



TriSuper Auditors

# SMSF Updates

## May 2022

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# Let's Go

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1. Concessional Contributions
2. Non-Concessional Contributions
3. Pensions
4. Six Member Funds
5. Asset Valuations
6. Non Arms-Length Income (NALI)
7. ATO Heat Lamp
8. Our Ageing Client Base
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# CONCESSIONAL CONTRIBUTIONS (CC)

## Who can make CCs?

- No restriction at any age on mandated contributions

## Personal and Salary Sacrifice CCs

Age	2022 FY	2023 FY onwards
Under 65	Yes	Yes
65-66	Yes	Yes
67-74	Work test	Work test *

\* work test still required to be met to claim personal super contribution

One year once of exemption from work test available

- Total Super balance must be less than \$300,000 at start of year.
- Satisfied work test in prior financial year.

# How much?

- 2022 FY onward \$27,500
- Reserving?
- Catch up CC's
- What if you go over?

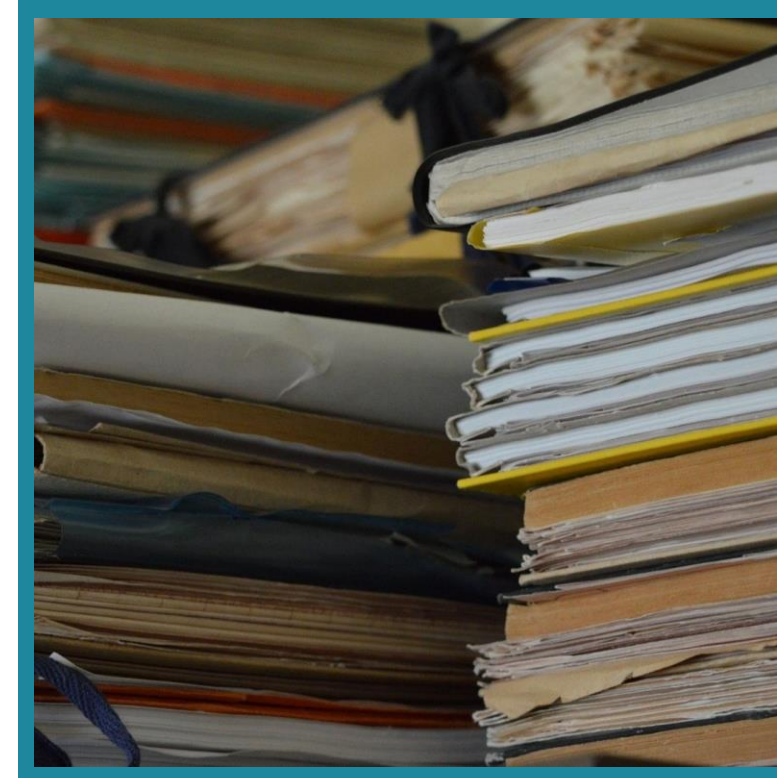




# Reserving Strategy

- How does it work?
- Paperwork, paperwork, Tax Determination 2013/22
- Caught by Div 293?
- How does a SMSF report?

<https://www.ato.gov.au/forms/request-to-adjust-concessional-contributions/>



# Catch-up Concessional Contributions

- Total Super balance must be less than \$500,000 at end of prior year
- Caught by Div 293?
- Could be used in conjunction with reserve strategy
- Can carry forward unused cap amounts for five years
- Check ATO portal for current position.

# Age 75+

Can only contribute:

- **Mandated contributions**
  - Contributions made by an employer under a law or industrial agreement for the benefit of a fund member.
  - They include super guarantee contributions.
- **Downsizer**



# Division 293



- Often a surprise
- Interaction with Catch-up Contributions
- Additional 15% on CC's in excess of \$250K threshold.
- Does not included excess CC's.
- How do you pay?



# SCG Increase

	SGC %
2021/2022	10
2022/2023	10.5
2023/2024	11
2024/2025	11.5
2025/2026	12

- ATO increasing audit activity due to Single Touch Payroll
- Consequences of late payment:
  - Interest / penalties
  - Non-deductibility

# NON-CONCESSIONAL CONTRIBUTIONS (NCC)

## Who can make NCCs?

Age at 1 July	2022 FY	2023 FY onwards
Under 65	Yes	Yes
65-66	Yes	Yes
67-74	Work test +	Yes *
75 +	No	No

\* work test not required from 2023 FY

+ note one year extension to work test above

# How much?

- From 2022 FY NCC Cap \$110,000
- Nil if total super balance > \$1.7M at end of prior year.



# Bring Forward Arrangements

- Maximum bring forward 3 year cap of \$330,000.
- 2022 FY - under 67 at 1 July 21
- 2023 FY – under 75 at 1 July 22
- Subject to Total Super Balance and age-based contribution rules.

TSB at end of prior year	NCC Cap for first year	Bring forward period
< \$1.48M	\$330,000	3 years
\$1.48M - \$1.59M	\$220,000	2 years
\$1.59M - \$1.7M	\$110,000	None, 1 year only
\$1.7M or more	nil	none



## What is not a NCC?

- Downsizer
- CGT Election Amounts



# Downsizer Contributions

- Maximum contribution of \$300,000 per individual.
- The home must be in Australia, have been owned by you or your spouse for at least 10 years and the disposal must be exempt or partially exempt from capital gains tax (CGT).
- You have not previously made a downsizer contribution to your super from the sale of another home or from the part sale of your home.
- Contribution made with 90 days of receiving sale proceeds
- 2022 FY must be 65 or older at date of making contribution. No upper age limit.
- Age requirement reduced to 60 from 2023 FY onwards. No upper age limit.
- Not counted towards NCC Cap.



# PENSIONS

## Reduced Minimum Payments

Age (as at 1 July or commencement date)	2022 and 2023 FY
Under 65	2%
65-74	2.5%
75-79	3%
80-84	3.5%
85-89	4.5%
90-94	5.5%
95 +	7%

- What if there is a shortfall?
- Pension or Lump Sum Commutation?
- Under 60 – PAYG Summary
- 10% limit for TRIS's.

# Indexed Transfer Balance Cap

- Pre 1 July 2021 – everyone had \$1.6M TBC
- Now we have individual TBC's between \$1.6M and \$1.7M
- Tax Agent Portal will provide current TBC.
- No automatic \$100K increase for those already in retirement phase.

# Legacy Lifetime / Complying Pensions

Under proposed legislation:

Existing SMSF holders of market-linked, life-expectancy and lifetime products will be able to convert their product and move their funds into an accumulation superannuation account.

They will then be able to:

- ✓ start a new contemporary product, subject to their transfer balance cap, or
- ✓ receive the amount as a lump sum superannuation benefit.

➤ *Not yet law.*



# Exempt Pension Income

As announced in the 2019-20 Federal Budget, superannuation funds will be able to choose their preferred method of calculating exempt current pension income (ECPI) in certain circumstances.

- Starts from 2021/22 year.
- Trustees can choose to use the proportionate method even where a fund was full segregated for part of the year.
- Can still continue to use split method.



# SIX MEMBER FUNDS

- Now available
- Corporate / Individual Trustees
- Benefits
  - Pooling allows greater investment choice
  - Lower administration fees ?
- Disadvantages
  - More members, less equal say?
  - Risk of misadventure
  - Managing investment strategy of six people
  - Saying goodbye....



# ASSET VALUATIONS

## **Why are we (auditors) concerned?**

- Recent record movements in real estate
- Litigation
- Sticky / Illiquid Assets
- Six member funds
- Trustee / Member access

## **Why is the ATO concerned?**

- Minimum pensions
- Starting balances for pensions / TBC avoidance/schemes
- Sale / purchase from related parties

# What will we auditors ask for?

- Real property – rule of thumb every three years
  - Unless major market movement
  - Registered Valuer?
- Private Companies / Trusts
  - Full set of financials
  - Valuation of assets within entities
  - Liquidity issues
  - Expect more Part A qualifications?
- Precious Metals / Jewellery / Collectibles
  - Proof of existence
  - Yearly valuation?



# Non Arms-Length Income (NALI)

## SIS Issues – Section 109

- Has SMSF received less income or paid more in expenses when dealing with related parties?
- Lease income (direct / indirect)



# Income Tax Issues

- SMSF can pay top marginal rate on net income from assets where income is more or expenses less when dealing with related parties than would apply at arms length.
- Review LCR 2021/2 and PCG 2020/5
- Examples
  - Accountants Fees
  - Accountants preparing their own SMSF
  - Real estate agents not charging SMSF for agents' commissions.



# ATO Heat Lamp

- Lodgement and debt collection
- Regulation details removed
- Auditor number misuse
- Auditor independence
- NALI
- New rollover system



# Help us... to help you...

## Lease arrangements

- Required for leases to related parties through direct/indirect holdings

## Asset Valuations

- As we discussed above

## Investment Strategy

- More litigation
- Six members funds
- Insurance
- Recommend assistance by financial planner

## New Pensions

- Signed minutes for new pensions

## Bank Statements

- Actual year end statement please...



And in the end...

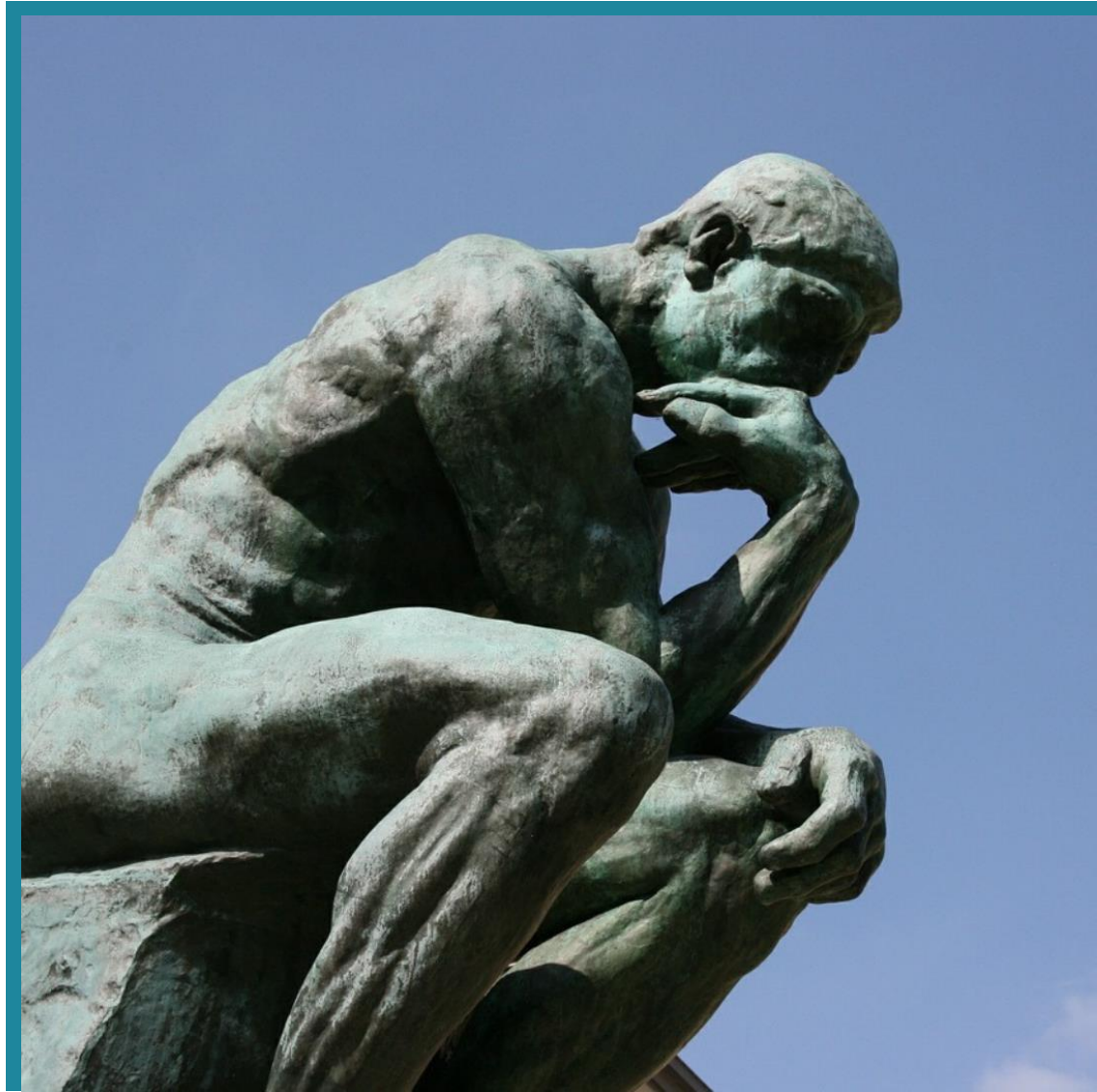


# Our Ageing Client Base

- Time to wind up SMSF?
  - Avoid death taxes
  - Large balances building up
- How do we deal with illiquid assets / property?
- Bring in new members to pass down assets to next generation?
- Incapacitated members
  - Enduring Power of Attorneys
- Reversionary / Non – Reversionary Pensions
- Binding Death Nominations – enforceable?
- If no BDN, who decides where death benefit paid?
- Review Trust Deeds



Why are we here?



- 
- 601,000 SMSFs holding \$822 billion in assets, with more than 1.1 million SMSF members, as at 30 June 2021.
  - SMSFs had assets of over \$1.3 million on average in 2019–20, the same as the previous year and up 20% over five years.
  - Average Balance per member \$695K
  - Average Assets per SMSF \$1.3M

# Q&A

“I’ll take that as a comment...”







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