Superannuation update

1 December 2015

**Actuarial certificate required for segregated assets**

The Australian Taxation Office (ATO) website indicates that the ATO has reconsidered its view (made at a number of presentations) on the requirement to obtain an actuarial certificate to report exempt current pension income (ECPI) using the segregated asset method. This change will be reflected in a published addendum to Taxation Determination **TD 2014/7** (see below). The ATO will also update its website on information for trustees.

The ATO's view now is that, where a Self-Managed Super Fund (SMSF) is paying only a pension prescribed by the superannuation regulations (most commonly an account based pension, including a transition to retirement income stream from segregated assets), an actuarial certificate is not required. This exemption applies to an SMSF, even where it commences to pay an account based pension during the year. However, where the SMSF is also paying pensions not prescribed by the regulations, the fund can still have segregated assets but will be required to obtain an actuarial certificate.

The ATO’s views are likely to have greater impact on SMSFs rather than large funds. Nevertheless, the ATO’s views provide some insight relating to the segregation of assets.

**Addendum to TD 2014/7 - when is a bank account a segregated asset?**

In an addendum to TD 2014/7, the ATO has sought to clarify the circumstances in which subsection 295-385(4) of the Income Tax Assessment Act 1997 will apply to treat a bank account as a segregated asset.

In TD 2014/7, the ATO has highlighted a number of circumstances where a bank account can be treated as a segregated asset.

**Update on ATO ruling dealing with apportionment of expenses.**

A draft ruling, TR 2013/D7 relating to expense apportionment, was published on 4 December 2013. The draft ruling was one of two planned rulings to replace Taxation Ruling **TR 93/17** (**TR 93/17**) that dealt with the apportionment of expenses. As a result of industry consultation, the ATO has indicated TR 2013/D7 will not proceed to a final version and the second planned ruling will not be written.

The ATO has indicated that instead, a comprehensive addendum to TR 93/17 has been prepared, and covers the key issues that TR 2013/D7 and the proposed second ruling were intended to address.

The ATO also indicted that the addendum to Taxation Ruling TR 93/17 was expected to issue in October 2015, however this has not occurred to date.

The ATO's approach will be welcomed and superannuation funds should review the addendum to TR 93/17 (when released) to determine the impact (if any) on the positions adopted.

**Government response to Murray Report**

On 20 October 2015 the Government issued its response to the Murray Report. In the context of superannuation, the Government indicated that it would undertake the following:

- Enshrine the objective of the superannuation system in legislation.
- Task the Productivity Commission to develop efficiency metrics for the superannuation system and develop alternative models for allocating default contributions.
- Improve retirement income products by removing...
impediments to their development.

Also, the Government has introduced Superannuation Legislation Amendment (Trustee Governance) Bill 2015, which makes amendments to the Superannuation Industry (Supervision) Act 1993 (SIS Act) to require trustees of Registrable Superannuation Entities (RSEs) to have a minimum of one-third independent directors and an independent Chair on their boards.

Let’s talk

For a deeper discussion of how these issues might affect your business, please contact:

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