SUPERMATTERS

superannuation strategies for you and your business

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Messenger Zerner
Chartered Accountants

Splitting super with your spouse

Splitting superannuation contributions with your spouse may be a viable strategy for those planning on an early retirement.

Transferring part of your concessional (before-tax) contributions to your spouse's superannuation account is an effective way to reduce your taxable income and achieve financial security in retirement. Splitting contributions allows a superannuation member to split up to 85 per cent of the concessional contributions they receive in a financial year with a spouse who is younger, not working or earning a lower income.

Concessional contributions include employer Superannuation Guarantee (SG) contributions, salary sacrificing and, if you're self-employed, any personal contributions that you claim as a tax deduction.

In most cases, the split is allowed in the year after the contribution has been received by the fund. However, the split can also occur in the year of concessional contributions if a member is closing or rolling over their account in the fund. Contributions must be split before you rollover, transfer or process a withdrawal.

Amounts that cannot be split include benefits rolled over from another fund, amounts previously rolled over as a contributions-splitting benefit, super lump sums paid from a foreign super fund, non-concessional (after-tax) contributions and contributions to a superannuation interest that are subject to a payment split or subject to a payment flag under the family law provisions.

Splitting superannuation can be beneficial for couples where one partner has a significantly higher income than their spouse, especially for couples aged between 55 and 59 who are transitioning to the retirement phase of their lives. The low income earner receives a lower tax rate and the pension payments received in their name will incur lower taxes.

For those members younger than 60, contribution splitting may allow access to the low rate threshold for each member. By splitting your contributions, you may be able to increase the amount of superannuation benefit that you and your spouse are eligible to receive tax-free before turning 60.

Contribution splitting may also provide members with an older spouse to access superannuation benefits earlier. Members may also be able to satisfy a condition of release and gain access to their benefit earlier.

Contributions can be split with your spouse regardless of your own age. However, your spouse must be under their preservation age, regardless of whether they are working or not, or between their preservation age and 65 years and not permanently retired. Your preservation age is dependent on your date of birth. You cannot split your super contributions if your spouse is 65 years or older.

Splitting contributions may not be worthwhile if you plan to retire once you are 60 as most super benefits received on or after age 60 are tax-free, excluding pension payments. Spouse splitting is not allowed in some super funds and self-managed superannuation fund members must ensure their trust deed is up to date to utilise this strategy.

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Maximising super through franking credits

SMSF members with an equity portfolio containing fully franked Australian shares may benefit from using franking credits to offset their fund's taxable income.

Franking credits are tax credits that are passed on to investors as a result of tax paid at company level on shares of Australian companies. Franking credits have the potential to reduce the tax payable by the investor or provide the investor with a tax refund if the credits exceed their total tax bill.

Where a company distributes fully franked dividends (and those dividends are included in the taxable income of the taxpayer) the taxpayer can claim a credit against their taxable income for the tax that has already been paid by the company from which the dividend was paid.

Franking credits from fully franked dividends incur a 30 per cent company tax rate. Where an SMSF benefits is through the income tax rate for super funds which is typically taxed at 15 per cent. The difference in tax rates can provide members with a significant excess to reduce the other tax payable by the fund or if none exist, obtain arefund.

SMSF members planning for their retirement in the accumulation phase can only receive a partial refund, as they are required to pay a maximum tax rate of 15 per cent on investment income earned by the fund. Investment income includes concessional contributions, income from other sources such as unfranked dividends, rental income from property and taxable capital gains.

There are additional benefits for those SMSF members in pension phase, as there is a zero tax rate for those over 60, which entitles members to a full refund for the franking credits received.

To be eligible for the franking credit offset, there is a 45 day holding rule which requires superannuation funds to remain invested in the shares for at least 45 days for fully paid ordinary shares and 90 days for some preference shares, excluding the purchase and sale days.

SMSF members might want to check how their eligibility will be affected if they are found to participate in a dividend washing scheme. The ATO has strict rules to discourage dividend washing arrangements. Dividend washing is the practice through which taxpayers seek to claim two sets of franking credits by selling shares held on the Australian Securities Exchange (ASX) and then effectively repurchasing the same parcel of shares on a special ASX trading market.

While investing in Australian shares can maximise the return on an investor's portfolio, SMSF members should be wary that investment in shares purely for franking credits can increase the risk and volatility of the SMSF and may not be suitable for some individuals.

Changes to collectables

Self-managed superannuation fund (SMSF) trustees should be aware of the new rules for holding investments in collectables and personal use assets that come into full effect on 1 July 2016.

The new rules that were introduced 1 July 2011 have amendments to the guidelines for storage, insurance and valuation of new collectables and personal use assets. The changes are to ensure items are used for genuine retirement purposes and to prevent SMSF trustees from receiving a personal benefit from the investment.

The Superannuation Industry (Supervision) Act 1993 (SISA) provides the rules and regulations related to any collectables or personal use assets held in an SMSF. The regulations specify collectables and personal use assets:

- Not to be leased to any related party
- Not stored in private residence
- Document reasons for storage in writing
- Maintain insurance in the name of the fund
- Not to be used by any related party
- Valuation must be determined by qualified independent valuer

Collectables and personal assets include:

Artwork	Memorabilia
Jewellery	Rare folios, manuscripts or books
Artefacts	Motor vehicles
Antiques	Wine or spirits
Coins, medallions or bank notes	Recreational boats
Postage stamps or first day covers	Memberships of sporting or social clubs

Reviewing your SMSF deed

SMSF trustees who make structural changes to a fund, borrow for investment purposes, commence a pension, expect a benefit payment or are involved in succession planning may need to review their SMSF deed.

SMSF trustees are governed by the rules and regulations set out in the Superannuation Industry (Supervision) Act 1993 (SIS Act) and the fund's trust deed. Trustees need to regularly review the trust deed, as a transaction that is permittable through the SIS Act may be prohibited according to the trust deed.

Superannuation laws are constantly changing and the trust deed must adequately reflect these laws. To ensure an SMSF is allowed to access strategies permitted by the SIS Act, trust deeds should be reviewed and updated regularly.

If a trustee wishes to use the SMSF for activities such as a borrowing strategy or pension income stream, the activity will need to be included in the trust deed. For example, the SIS Act allows a transition to retirement strategy for members over 55, however, the trust deed may only permit a payment when the member reaches the retirement age resulting in the member not being able to access to transition to retirement strategy.

A regular review and update of the SMSF trust deed will ensure the SMSF trustees have access to a range of strategies and activities, whilst also remaining a compliant fund.