SUMMER 2023

WEALTH & SUPER MATTERS

Superannuation strategies and your personal guide to wealth creation

IN THIS ISSUE:

- *Client-Agent Linking For SMSFs*
- *Don't Forget To Lodge Your SAR*
- *Dictionaries Beware! Defining The Objective Of Superannuation*
- *Understanding & Avoiding Prohibited SMSF Loans*

BHC partners

Beware Of Illegal Early Access Schemes

With the rise of fraudulent schemes enticing individuals with promises of early access to superannuation funds, it is crucial to exercise caution and stay informed.

There is a growing trend of individuals promoting early access schemes that are not only illegal but can potentially jeopardize more than just your retirement savings. Recognising the gravity of this issue, it is imperative to be vigilant, question dubious advice, and refrain from engaging in any offers without thorough verification.

If you find yourself approached by someone claiming that you can withdraw your super early without meeting the necessary conditions, take immediate action:

- **Cease Involvement:** Stop any association with the scheme, organization, or person making these claims.
- **Avoid Signing Documents:** Refrain from signing any documents presented to you.
- **Guard Personal Information:** Do not provide them with any of your personal details.

Additionally, it is essential to report any encounters with such promoters to the relevant authorities promptly. Early reporting is key to curbing the spread of these illicit schemes.

The consequences of illegally accessing your super early are severe. Not only do you risk losing your hard-earned retirement savings, but you may also incur additional taxes, penalties, and interest. Moreover, individuals who engage in such activities can be disqualified from serving as an SMSF trustee, with their names publicly disclosed online.

If you have inadvertently become involved in an illegal scheme, it is in your best interest to contact the ATO immediately. By making a voluntary disclosure and providing details about your circumstances, you can potentially mitigate the penalties imposed.

Your cooperation in reporting these instances is vital in maintaining the integrity of the SMSF system and protecting the retirement savings of all Australians. Stay informed, be cautious and remember that professional advisers can be consulted if you are ever in doubt.

BHC PARTNERS

CPA

NTAA

CHARTERED ACCOUNTANTS AUSTRALIA • NEW ZEALAND

Liability limited by a scheme approved under Professional Standards Legislation.

1 DEVEREUX ROAD
SA 5065
AUSTRALIA

TEL (08) 8379 9501

EMAIL
admin@bhcpartners.com.au

59 ONKAPARINGA VALLEY ROAD
WOODSIDE
SA 5244

TEL (08) 8389 7077

WEBSITE
www.bhcpartners.com.au

DIRECTORS

Jenni Bottroff

Adam Davenport

Taxation
Business Advisory
Bookkeeping
SMSF
Succession Planning

Dictionaries Beware! Defining The Objective Of Superannuation

There are a lot of questions about what 'defining the objective of superannuation' entails and why it's a current source of discussion for the government. Superannuation is supposed to be a vehicle for retirement savings, so why the emphasis on 'defining' it's objective?

WHAT IS THE PROPOSED OBJECTIVE OF SUPERANNUATION?

In a draft legislation proposed earlier this year, the proposed objective of superannuation takes centre stage with the aim of "preserving savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way."

This objective carries significant implications as, if it passes, it could set the groundwork for any future legislated changes to the superannuation system, demanding alignment with its overarching goals.

While the legislation for defining superannuation is still in the draft stages, it proposes an idea for the future development and delivery of superannuation that emphasises equity, sustainability and the role of superannuation in shaping Australia's economic landscape.

It might seem complicated, but here is the gist of the matter.

The Key Terms

Equitable

The term "**equitable**" within the objective addresses the distributional impact of superannuation policy. This broad criteria allows the government the flexibility to target tax concessions strategically, addressing demographic disparities and structural inequities. It opens avenues for addressing intergenerational imbalances and outcomes for specific groups, such as women, First Nations Australians, vulnerable members, and low-income earners.

Sustainable

"**Sustainable**" encapsulates the evolving needs of an ageing population, emphasizing a reduction in reliance on the Age Pension. The draft legislation also hints at evaluating the viability of the cost of tax concessions designed to incentivise Australians to save for retirement. This is looking at the long-term goals of the superannuation system.

Deliver income

The phrase "**deliver income**" reinforces the notion that superannuation savings should be utilised during retirement to provide a reliable source of income for individuals. This aligns with the broader objective of ensuring a dignified retirement for all Australians.

Acknowledging the significance of the superannuation system as a source of capital, the draft legislation emphasizes its role in supporting investments aligned with national economic priorities. It recognizes the symbiotic relationship between the financial interests of superannuation members and the economic development of the nation, envisioning a system that **not only secures retirements but also contributes to the growth and resilience of the broader economy.**

At this stage, the objective of super has yet to be 'defined' in legislation. As consultations unfold, stakeholders must consider the broader implications of these proposed objectives and their potential impact on the retirement security of millions of Australians.

If you are concerned about whether or not your superannuation may achieve the goal of providing you with the means for a comfortable retirement, speak with a professional, licensed adviser.

What To Do If Your Super Fund Is Underperforming

The performance of your fund plays a pivotal role in securing your financial future. Superannuation is considered to be one of the primary sources for your retirement, after all. If you find yourself in a situation where your super fund is underperforming, it's crucial to take proactive steps to safeguard your retirement savings.

Assess Performance and Understand Benchmarks:

Begin by thoroughly examining your super fund's performance over various time frames. Compare it against relevant benchmarks and industry standards. Understanding the specific areas where your fund falls short is the first step towards informed decision-making.

Review Investment Options:

Evaluate the investment options within your super fund. Diversification is key to managing risk, so consider spreading your investments across a mix of asset classes. If your current fund lacks diversity, explore other options that align better with your risk tolerance and long-term financial goals.

Stay Informed and Seek Professional Advice:

Keep yourself informed about market trends and economic conditions. If navigating the financial landscape feels overwhelming, seek advice from financial professionals. A certified financial planner can provide personalized guidance based on your unique circumstances, helping you make informed decisions about your super fund.

Consider Consolidation or Rollover:

If you have multiple super accounts, consolidating them into a single fund can streamline management and potentially reduce fees. Additionally, explore the option of rolling over your funds into a higher-performing superannuation fund that aligns better with your investment strategy and risk tolerance.

Communicate with Your Fund Manager:

Open communication with your super fund manager is essential. Discuss your concerns, seek clarification on their investment strategies, and inquire about potential improvements. Many funds offer educational resources or personalized consultations to help members navigate challenging market conditions.

Monitor Fees and Charges:

Excessive fees can erode your superannuation returns. Regularly review the fees associated with your fund and assess whether they are justified by the services provided. If you discover high fees that don't align with the performance, it might be worth exploring alternative funds with more competitive fee structures.

Stay Patient, but Act Decisively:

Market fluctuations are inevitable, and short-term underperformance does not necessarily warrant immediate action. However, if underperformance persists over an extended period, it's crucial to act decisively to protect your retirement savings.

Remember, your superannuation is a long-term investment, and strategic decisions made during challenging times can positively impact your financial future. By staying informed, seeking professional advice, and taking proactive steps, you can navigate the complexities of an underperforming super fund and work towards securing a robust retirement plan.

When Are You Allowed To Cash Out A Super Fund?

Superannuation is a crucial financial tool designed to provide Australians with a comfortable retirement. While it's generally a long-term investment, there are specific circumstances under which individuals are allowed to cash out their super funds. Understanding these conditions is essential for making informed decisions about your financial future.

PRESERVATION AGE AND RETIREMENT

The preservation age marks the point at which you become eligible to access your superannuation. As of 2023, the preservation age is between 60 and 65, depending on your date of birth. When you reach this age and retire, you can typically access your superannuation as a lump sum or choose to receive it as regular income through an account-based pension.

For those who have reached their preservation age but continue working, a Transition to Retirement (TTR) strategy allows access to a portion of their super. This involves starting a TTR pension while still working, providing a supplementary income stream. Keep in mind that there are limits on the amount you can withdraw under a TTR strategy.

TERMINAL MEDICAL CONDITION

In unfortunate circumstances where an individual is diagnosed with a terminal medical condition, they may be permitted to access their superannuation early. This provision is designed to offer financial support during a challenging time.

COMPASSIONATE GROUNDS

Superannuation benefits may be released on specified compassionate grounds if a member has to:

- pay for medical or dental treatment for either themselves or a dependent or pay for transport to the treatment
- prevent their home from being sold by the lender that holds the mortgage
- modify their home or vehicle to accommodate their own needs, or the needs of a dependent, for a severe disability
- pay for palliative care for themselves or a dependent with a terminal medical condition
- pay for expenses associated with a dependent's death, funeral or burial

You have to apply to the Australian Taxation Office (ATO), rather than to your super fund, for early release on compassionate grounds and you are not necessarily entitled to the full balance - the amount is limited to what is reasonably needed and the amount is taxed as a normal lump sum payment.

SEVERE FINANCIAL HARDSHIP

If you're facing severe financial hardship and have been receiving government income support for an extended period, you may be eligible to access your super early. However, strict criteria and limits apply, and it's essential to consult with your super fund or a financial advisor to explore this option.

PERMANENT DISABILITY

Individuals suffering from a permanent disability may be allowed to access their super funds early through a Total and Permanent Disability (TPD) insurance claim. The process involves demonstrating that you are unlikely to ever work again due to a disability.

DEPARTING AUSTRALIA PERMANENTLY

If you're an Australian citizen or permanent resident leaving the country permanently, you may be eligible to claim your superannuation. This option is subject to certain conditions and requires the completion of specific documentation.

FIRST HOME SUPER SAVER SCHEME

The Australian government has introduced the First Home Super Saver (FHSS) Scheme, allowing individuals to make voluntary contributions to their super fund to save for their first home. Eligible participants can withdraw these contributions, along with associated earnings, to put towards their home purchase.

It's crucial to note that accessing your superannuation early should be approached with careful consideration, as it may impact your retirement savings. Consulting with a financial advisor can provide personalized guidance based on your unique circumstances. Ultimately, understanding when you are allowed to cash out your super fund empowers you to make informed decisions that align with your financial goals and circumstances.

The Importance Of Estate Planning

Estate planning is a critical aspect of financial management that often takes a back seat in the hustle and bustle of daily life.
However, for those seeking to secure their legacy and provide for their loved ones, engaging in thoughtful estate planning is paramount. This process not only ensures the efficient distribution of assets but also offers peace of mind and financial security for future generations.

PRESERVING FAMILY WEALTH:

One of the primary benefits of estate planning is the preservation and effective transfer of family wealth. Australians work hard throughout their lives to accumulate assets, and without a clear plan, the distribution of these assets can become a source of contention among family members. Estate planning allows individuals to outline their wishes regarding the division of assets, minimizing the potential for disputes and ensuring a smooth transition of wealth.

PROTECTING LOVED ONES

Beyond financial assets, estate planning addresses the well-being of loved ones. Through mechanisms like wills, trusts, and powers of attorney, individuals can appoint guardians for minor children, make provisions for dependents with special needs, and nominate trusted individuals to manage their affairs in the event of incapacitation. This not only safeguards the interests of family members but also provides clarity during challenging times.

MINIMISING TAX IMPLICATIONS

Estate planning can help to strategically minimise tax implications on assets. Through the use of trusts and other structures, individuals can implement tax-efficient strategies that reduce the burden on beneficiaries. This proactive approach can help preserve a larger portion of the estate for the intended beneficiaries, allowing them to enjoy the fruits of their loved one's labour without unnecessary financial strain.

ENSURING BUSINESS CONTINUITY

For business owners, estate planning is vital for ensuring the smooth transition of business assets and operations. A well-crafted plan can outline the succession of leadership, address potential tax liabilities, and provide a roadmap for the ongoing success of the business. This is particularly crucial for family businesses, where continuity and the preservation of a legacy are paramount.

AVOIDING INTESTACY

In the absence of a valid will or estate plan, an individual's assets may be subject to intestacy laws, which dictate how the estate will be distributed. This may not align with the individual's wishes and can lead to unintended consequences. Estate planning allows individuals to maintain control over the distribution of their assets, ensuring that their intentions are honoured.

FACILITATING CHARITABLE CONTRIBUTIONS

For those passionate about philanthropy, estate planning provides an avenue to support charitable causes. By incorporating charitable trusts or bequests in their plans, you can leave a lasting impact on organisations and causes dear to your hearts.

Estate planning is not merely a task for the wealthy; it is a responsible and considerate approach to securing one's legacy and providing for the well-being of loved ones. Australians from all walks of life can benefit from the peace of mind that comes with a well-thought-out estate plan.

Consulting with legal and financial professionals can help individuals navigate the complexities of estate planning and tailor a strategy that aligns with their unique circumstances and aspirations.

Understanding & Avoiding Prohibited SMSF Loans

Loans to members continue to top the list of reported contraventions in self-managed super funds (SMSFs), according to auditor contravention reports submitted for the 2019 to 2022 audit years.

Constituting a substantial 16% of all reported breaches, this trend underscores the importance of SMSF trustees being well-versed in the rules governing financial transactions within their funds.

THE RULES

$18,780

It's crucial for SMSF trustees to be aware that **loaning money or providing financial assistance to a member or relative is strictly prohibited.** Violating this rule can result in penalties of up to $18,780, coupled with the potential disqualification of the trustee. Being disqualified means their name is publicly disclosed, and they lose the ability to operate their fund or any other SMSF in the future.

5%

Moreover, SMSF trustees are also prohibited from loaning money to related parties, such as a business, where the loan surpasses 5% of the fund's total assets. This constitutes a prohibited in-house asset investment and is considered a contravention.

5%

If an SMSF's in-house assets exceed 5% of the total asset value at the end of the financial year, trustees must develop a plan to reduce these assets to less than 5%. This plan must be prepared and executed by the end of the subsequent financial year, with failure to comply resulting in a contravention.

All investments by your SMSF must be made on a commercial 'arm's length' basis. The purchase and sale price of fund assets should always reflect true market value, and the income from fund assets should always reflect a true market rate of return.

WHAT CAN BE DONE

Understanding these regulations is paramount to avoiding prohibited loans from your SMSF. If a prohibited loan has been made, swift action is necessary to rectify the breach by repaying the loan. Trustees should reach out to their appointed SMSF professionals for guidance and assistance.

In cases where rectification proves challenging, the SMSF early engagement and voluntary disclosure service should be utilised. Proactively engaging with regulatory authorities before audits commence allows for consideration of the disclosure in determining appropriate actions, and mitigating potential compliance consequences.

Compliance is not only a legal requirement but also essential for the integrity and longevity of your SMSF. Stay informed, act responsibly, and seek professional advice to ensure the smooth operation of your self-managed super fund.

Client-Agent Linking For SMSFs

Starting from 13 November, a significant change has been implemented in the client-to-agent linking process, now extending its application to all entities with an Australian Business Number (ABN), including Self-Managed Super Funds (SMSFs).

New SMSFs

For those initiating new SMSFs through a tax agent, a streamlined process is in place. Simply lodge the SMSF ABN registration form and nominate your tax agent as your representative. No additional client-to-agent linking steps are required in this scenario. However, the tax agent cannot complete this process for you, it must be done by you.

Existing SMSFs

For existing SMSFs, a few steps must be followed on the ATO's Online Services for Business (OSB) if any of the following changes occur:

- Adding or Changing Tax Agent: If you add or change a tax agent for your SMSF.
- Changing Authorisations: If you modify the authorisations granted to your existing tax agent.

Individual trustees of SMSFs can easily complete the linking process by setting up and accessing Online Services for Business, along with completing the agent nomination.

SMSFs With A Corporate Trustee

For SMSFs with a corporate trustee, the principal authority is responsible for completing the client-to-agent linking process. After setting up their myGovID, they should contact the Australian Taxation Office (ATO) for assistance in linking the fund's ABN to their myGovID in the Relationship Authorisation Manager.

To facilitate a smooth linking process, it is advisable to ensure that all details are up-to-date on the Australian Business Register (ABR).

For additional assistance or clarification, SMSF trustees are encouraged to reach out to the ATO directly or explore the comprehensive support services available on the SMSF support portal.

These changes aim to enhance the efficiency of client-to-agent linking for SMSFs, ensuring a more straightforward and secure process for trustees and tax agents alike.