged if real estate is involved. In most instances, simply changing trustees and ownership of the assets will end up costing far more in the long run than the initial investment costs of setting up a corporate trustee.

People always make mistakes, but with SMSFs, mistakes can create breaches of the law. If you have all of the assets in a special purpose company name, there is less chance that you will make the mistake of thinking that a particular fund asset (such as a bank account) will be your own asset. If you take money from the super fund account by mistake, thinking that it is your own money, the auditor may report a breach. If you deposit money into your SMSF account, which is actually yours and not the fund's, you may not be able to take that money back out if the mistake isn't realised in time.

Do you already own a company, and after reading this article, are asking yourself if you can use that to set up a corporate trustee? It is only recommended that you do so if the company is not operating in any other capacity but yes, doing so can save on the initial set-up costs.

There is no one size fits all advice we can give you, but we can try to determine what would best suit your needs. We may sit down with you and agree that individual trustees may be appropriate, but if our recommendation is for a corporate trustee, it is for sound financial reasoning.

Do You Have ATO-Held Super?

As of 30 June 2020, $13.8 billion was held by the Australian Taxation Office (ATO) as lost or unclaimed superannuation in accounts across Australia. Could some of that be yours?

ATO-held super refers to the money in super that (the ATO) holds for you. This includes amounts paid by employers, super funds, retirement savings accounts (RSA) providers or the government on your behalf.

Generally, super money will be transferred to the ATO from super providers for any of the following:

- unclaimed super for members aged 65 years or older, non-member spouses and deceased members
- small lost member accounts and insoluble lost member accounts
- inactive low-balance accounts
- super for temporary residents who have left Australia for six months or more
- accounts held in eligible rollover funds that are transferred to us before they wind up
- amounts your fund transferred to us on a voluntary basis when it determined this was in your best interest.

If the ATO holds your super, you can consolidate or claim it from them once you've met certain conditions.

To find out if you have ATO-held super, you can use the ATO's online services for individuals. You will need a myGov account linked to the ATO.

Once you have linked the ATO to your MyGov account, you will need to select "Super" to see if you currently have any unclaimed super and will then be able to nominate a super account for your balance to be transferred to.

Addressing the Super Gender Gap

According to the Australian Bureau of Statistics, in 2017-18 the median superannuation balance for women aged 55-64 was $119,000 compared to a median balance of $183,000 for men of the same age. There is a gender gap in superannuation that the government is aware of.

In the recent Budget, the government announced changes to superannuation guarantee payment rules to begin to help address this superannuation gender gap.

Currently, if you work part-time and earn less than $450 per month, your employer does not have to pay super on your earnings, nor do they have to increase your earnings by that amount. Women are considered more likely to be employed in part-time/casual roles affected by this rule, and as such, the rule impacts women's super more so than men.

Presuming that the Budget announcement passes through parliament, from the 1st of July 2022, employers will have to pay superannuation guarantee payments for all employees regardless of the amount earned by that employee in any particular month.

This will be an extra cost on employers, and those who focus on employing low hour casuals (e.g. high school students), but should also help address the superannuation gap.