Byfields SMSF Newsletter

December 2020

Welcome to our December edition of the Byfields SMSF newsletter.

Each month we will share insights into superannuation, the government changes and keeping you informed.

Re-Contribution Strategies

Super re-contribution strategy prior to 2017

It involved the withdrawal of a large chunk of your super balance and a subsequent "re-contribution" of this amount back into your fund as a Non-Concessional (or after-tax) Contribution (NCC). By withdrawing and re-contributing a portion of your super it converted some of the balance to Tax Free status for the future.

This didn't have any immediate tax benefit to the fund or the existing members but provided a potential benefit for adult children on a member's death.

Death benefits in super which are paid to a spouse are tax free however benefits paid to an independent adult child can carry a "death tax" of up to 15% (plus 2% Medicare Levy at times) of the super benefit paid.

Under the old contribution rules up to June 2017 a member under 65 could contribute up to $540,000 in one go, potentially saving up to $91,000 "death tax" on future benefit payments to adult children. Three years later the process could be repeated again.

Changes from 2017

From 1 July 2017 the ability to contribute to super was severely restricted. The old $180,000 per year NCC limit ($540,000 over 3 years if under 65) for everyone was reduced to $100,000 per year (and accordingly $300,000 over 3 years if under 65).

Larger balance members had their NCC cap reduced completely to nil, where their super account balances were over $1.6 million. Stepped reductions apply with balances over $1.5 million and $1.4 million.

This significant winding back of the contribution rules has made regular use of the re-contribution strategy far less common from 2017.

Commonly Asked Questions

1. Is the re-contribution strategy still worth considering?

Yes, for those members with balances under $1.4 million there are still the same opportunities to reduce the "death tax" for your adult children.

2. Do I have to transfer $300,000 in one payment?

No, multiple transfers of a smaller amount can add up to the $300,000 value in any given year. For example, if your fund holds $52,000 cash you could transfer $50,000 in and out 6 times to get to your $300,000 value, or 12 times to get to $300,000 each for husband and wife.

3. How do I access $300,000 of my balance to make the re-contribution?

You need to have passed the deemed retirement age of 65 or be able to sign a Declaration of Retirement, stating that you have ceased gainful employment (salary or wage employment, ceasing a trading partnership or ceasing a sole trader business) to make your super balance accessible to withdraw funds.

4. Can I make the contribution step of the re-contribution?

Where you are under age 67 (from July 2020) there is no requirement to be in employment to make contributions to super. Above that age you must be able to satisfy the Work Test rule to make any contributions. The Work Test involves gainful employment of 40 hours in a 30 day period (again, salary or wage employment, member of a trading partnership or running a sole trader business), prior to making the contributions.

There is a limited Work Test Exemption for some members who retired in the previous year, with low super balances.

5. What if I am retired?

If you are over age 67 and retired, you won't be able to contribute to super anymore and the re-contribution strategy won't be available to you.

However many of our clients are still involved in family farms or other businesses and could potentially satisfy the Work Test each year by working on the farm at harvest or seeding time, or other periods throughout the year in non-farm businesses, for a small wage.

6. Should I use the re-contribution strategy if I have extra funds that should be in super rather than personal names?

The contribution rules apply to "new" money going into super just the same as "old" recycled super money. Therefore, you should try to maximise your overall super balance as priority (subject to the family's Estate and Tax Planning circumstances of course), using new money before using up your limited NCC cap on re-contributed super money.

7. Can the age 65 to age 67 changes at July 2020 benefit me?

Yes, for someone who is retired and aged between 65 and 67 a small window of opportunity has arrived to make your withdrawal and re-contribution prior to turning 67.

On the flipside, someone working up to and beyond age 65 may have been restricted from withdrawing any of their super previously but can now access their funds under the deemed retirement age of 65.

8. Does the 3 year bring forward rule apply up to age 65 or age 67?

The Coalition Government has proposed extending the 3 year bring forward rule to age 67 but at this stage it is still to pass both Houses of Parliament and be legislated. However, it is expected to apply from 1 July 2020 when it does become law in the early part of next year.

This creates the opportunity to make 2 additional years of contributions up to age 67 for retirees which wouldn't have been possible previously. It may well be the last chance to contribute extra money to super or make use of the re-contribution strategy.

9. How do I benefit from use of the re-contribution strategy?

Mum & Dad generally don't benefit from the strategy, as there is no tax payable for death benefits paid to a spouse. There are also no tax consequences to withdrawals from super as lump sums or pensions while alive.

The strategy only really benefits adult children (or other non-dependents via payments to your Estate), by reducing the "death tax" in the long run.

Some clients aren't particularly bothered as the overall tax impact is often well under 10% and the kids are "getting plenty already", while others will make the effort to reduce the overall family tax impacts wherever possible.

It is also possible to eliminate the "death tax" with large withdrawals prior to passing away. This is worth considering in the case of terminal illness but shouldn't be done lightly – you should always seek advice first as to your best course of action.

10. Is the re-contribution strategy right for me?

Please contact your accountant or our office to discuss your specific situation and whether this may be beneficial for you and your family.

If you have any questions or would like to discuss any of these issues further, then please contact Roger Thomson on (08) 6274 6400 or rogert@byfields.com.au

Merry Christmas and a happy New Year to all.