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Heffron SuperNews

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Heffron SMSF Solutions

Problem solved

In this issue:

- **Five things to watch out for in June / July 2015**

There are a great many helpful articles and guides to the important pre-30 June planning steps. Many of these are all about housekeeping – make sure minimum pension payments are met, contribution limits are fully utilised, assets are in the right name etc.

However, sometimes it is actually just as important to think about what happens immediately after 30 June when putting in place the best possible strategies for clients.

#1 A client's in specie contribution (business real property) isn't going to make it in time for 30 June – it will have to happen in July 2015. Is there anything we should do now?

Possibly. Consider a client who is keen to maximise their contribution caps in the next few years as they approach age 65. One of the downsides of waiting until July 2015 is that the three year bring forward period will last another year – delaying their ability to start contributing again until 1 July 2018.

Let's say the property is conveniently valued at exactly $540,000. Another alternative would be to:

- contribute $180,001 in cash (non-concessional contributions) in June 2015;
- treat the property transfer in July 2015 as a combination of a purchase ($180,001) and an in specie contribution ($359,999).

That way the bring forward period for contribution cap purposes still starts in 2014/15. The client is able to start contributing $180,000 pa again on 1 July 2017.

#2 Is there anything that should be done now for a client who is over 65 and won't meet the work test in 2015/16?

Often clients in this position still want to contribute to superannuation but know that their time is coming to an end.

They met the work test this year and have already fully utilised their contribution limits for 2014/15.

One option would be to make some contributions in June (while they are still allowed to) and defer the allocation of these until July. Remember that the age and work tests apply to the time they *make* the contribution, not the time it is *allocated* to their account.

This same strategy is often employed with ***concessional contributions*** to receive two years' worth of tax deductions in one year. For example, a 45 year old client might have concessional contributions of:

- $30,000 made in April 2015; and
- $30,000 made in June 2015 (allocated in July 2015).

Both would be tax deductible to the contributor in 2014/15, taxed in the fund in 2014/15 but checked against the contribution cap in two separate years (2014/15 and 2015/16).

Some important points to remember:

- The contributions must be allocated before the 28th of the month following their receipt (so by 28 July 2015 in this example);
- public offer funds must allocate contributions within 3 days of receipt (so this would only work if the contribution was made on or after 28 June);
- the contribution will be recorded in the member section of the SMSF's annual return in 2014/15 (the year of the contribution) rather than 2015/16 (the year it is allocated). This will result in affected members being assessed incorrectly for contribution cap purposes in the first instance. The member will need to object to the assessment, provide details of the arrangement to defer the allocation of contributions and have it reassessed in 2015/16.

Note that we can assist in preparing the documentation for the deferred allocation process. See our form for details.

#3 Want to get started on a recontribution strategy even though the client can't take money out of super until next year?

Usually, the way a recontribution strategy works is:

- Money is withdrawn from super after the member meets a "condition of release"; and
- Some or all of the cash is then recontributed to superannuation as a non-concessional contribution.

The outcome is to reduce the "taxable" component of the member's superannuation and increase the "tax free" component. Often the driver is to reduce taxes paid by the member's adult children when the member dies or simply to "future proof" their super against possible tax changes.

It's also generally only done when the member doesn't particularly want to add more wealth to super. If they had new wealth to contribute they would generally use their contribution limits to do this rather than a strategy that simply reclassifies an existing balance.

What if a client has $1m in a fully taxable balance and:

- doesn't want to withdraw large amounts from super until ***next year*** (perhaps they are retiring or turning 60 then, or perhaps the fund will not have sufficient cash to pay any

withdrawals until it sells an asset next year); but

- would like to get started on the recontribution strategy ***this year*** to give as many years as possible to reclassify their taxable balance?

Remember that there is nothing preventing them from reversing the order of the recontribution:

- make a $180,000 (or $540,000) non concessional contribution in June 2015 (perhaps by drawing on personal cash reserves that they don't wish to leave in super long term or even by undertaking a short term personal borrowing); and
- make a $180,000 or $540,000 withdrawal in July 2015 to either replenish their personal cash reserves or repay the short term loan.

Some additional steps would be important to ensure that the non-concessional contribution was not inadvertently combined with the $1m taxable balance in June 2015. For example:

- start a pension with the original $1m balance in June 2015 (before the contribution is received). Starting the pension will allow the taxable balance to be quarantined; or
- contribute the non concessional contribution to a different fund.

Providing these are done, the net effect of the recontribution process is exactly the same despite reversing the order of the transactions.

Remember that simply investing the contribution separately (ie, segregating it) is not sufficient to genuinely quarantine it from the existing taxable balance. Tax law dictates that a SMSF member can only have one accumulation balance at any time no matter how the investments are structured.

#4 Sailing close to the wind on in-house assets?

Remember that in-house assets are only measured against the 5% limit at two points in time : ie, when they are purchased and then at 30 June each year.

If a client creeps over 5% in in-house assets during the year but is back down to 5% by 30 June there is no requirement to take any action.

In contrast, if there is an excess at 30 June, the in-house asset must be at least partially sold down in the following year (even if its value subsequently falls below the 5% in the following year).

If there's a risk that the 5% limit may be breached at 30 June 2015, there is still time to prevent that by adding to the SMSF's assets before that date – eg by making contributions, rollovers, deferring pension payments (other than the minimum of course).

#5 Has a client released excess contributions in respect of 2013/14 during 2014/15?

Remember that the released amount is technically a benefit payment (just a special kind). That means if it has been drawn out of an account-based pension it has actually used up part of the amount the client is required to withdraw this year. For clients who only wish to withdraw the minimum, remember to take this into account – it will allow them to withdraw less than they otherwise might.

And a sad postscript : the next new TRIS might not be until 1 July 2016!

1 July 2015 is the first day on which no-one will have a birthday and click over to their preservation age.

Those turning 55 on 1 July 2015 were born on 1 July 1960 – the date from which preservation age starts to move up to 60. So clients turning 55 on 1 July 2015 will not be eligible to start their TRIS until they turn 56 on 1 July 2016. (Those turning 56 on 1 July 2015 are already eligible to start a TRIS – they hit their preservation age back on 1 July 2014.)

So 2015/16 is likely to be the year of low activity in terms of new transition to retirement income streams. The same will apply in 2017/18, 2019/20 and so on.