Superannuation: where are we since the 2016-17 Federal Budget?

29 September 2016

In brief

Progress has been made by the Australian Government in recent weeks in relation to the reforms to superannuation as originally announced in the 2016-17 Australian Federal Budget.

In an interesting development, the Government has announced that the proposed introduction of a $500,000 lifetime cap for non-concessional (after tax) contributions has been scrapped. In its place, it is proposed that:

- the current annual cap for non-concessional contributions of $180,000 will be reduced to $100,000 from 1 July 2017
- the ability to bring forward three years of non-concessional contributions will be retained for those under the age of 65. This equates to a total of $300,000 over a three-year period (reduced from the current limit of $540,000)
- transitional arrangements will apply to those that have triggered and remain subjected to bring forward provisions at 1 July 2017 (and have not utilised the full bring forward amount of $540,000) to re-assess their remaining bring forward amount to reflect the new caps
- from 1 July 2017 members with balances above $1.6 million will not be eligible to make further non-concessional contributions.

This appears to be a better outcome for individual taxpayers looking to grow their superannuation balances and who can now make non-concessional contributions in excess of the more restrictive cap of $500,000 as was originally proposed.

Unfortunately, the Government also announced that the ‘work test’ requirement to be satisfied for those over 65 years of age to be able to contribute to super will be retained. It had previously been slated for removal from 1 July 2017.

In detail

The details of the majority of the proposed superannuation measures have been released in recent weeks via exposure draft legislation released for public comment in two tranches - the most recent having been released on 27 September 2016.

The table below sets out the current status of superannuation measures announced in the 2016-17 Federal Budget.

Outstanding superannuation measures	Current status
Enshrine the objective of superannuation in legislation	
It has been proposed that the primary objective of superannuation is to provide income in retirement to substitute or supplement the age pension.	Exposure Draft legislation has been released. All future superannuation related legislation must be accompanied by a Statement of Compliance addressing whether the primary and secondary objectives have been met
Access to deductible personal super contributions	
From 1 July 2017, all Australians will be able to claim a deduction for personal contributions regardless of work circumstances. Contributions will be treated as concessional contributions and will count towards the annual concessional contributions cap.	Exposure Draft legislation has been released. Once enacted, this measure would negate the need for salary sacrifice arrangements to be offered by employers and enable people to claim a deduction to top up their employer super guarantee contributions.
Work test for super contributions	
Previously slated for removal, the work test which Australians aged 65-74 years will have to satisfy in order that they are able to make super contributions will be retained.	No changes to be made to current rules.
Contributions for low income spouses	
The ability to claim up to a $540 tax offset for spouse contributions will become more accessible with the income threshold for spouses increasing from $13,800 to $40,000. This measure is intended to commence from 1 July 2017.	Exposure Draft legislation has been released. A good initiative to promote greater levels of super contributions for non-working or part time working spouses.
Low Income Superannuation Tax Offset (LISTO)	
Effectively replacing the LISC scheme, the Government has announced it will pay up to $500 as a non-refundable tax offset to super funds with members for whom a concessional contribution has been made and who have adjusted taxable income less than $37,000.	Exposure Draft legislation has been released. Once enacted this measure will ensure that low income earners will not pay more tax on contributions than they would if they received salary or wages in hand.
$1.6 million cap on retirement phase	
This measure effectively restricts the amount of money a person can transfer into pension phase (and therefore access tax free benefits) to $1.6 million. It is set to apply to all pension accounts from 1 July 2017. It is not intended to place a cap on superannuation savings or restrict access to super benefits once a condition of release has been satisfied – only restrict access to tax free earnings on super balances being used to pay an income stream.	Exposure Draft legislation has been released. CGT relief available for existing pension assets. “Excess transfer balance tax” to apply if any amount transferred to pension phase exceeds the $1.6 million cap, subject to certain exceptions.

Decreases in Division 293 threshold	
From 1 July 2017, the Government will decrease the earnings threshold at which an additional 15% tax will be imposed on concessional superannuation contributions. The current threshold of $300,000 will be reduced to $250,000.	Exposure Draft legislation has been released.
Decrease in concessional contributions cap	
From 1 July 2017, the concessional contributions cap will be reduced to $25,000 per annum. Carry forward provisions over a rolling five year period will be available to those with balances less than $500,000 to catch up on unused cap amounts.	Exposure Draft legislation has been released. The Government has announced that the proposed measure to carry forward any amounts of unused concessional contributions will be deferred for 12 months until 1 July 2018.
Decrease in non-concessional contributions cap	
The non-concessional contributions cap was proposed to be reduced to a lifetime cap of $500,000, with effect from Budget night (3 May 2016) and apply to contributions made since 1 July 2007. It was announced on 15 September 2016 that the introduction of this lifetime cap would be scrapped and would be replaced by a reduced annual cap of $100,000.	The current annual cap of $180,000 will be reduced to $100,000 from 1 July 2017. The ability to bring forward three years of non-concessional contributions will be retained for those under age 65 (total of $300,000 over a three year period). Where an individual has already triggered the “bring forward” provision under existing caps, their remaining cap will be re-assessed at 1 July 2017 to reflect the new caps. From 1 July 2017, members with balances above $1.6 million will not be eligible to make further non-concessional contributions.
Transition to Retirement Income Streams	
Access to superannuation benefits upon reaching preservation age through a Transition to Retirement Income Stream (TRIS) will be retained. However, access to tax free earnings from assets supporting this type of income stream will no longer be available.	Exposure Draft legislation has been released.
Removal of anti-detriment provisions	
The ability of superannuation funds to claim a deduction based on increased death benefit payments that were paid to members’ dependants to compensate for contributions tax previously paid by the deceased, has been removed.	Exposure Draft legislation has been released.

The takeaway

There remains a short timeframe to provide comments to Treasury on the second tranche of exposure draft legislation before 10 October 2016. Although there remains further draft legislation to be released to deal with the decrease in the non-concessional contribution caps, the Government has indicated that it remains on track to have the superannuation reforms introduced into the Parliament before the end of the year.

Once the consultation process has concluded on all measures and the relevant law introduced into Parliament, the measures will need to be passed by both Houses of Parliament before they can be enacted. The Government has indicated that with the support of the Senate, there will be no impediment to this occurring.

Individual taxpayers will be eagerly awaiting finalisation of all relevant changes to superannuation as soon as possible to enable them to plan for their retirement.

Let's talk

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

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