TriSuper Auditors

SMSF Updates

April 2021

With **Joel Curry**, Director, TriSuper Auditors

Let’s Go

- Mandated Independence between SMSF Auditor and Administrator
- Indexation of Transfer Balance Cap (TBC)
- Temporary leniency around some SIS regulations
- ATO crackdown on investment strategy

Auditor Independence

- APES 110 – Updated Independence Guidelines
  - Now in force for all professional body members
  - What is “routine or mechanical service”?

- ATO – New compliance guide to in-house SMSF Audits
  - All SMSF auditors
  - Education approach till July 2021

Where have we been?

- SMSFs regulated by the ATO for 20 years
- Uncertain notions of independence
- Chinese Walls – in-house audits
- Reciprocal Firm Arrangements
- You audit mine and I'll audit yours
- Friends and family…

What was the problem?

- Breaches not being reported or addressed
- Collusion / Schemes
- Pressure on in-house auditors
- Negligence / PI
- Resulting in uncertainty of sector integrity

Where are we now?

- Updated APES 110 Guidelines now apply. They outline various scenarios.

- What is specifically not allowed
  - Cannot audit a SMSF where the auditor, their staff or their firm (or network firm) has prepared the financial statements for the SMSF unless it is a “routine or mechanical service”.
  - Cannot audit the SMSF where a partner within their own firm is a member/trustee of that SMSF.
  - An auditor cannot audit their own or an immediate family member’s SMSF or where they have a business relationship with a member/trustee of the SMSF.

- Routine and Mechanical?
  - Services that require little or no professional judgement and not assuming a management responsibility, ie preparing financial statements by coding in client prepared trial balance, client preparing tax calculations.
  - ATO view is most firms will find it difficult to pass this hurdle.

- Other audit situations
  - Other family, friends, staff, family of staff etc..
  - Fee concentration.
  - Audit Pooling

Where are we going?

- Auditors need to review arrangements
  - Reciprocal
  - Family, friends and associates
  - Fee concentration – 20% threshold ??
  - Audit Pooling ?
  - Outsourcing Arrangements

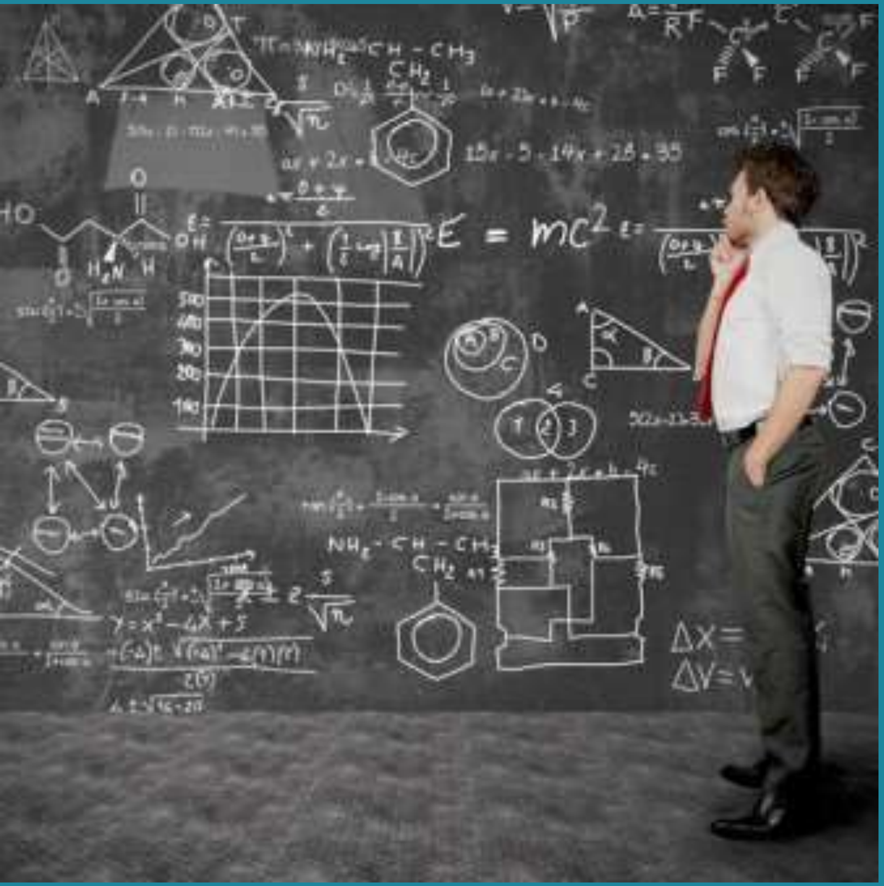
- Firms will most likely need to outsource to independent auditors
  - July 2021
  - ATO taking an education approach till June 2021

Does it all matter (let it go, let it go….)

Opportunities – we can all benefit …

- Don’t get in trouble… ATO, ASIC, Bodies
- Free up precious resources
  - “do more fun stuff” (profitable)
- Reduced Risk Exposure
  - Cam & Bear Pty Ltd
  - Ryan Wealth Holdings Pty Ltd
- Lower PI premium
- Let the Auditor be the bad guy
- Educate Clients
- Improve SIS compliance
- Be on the front foot
- Your clients will thank you….

Indexation of Transfer Balance Cap (TBC)



Or as I call it, **Keeping Super Simple**....

- Threshold is rising to $1.7M on 1 July

- Before 1 July 2021, all individuals have a personal transfer balance cap of $1.6 million.

But wait.....

Indexation of Transfer Balance Cap (TBC)

- No… Not everyone will get a $100K rise.
- Each individual will now have a personal TBC somewhere between 1.6M and 1.7M
- This is worked out on how much of the TBC you may have used prior to 1 July 2021
- Individuals who have not yet started a retirement income stream will get access to the full $1.7M
- What if you already have transactions in your TBC account?
- You multiply the $100K increase by your unused cap percentage ***(getting fun isn't it)***

Example

- Nina started a retirement phase income stream with a value of $1.2 million on 1 October 2018.
- There are no other events in Nina's transfer balance account. The highest ever balance in her transfer balance account is $1.2 million.
- Nina's unused cap percentage is 25% of $1.6 million.
- Nina's personal transfer balance cap will by indexed by 25% of $100,000.
- Nina's personal transfer balance cap after indexation on 1 July 2021 is $1.625 million.

So, if you are already at $1.6M there is no increase at all. Sorry.

https://www.ato.gov.au/Individuals/Super/In-detail/Withdrawing-and-using-your-super/Indexation-of-Transfer-balance-cap/

But what if I…

No! You can't get around the rules by commuting back to accumulation prior to 1 July 2021, as the ATO uses your highest ever TBC account balance.

- Planning strategy to wait till 1 July 2021 to start any new retirement income streams?
- ATO is now displaying data on a person's highest TBC and will in due course display your individual indexed TBC.
- Special rules for child death benefit pensions and defined income streams

Increased Age Limits now apply

- Work Test now does not apply till you turn 67.
- This applies from 1 July 2020

Further One Year Exemption From Work Test?

- One off opportunity
- Can be used only in year after last met work test
- Must have TSB less than $300,000

Indexation of Contribution Caps

Concessional Contribution Cap

- From 1 July 2021 the CC Cap is increasing to $27,500
- Planning implications for Reserving Strategy?
- Deduction of $27,500 available this financial year?

Non-Concessional Contributions

- From 1 July 2021 the NCC also increase to $110,000
- Accordingly, the 3 year bring forward amount will also increase to $330,000
- What if you have already triggered the bring forward amount in 20 or 21FY?
- Do Changes to the Total Super Balance come into play?

Indexation of Contribution Caps

Total Super Balance

- Increasing to $1.7M inline with increase of TBC
- As opposed to the TBC there is no individual TSB (just to keep it simple..)
- What does it affect? Non-concessional contributions.
- Change in bring forward thresholds

2021 Rules

Total Super Balance at 30 June 2020	Non-concessional contribution cap / bring forward rules
$1.6m or more	$0, no bring forward
$1.5m or more but less than $1.6m	$100,000, no bring forward
$1.4m or more but less than $1.5m	$200,000, 2 year bring forward period
Less than $1.4m	$300,000, 3 year bring forward period

Table 1

2022➔ Rules

Total Super Balance at 30 June 2021	Non-concessional contribution cap / bring forward rules
$1.7m or more	$0, no bring forward
$1.59m or more but less than $1.7m	$110,000, no bring forward
$1.48m or more but less than $1.59m	$220,000, 2 year bring forward period
Less than $1.48m	$330,000, 3 year bring forward period

Table 2

What bring forward threshold applies?

- Must be under 65 at some time in the trigger year. (Bill to change to 67 has not yet passed)
- If you first trigger in 2020FY, Table 1 will apply for 2021 and 2022.
- If you first trigger in the 2021FY , Table 1 will apply for 2022 and 2023
- Table 2 applies if you first trigger in the 2022FY onwards
- Example. You could contribute $100K on 30 June 2021 and then $330K on 1 July 2021
- Example. If you contribute $101K on 30 June 2021 you can then only contribute another $199K during the 22 and 23 years.
- The TSB thresholds do need to be met in years 2 and 3 which may limit what otherwise may be available under the bring forward thresholds.

Simple….

IS THAT ALL?

Six Member SMSFs

- Legislation not yet passed
- Should corporate trustee be compulsory?
- Benefits
  - Pooling allows greater investment choice
  - Lower administration fees by just having one fund
- Downsides?
  - More members, less equal say? Voting rights?
  - Risk of misadventure
  - Managing investment strategy of six people
  - Saying goodbye ….
  - Higher audit fees… ☺

Investment Strategies

- ATO campaign pre-covid.
- We have not witnessed any reviews in the wild.
- What do we see
  - Pro-forma tick the box
  - Unsigned
  - Last reviewed many years prior
  - Completed by accountant
  - No real consideration of insurance
- Accountants and Trustees leaving themselves open to litigation.
- Not a problem till it’s a problem.

The Covid Hangover

Minimum Pension Factors

Age		
	For 2020/21	From 2021/22
Under 65	2%	4%
65 to 74	2.50%	5%
75 to 79	3%	6%
80 to 84	3.50%	7%
85 to 89	4.50%	9%
90 to 94	5.50%	11%
95+	7%	14%

Rent Relief

- ATO has made a determination that “loans” created as a result of granting related party rent relief will not be treated as in-house assets.

  This also applies to rent relief provided by trusts/companies owned by the Fund.

- Trustees still need to follow national code of conduct rules and complete formal paperwork.

➢ *We are seeing poor compliance in this area.*

- Whilst ATO are not actively targeting, they can still review if otherwise the Fund is selected for audit.

https://www.legislation.gov.au/Details/F2020L01482/Download

Related Party LRBA – Payment Relief

However if the varied terms arising from the repayment relief reflect similar terms to what commercial banks are currently offering for real estate investment loans as a result of COVID-19, we will accept the parties are dealing at arm's length and the NALI provisions do not apply.

From the ATO

Non – Arm’s Length Expenditure

- ATO has extended transitional relief till 1 July 2022.

- Review LCR 2019/D3
  - Accountants charging their own Fund ?
  - Fix allocation of client fees
  - Real estate agents not charging SMSF for agent commissions
  - Financial planners etc

https://www.ato.gov.au/law/view/view.htm?docid=%22COG%2FPCG20205%2FNAT%2FATO%2F00001%22

https://www.ato.gov.au/law/view/document?LocID=%22COD%2FLCR2019D3%2FNAT%2FATO%22&PiT=99991231235958

And lastly, just before you go…

BUDGET 2022

11 May 2021


and
breathe

TriSuper Auditors

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