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Winning in the new super era

A summary of key changes to superannuation legislation

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April 2017

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Introduction

The “Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016” received Royal Assessment on 29 November 2016 and ushered in probably the greatest changes to the Australian super system in 10 years.

As you will see from the following paper, the changes are extensive, complex, and impact on both the contributions, benefit payment and reporting regimes creating the need to comprehensively review the members accounts and current strategy positions with a view to possibly make significant decisions prior to 30 June 2017.

While there are many strategy considerations and potential decision points, this paper seeks only to summarise what the new rules are, it does not consider the strategy options that may flow from there.

If you missed Netwealth’s recent ‘Winning in the new super era’ adviser roadshow where Head of Technical Services, Keat Chew, presented on the new super changes, click here to view the presentation slides.

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Concessional contributions

Annual concessional contributions cap:

- From 1 July 2017, the concessional contributions cap will be reduced to $25,000 p.a. for all ages.
- It will be indexed in line with AWOTE in $2,500 increments.

Division 293 tax threshold (very high income earners):

- From 1 July 2017, Division 293 tax (the additional 15%) applies to an individual for an income year if the total of their combined income for surcharge purposes and concessionally taxed super contributions exceeds $250,000 (down from $300,000).

Constitutionally protected and defined benefit funds (including DB constitutionally protected funds):

- From 1 July 2017, contributions and certain other amounts in respect of constitutionally protected funds and unfunded defined benefit schemes count towards an individual's concessional contributions cap. However, concessional contributions included because of the new rules cannot create an excess concessional contributions situation.

Enhanced deductibility for personal contributions – the 10% to be removed:

- From 1 July 2017, an individual will be able to claim a tax deduction on personal contributions (regardless of whether they earn 10% or more of their total income from employment related activities).
- Individuals will still need to:
  - Complete a Notice of intention to claim or vary a deduction for personal super contributions (sect 290-170 form);
  - Be mindful of the new lower $25,000 concessional contributions cap. The amount of personal contributions that will be able to be claimed will generally be the difference between employer related contributions, if any, (Super Guarantee and salary sacrifice) and the concessional contributions cap;
  - If aged 65 or older, the work test (40 hours in 30 consecutive days) will still need to be met;
  - Be aware that personal contributions will not be deductible where they are made to certain Commonwealth super funds that provide defined benefits and untaxed funds.

Unused concessional cap carry forward – more flexibility for those with broken work patterns and lumpy cash flow patterns:

- From 1 July 2018, individuals with a total super balance of less than $500,000 just before the start of the financial year will be able to make additional concessional contributions in that financial year by accessing unused concessional contribution cap amounts carried forward from the previous five years.

- The key issues to remember are:
  - Unlike most of the other changes, this rule applies from 1 July 2018 (2018-19 financial year);
  - Therefore, the first time it can be accessed is the 2019-20 financial year;
  - Individuals must have total super balances of less than $500,000 to be eligible to take advantage of this rule;
  - Individuals must have already "accumulated" unused concessional contributions cap amounts;
  - Amounts of unused concessional contributions caps are applied in order from the earliest to the most recent year;
  - Unused concessional cap amounts not used after 5 years are lost.

Non-concessional contributions (NCC)

Annual non-concessional contributions (NCC) cap has been reduced to $100,000 pa:

- From 1 July 2017, the annual non-concessional cap has been reduced to four times the concessional contributions cap (was previously six times). As the concessional cap has been reduced to $25,000 p.a. for all age groups, the new non-concessional cap is four times $25,000 = $100,000 pa.

- The non-concessional cap is increased with the increase in the concessional contribution cap.

Must have less than $1.6 million total super balance to make a non-concessional contribution:

- To be eligible to make a NCC for a financial year, individuals must, as at 30 June of the previous financial year, have a total super balance (defined below) of less than the general transfer balance cap:
  - The general transfer balance cap for the 2017-18 financial year is set at $1.6 million. Therefore, to make a NCC after 30 June 2017 (the 2017-18 financial year), an individual must have a total super balance of less than $1.6 million as at 30 June 2017;
  - The general transfer balance cap is indexed in line with the CPI in $100,000 increments.

The NCC bring forward rule is still available:

- The "bring forward rule" remains in place (three years bought forward with a reduced $300,000 available) but from 1 July 2017 onwards, the amount of what can be bought forward will depend on the individual's total super balance as at 30 June of the previous financial year. This is to account for the new eligibility criteria that restricts NCC being made once a member's balance exceeds the general transfer balance cap ($1.6 million as at 1 July 2017). Specifically:
  - Individuals may be able to access a bring forward period for their non-concessional contributions cap of two or three times the annual cap, depending on their total superannuation balance;
  - In the 2017-18 financial year, the amount of the cap an individual may bring forward is three times the annual cap over three years if their total superannuation balance is less than $1.4 million, two times the annual cap over two years if their superannuation balance is between $1.4 million and less than $1.5million, and nil if their superannuation balance is $1.5 million or above.

Transitional arrangements may apply:

- Transitional arrangements apply to individuals who brought forward their non-concessional contributions cap in the 2015-16 or 2016-17 financial years:
  - As stated above, the new rules apply only from 1 July 2017 onwards. This means that the current $540,000 non-concessional cap (subject to the current rules) is available to be used to 30 June 2017 provided it is used in full by this date;
  - If the bring forward rule is triggered in the 2016/17 financial year but the full $540,000 is not used by 30 June 2017, the maximum that can be contributed over the period to 30 June 2019 is the difference between the contribution made in the 2016/17 year and $380,000 – e.g.
    - If the member makes a NCC of $250,000 triggering the bring-forward rule in the 2016/17 financial year. The maximum that could be contributed as a NCC is $380,000 in total. Therefore, the balance available to be contributed until 30 June 2019 is $130,000;
  - If the member had instead made a NCC of $250,000 in the previous financial year (2015/16) and does not fully utilize the $540,000 before 30 June 2017, then the maximum bring-forward amount available until 30 June 2018 is $460,000. Therefore, the balance available to be contributed until 30 June 2018 is $210,000.

Government co-contributions – new rules to think about:

- Government co-contribution – two new eligibility criteria:
  - In addition to the existing eligibility requirements, individuals are not eligible for the government co-contribution in an income year if:
    - Their non-concessional contributions exceed their non-concessional contributions cap for that year; or
    - If, at 30 June of the previous year, their total superannuation balance equals or exceeds the general transfer balance cap.

New Term – "total superannuation balance" – what is it?

- You will notice from the previous comments that a member's "total superannuation balance" is important when determining their ability to make both concessional and NCCs:
  - In the case of concessional contributions, total super contributions must be under $500,000 to be eligible to utilise any carry forward unused concessional contribution balances; and
  - In the case of NCC's, the total super balance must be below the transfer balance cap ($1.6 million as at 1 July 2017):
    - To allow a NCC to be made,
    - To determine how much of the bring forward cap is available; and
    - To determine eligibility for the Government co-contribution.

- An individual's total superannuation balance, at a particular time, is the sum of the following;
  - The accumulation balance; plus
  - The retirement phase value – generally the value of any account based pensions including the value of any structured settlements; plus
  - The value of any rollovers that may be in transit between funds:

    less
  - The value of any structured settlement contributions.

Note: Structured settlements under the new rules:

Structured settlement contributions (e.g. personal injury payments) are not currently counted towards the annual contributions caps, and are being excluded from the total superannuation balance calculation, to recognise that these are usually large payments that can provide the funds for ongoing medical and care expenses resulting from serious injury and income loss.

Once the sum of the accumulation phase value, retirement phase value and any roll-over amounts is calculated, the total is reduced by the sum of any structured settlement contributions.

Transfer balance cap

General overview:

- From 1 July 2017, the new rules impose a $1.6 million cap (the transfer balance cap) on the amount of capital that can be transferred into the retirement phase of superannuation. It limits the amount which can be transferred to the tax-free retirement (pension) phase of super.
- Defined benefit pension (DBP) and Government DBP often do not have a "member balance" in the sense that an account based pension does. In these cases, there are new additional income tax rules on those receiving certain defined benefit pensions in excess of $100,000 p.a. The additional tax payable is designed to achieve a similar taxation outcome comparable to that created by the $1.6 million transfer balance cap. In addition, these pensions are taken into account in the transfer balance cap and may limit the amount of account based pension that an individual can have.
- Retirement phase is defined as the period during which a superannuation income stream is currently payable, or, if it is a deferred superannuation income stream (that is, not currently being paid), when a person has met a relevant "nil condition of release".
- From 1 July 2017, transition to retirement pensions are not in retirement phase and therefore will become taxable in the same manner as an accumulation account thereafter.

Transfer balance account and its operation:

- Individuals will have a transfer balance cap which reflects the maximum amount they can transfer to retirement (pension) phase to which a nil tax rate is applicable.
- The transfer balance cap is set at $1.6 million as at 1 July 2017 and indexed to the CPI in $100,000 increments.
- To determine an individual's position with respect to their transfer balance cap, individuals will each have a transfer balance account, which tracks the net amounts the individual has transferred to the retirement phase. The ATO will establish a transfer balance account for individuals when they first transfer assets to retirement phase, normally when they begin a pension after 1 July 2017, or an existing pension in place at 1 July 2017.

- The transfer balance account acts like a bank account operating under a system of "credits" and "debits". The most common transactions are treated as follows:
  - A transfer or rollover to retirement phase (such as to a retirement income stream or pension) will be a credit to the transfer balance account;
  - A roll over/transfer to another super fund, roll over out of superannuation (such as taking a lump sum) or commutations of a retirement phase income stream will be debits to the transfer balance account;
    - These debits reduce the transfer balance account thereby creating cap space which is able to be re-used;
    - The debit is applied regardless of whether the commuted amount remains within the super system (transferred to accumulation) or is paid out of super as a lump sum;
    - Partial commutation will no longer count toward minimum annual pension amounts;
  - Structured settlement contributions will be a debit to the transfer balance account;
  - Fund earnings are not credits nor debits and do not add to the individuals transfer balance account;
  - Pension payments and earning losses are not debits nor credits.

- Individuals can transfer amounts to the retirement (pension) phase provided it does not cause their transfer balance account to exceed their personal transfer balance cap. Individuals can compare the balance of their transfer balance account with their personal transfer balance cap, and determine how much can be transferred to retirement phase without exceeding the cap (their available cap space).

- Individuals that exceed the transfer balance cap will have their superannuation income streams commuted (in full or in part) back to the accumulation phase and will be subject to excess transfer balance tax.

- Excess transfer balance earnings accrue on the excess transfer balance (based on the general interest charge), are credited to the transfer balance account, compounding the excess and will be subject to excess transfer balance tax until it is rectified.
  - Excess transfer balance tax is set at 15 per cent for a first breach, and increases to 30 per cent for second and subsequent breaches.

Note: Transitional arrangement - excess transfer balances are disregarded only if less than $100,000 and caused by an existing income stream at 30 June 2017 provided it is rectified within six months.

Lifetime and expectancy pensions/annuities including market linked income streams (and TAPS) existing as at 30 June 2017 have both a special value for the purposes of the transfer balance cap and a defined benefit income stream cap above which new income tax rules will apply:

- Lifetime pensions special value (an approximation of their value against the transfer balance cap) is determined by multiplying the pensions annual entitlement by a factor of 16:
  - Thus, a lifetime pension (or annuity) that pays an annual pension of $100,000 p.a. will totally exhaust an individual's transfer balance cap ($100,000 x 16 = $1.6 million).

- Market linked income streams (TAPS) and life expectancy pensions are determined by multiplying the annual entitlement by the remaining term:
  - Thus, a MLIS paying $100,000 p.a. with five years remaining will have a value of $500,000 against the transfer balance cap of $1.6 million.

- Where the value of the annual entitlement multiplied by 16 or the term exceeds the transfer balance cap of $1.6 million, an excess transfer balance account cannot occur, although it can impact on the amount of other account based pensions a member can have. Instead, additional income tax rules apply to the extent that the income stream exceeds a separate defined benefit income cap.

- An individual's defined benefit income cap for a financial year is generally equal to the general transfer balance cap for the corresponding financial year divided by 16:
  - As at 1 July 2017, the defined benefit income stream cap will be:
    - $1.6m/16 = $100,000 p.a.;
  - To the extent an individual's taxed sourced or tax-free defined benefit income exceeds their defined benefit income cap ($100,000 as at 1 July 2017), 50% of the amount is included in their assessable income;
  - Untaxed source superannuation income stream benefits are currently (generally) assessable income subject to a 10 per cent tax offset if the recipient is aged 60 or over. Excess untaxed source defined benefit income, however, is not entitled to the tax offset and is assessable at the individual's full marginal rate. (Note: there is no 50% reduction as per from a taxed source.)

- Partial commutations – tax treatment modifications:
  - Full and partial commutations continue to be permitted and continue to be treated as a lump sum for tax purposes.
    - The low rate cap continues to apply unchanged.

- However, the election to have income stream payments treated as lump sums will be removed. This means that individuals can no longer elect that pension payments be treated as lump sums and from 1 July 2017 are no longer being able to access tax-free amounts up to the low rate cap in these circumstances.

Death benefits and how they impact on the transfer balance account

- If paid out as a death benefit lump sum, it has exited the super system and has zero impact on a surviving beneficiary or partner.

- If paid out to an eligible dependant as a death benefit income stream, whether as a result of a binding, non-binding direction or at the trustee's discretion, it is a credit (counts) to the recipient's transfer balance account and will be measured against the receiving beneficiaries transfer balance cap.

- If it is a reversionary death benefit income stream, it is a credit (counts) to the recipient's transfer balance account and will be measured against the receiving beneficiaries transfer balance cap. The reversionary beneficiary will have up to 12 months to re-arrange their affairs to meet the new rules.

Note: A reversionary pension is immediately payable from the date of death of the original member. The subsequent "credit" that arises in the surviving beneficiary's transfer balance account can be

deferred for up to 12 months after the superannuation income stream benefits first become payable thereby giving the new beneficiary time to adjust their affairs before any consequences (for example, a breach of their transfer balance cap) arise.

The credit that arises in the beneficiary's transfer balance account is the value of the supporting superannuation interest at the time it becomes payable to the beneficiary.

Other points to note include:

- As both reversionary and death benefit income streams are credits to the recipients transfer balance account, they must be managed to ensure that they do not cause the recipient to exceed their transfer balance cap.

- If a death benefit income stream plus the individual's own superannuation income stream results in a beneficiary exceeding their transfer balance cap, they will need to decide which superannuation income stream to commute (partial or in full).

- Importantly, a superannuation death benefit cannot be held in an accumulation interest as this contravenes the regulatory requirement to cash the benefit out of the system as soon as practicable:
  - This means that where the death benefit income stream causes the recipient to exceed their transfer balance cap, if the excess is commuted from the death benefit income stream to reduce the personal transfer balance account to the cap, it will need to be taken as a death benefit lump sum;
  - Alternatively, where the relevant balances allow, the recipients (surviving spouse) own income stream could be commuted and rolled back to accumulation to generate sufficient cap space to take the death benefit as an income stream (from the deceased spouse);
    - Where a reversionary superannuation income stream is payable to a beneficiary on 30 June 2017, the credit for this arises on the later of 1 July 2017 or 12 months after the superannuation income stream benefits became payable to that beneficiary.

- 0Rollover death benefits may be rolled over in certain circumstances:
  - Where the beneficiary is eligible to receive a death benefit income stream, from 1 July 2017 it will be permissible to roll over death benefit lump sums to immediately begin a death benefit income stream;
  - Where the beneficiary is not eligible to receive, or amounts cannot be used to pay a death benefit income stream (e.g. to do so would exceed their pension transfer cap), the death benefit lump sum cannot be rolled over or held in accumulation and must be cashed out;
  - Because the deceased member's benefit remains subject to compulsory cashing, it cannot be mixed with the surviving beneficiaries own super benefit;
    - As a result of this new rule, there will no longer be a prescribed period (six months of death / three months of grant of probate) where by the death benefit becomes a member benefit. Instead, it remains a death benefit and:
      - Can only remain in super as a death benefit income stream;
      - Retains its death benefit tax status.

Other changes you need to know about

Indexation of the personal transfer balance cap

- Where an individual starts to have a transfer balance account and has not used the full amount of their personal transfer balance cap, the personal transfer balance cap is subject to proportional indexation in line with increases in the general transfer balance cap.
- Indexation is only applied to an individual's unused cap percentage.
- This is worked out by finding the individual's highest transfer balance at the end of a day or at an earlier point in time, comparing it to their personal transfer balance cap on that day and expressing the unused cap space as a percentage.
- Once an individual has reached their personal transfer balance cap, it is not subject to indexation, even if the individual subsequently removes capital from their retirement phase.
  - This is because once the individual has reached their cap - say $1.6 million – there is no unused cap space remaining. As indexation is applied to unused cap space, the proportion remaining for indexation is zero.

Transition to retirement income streams – TTR, TRIS

- From 1 July 2017, a superannuation income stream will not be in the retirement phase if it is a TTR.
- As a result of this, TTR will no longer have the earnings tax exemption available to them – that is, they will be taxed in the same manner as an accumulation fund.
- There are no changes to the tax paid on the TTR pension payments to the beneficiary;
  - Between preservation age and 59, the taxable element of the TTR will be taxable at the individual's marginal tax less a 15% rebate;
  - From age 60 to either 65 or meeting a condition of release with a nil cashing restriction, it is tax free.

Child account based pensions

- The transfer balance cap that applies to child dependants in receipt of a death benefit income stream is subject to modifications that allow the child to receive their share of the deceased's retirement phase interest without prejudice to the child's future retirement:
  - The child account based pension does not apply against their future transfer balance cap.
- The child may start a new transfer balance account if they later start to receive superannuation income stream benefits other than as a child recipient.

Low income super tax offset - LISTO

- LISTO seeks to return the tax paid on concessional contributions by an individual's superannuation fund provider to the person, if the individual is a low income earner up to a maximum capped amount.

- Low income earners are defined as individuals with an adjusted taxable income of $37,000 or less.

- The maximum amount payable is $500 per year for each eligible individual.

- Eligibility for LISTO:
  - The individual was not a holder of a temporary visa at any time in that income year other than certain limited situations;
  - At least one concessional contribution has been made by or for that individual in the corresponding financial year; and
  - Either:
    - The individual has ATI that does not exceed $37,000 and at least 10 % of the individual's income is from business or employment; or
    - 12 months after the end of the income year the Commissioner reasonably believes there is insufficient information to determine the taxpayer's ATI and estimates it does not exceed $37,000 and at least 10 % of the individual's income is from employment.
  - ATI is defined as including taxable income, adjusted fringe benefits total, target foreign income, total net investment loss, tax-free pensions or benefits, and reportable superannuation contributions less any deductible child maintenance expenditure for that year.

Tax offset for spouse contributions – threshold increases

- From 1 July 2017, the new rules increase the amount of income an individual's spouse can earn before they cease to be entitled to a tax offset when they make superannuation contributions on behalf of their spouse from $13,800 to $40,000 p.a.

- This means that an individual is entitled to a tax offset for an income year of the lesser of 18% of their contributions on behalf of their spouse or $540 (18% of $3000) until their spouse's total spouse income reaches $37,000. If the total spouse income of an individual's spouse is between $37,000 and $40,000, the maximum tax offset available to the individual proportionally decreases, until at $40,000 it is reduced to nil.

The death of anti-detriment payments

- From 1 July 2017, complying superannuation funds are not entitled to claim an income tax deduction if they pay a superannuation benefit on the death of a member to benefit their spouse, former spouse or children and this benefit is greater than it would otherwise be to compensate for income tax paid by the fund in respect of contributions made during the member's lifetime.

SMSF - Transitional CGT relief on transfer back to meet new rules up to 30 June 2017

- Transitional CGT relief:
  - Complying superannuation funds are able to reset the cost base of assets to their market value where those assets are reallocated or re-apportioned from the retirement phase to the accumulation phase prior to 1 July 2017 in order to comply with the transfer balance cap or new TRIS arrangements.
  - Where these assets are already partially supporting interests in the accumulation phase, tax will be payable on this proportion of the capital gain made to 1 July 2017. This capital gain may be deferred until the asset is sold.
  - Relief only applies where the assets were held in pension phase as at 9 November 2016 and the reallocation or re-proportioning is made in the period from 9 November 2016 until 30 June 2017 in relation to assets a complying superannuation fund held throughout that period;
  - Election for the CGT relief is totally voluntary and if elected, is available on a selection of assets – either individual assets or parcels of assets;
  - CGT relief applies differently depending on whether the fund has been applying a segregated or unsegregated (proportionate) method to its pension;
    - For segregated pension assets, a re-set to the cost base to market value any time between 9 November 2016 and 30 June 2017 applying on an asset by asset basis is available;
    - This transaction generates a CGT event, but, because the fund is segregated (100% on pension mode), the capital gain is exempt from tax;
    - Future sale of the "reset" assets will therefore only capture any gain from the reset date (date of transfer) and the sale date;

Tip: Pre 30 June 2017, the member has (say) a balance in pension of $2.6 million. The member transfers a segregated current pension asset/s with a current market value of $1 million out of the segregated pool of exempt assets into its pool of segregated accumulation assets. The asset is eligible for CGT relief as it has ceased to be a segregated current pension asset within the pre-commencement period.

The CGT cost base for this asset is $750,000, meaning that it has already accrued unrealised capital gains of $250,000. To ensure that this accrued gain is not taxed when the asset is eventually sold, the fund chooses to apply the CGT relief arrangements to this asset.

The relief deems the asset to be sold and reacquired for its market value on (say) 1 March 2017. This will reset the cost base for the asset to $1 million. It will also reset the 12 month period for the asset to be eligible for the CGT discount.

CGT event A1 occurs in relation to the deemed sale and gives rise to a capital gain of $250,000. However, as this capital gain arises while the asset is still a segregated current pension asset, the gain is exempt from tax.

- For unsegregated pension assets, the fund may choose to reset the cost base of any or all of its assets to their market value as at 30 June 2017 (trustees do not have a choice of date as is the case with segregated funds);
- The superannuation fund is deemed to have sold and reacquired the asset/s on 30 June 2017. The cost base of the asset/s is reset at that time for its market value;
- This process generates a capital gains event but in this case, a proportion of the gain will relate to assets held in accumulation. The CGT liability arising to the accumulation proportion of the assets can be paid that financial year or deferred (an election to defer is required) until the asset is actually sold at some future date. The gain apportioned to the pension assets is exempt from tax;
- Where it is elected to defer the capital gain of the accumulation proportion, it is not bought to account in the 2016-17 financial year, but deferred until such time that the asset is disposed of;
- If the CGT asset is sold or otherwise realised on or after 1 July 2017 the deferred notional gain is brought to account in the income year that the realisation event happens;
- The notional gain is bought to account irrespective of whether the fund or member account is at that point in pension or accumulation;
- The superannuation fund must, at a minimum, keep records of the assets to which CGT relief was applied and the 2016-17 non-exempt proportion of the deferred notional gains for these assets so that when capital gains or losses on those assets are later realised the deferred notional gain can be brought to account in that future income year.

Tip: Record keeping for SMSFs making this election will be complex but critically important. In the words of the Explanatory Memorandum: Section 121-20 of the ITAA 1997 provides that records must be kept for every act, transaction, event or circumstances that can reasonably be expected to be relevant in working out whether a capital gain or loss arises from a CGT event. Records are required to be kept whether the CGT event has already happened or will happen in the future.

Excluding SMSFs and small APRA funds with members that have large balances from segregating assets

- From 1 July 2017, SMSFs and small APRA funds will not be able to use the segregated method to determine their earnings tax exemption for an income year if:
  - At a time during the income year, there is at least one super interest in the fund that is in the retirement phase; and
  - Just before the start of the income year:
    - A member of the fund has a total superannuation balance that exceeds $1.6 million; and
    - That person is the retirement phase recipient of a superannuation income stream (whether or not the fund is the super income stream provider for the super income stream).
  - It will not be necessary for a person with an interest in the small fund to be receiving an income stream from that fund. A small fund will be excluded from using the segregated assets method where a member of the fund, with a total superannuation balance that

exceeds $1.6 million, is a retirement phase recipient of an income stream from another superannuation income stream provider;
  - Retail funds are NOT captured under this rule and can use either segregated or proportional method to calculate exempt income;
  - Assets of these funds impacted by this change are known as disregarded small fund assets. Such assets cannot be segregated current pension assets and as a result, these funds must calculate their earnings tax exemption for pension purposes by applying the proportionate method with no assets taken to be segregated to pay current or future liabilities.

Tip: Post 1 July 2017 it may be advantageous to ensure that an SMSF holds only pension or only accumulation accounts rather than both. This is because after 1 July 2017, SMSFs with a member meeting the above conditions, cannot apply the segregation method. Thus, all fund income, including any potential capital gain, will be pooled and the tax exemption will be based on the proportion of fund assets that support future pension liabilities. To avoid this situation, the fund trustees may wish to consider transferring excess assets to another super fund such as a retail super wrap account, leaving the only pension assets in the SMSF and therefore all the income should be exempt. The same would be true if the pension assets were transferred to another fund leaving only accumulation assets in the SMSF.

Deducting personal contributions – no more 10% rule!

- From 1 July 2017, an individual is able to deduct personal contributions, regardless of whether they earn 10% or more of their total income from employment or related activities. All other current requirements, including notice to the trustee, for deducting personal contributions need to be met:
  - Not all personal contributions will be deductible – specifically:
    - Commonwealth public sector superannuation schemes members with defined benefit interests;
    - Untaxed funds.

- Key people advantaged by this change include:
  - Employees with no access to salary sacrifice arrangements;
  - Substantially self-employed people;
  - Self-employed individuals and individuals in receipt of passive income can make deductible personal contributions regardless of the amount of salary or wages they earn.

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