

Horizon Management Client Newsletter

Winter 2014

Introduction

Welcome to the Winter Edition of the Horizon Management Newsletter.



Reporting Obligations

Please note that in order for us to ensure that your SMSF's reporting obligations are met by the due date, we will be contacting trustees in the coming weeks to discuss the lodgement of your SMSF's annual return and audit.

Consulting Services

While you all know of the administration service we provide some clients may not be aware that we also provide general consulting and technical support services to trustees.

This includes high level strategic advice to ensure members obtain the maximum benefit possible from their SMSF in the context of their overall financial position.

Our consulting advice covers:

- Development and implementation of retirement benefit strategies
- Contribution/Accumulation strategies
- Advice on compliance with superannuation legislation
- Advice regarding the use of limited recourse borrowing arrangements

Our service also includes advice about rectifying identified compliance breaches, implementing irregular strategies, re-contribution strategies and other areas of superannuation that require specific technical consideration.

What's been happening in the industry?

New ATO Administrative penalties from 1 July

The new penalty regime for SMSFs commenced 1 July 2014. This means that any breach reported in an auditor contravention report (or discovered in an ATO audit) could result in fund trustees personally facing significant fines. The penalty paid is calculated on a set number of "penalty units", dependent on the breach. The current value of one penalty unit is \$170.

The table below highlights some of the key contraventions

Rule	Penalty
Financial Statements not prepared	\$1,700 (10 penalty units)
Prohibited from providing financial assistance to a member	\$10,200 (60 penalty units)
Prohibition on super fund borrowing, except as permitted, e.g. limited recourse borrowing arrangement	\$10,200 (60 penalty units)
Contravention of In-House Asset rules	\$10,200 (60 penalty units)
Failing to notify ATO of an event that has significant adverse effect on the fund's financial position	\$10,200 (60 penalty units)
Failing to notify ATO of change of status of SMSF, e.g. fund ceasing to be a SMSF	\$3,400 (20 penalty units)

If you are contemplating any transactions which may breach any of these rules or any other transaction about which you are uncertain please contact us before you act.

Excess Non-concessional Contributions Refund

In May 2014, the government introduced a mechanism which is being heralded as “a win for SMSF trustees”.

The government has moved to introduce a mechanism to allow taxpayers to withdraw excess non-concessional contributions made after 1 July 2013.

“This is good news as it stops punitive tax outcomes where taxpayers can pay up to 93 per cent on excess non-concessional contributions,” said the spokesman for the SMSF industry’s peak body, SPAA, Jordan George.

“We congratulate the government on allowing taxpayers to refund excess non-concessional contributions, removing the overly punitive outcomes.”

However, he also said the government will need to work through the finer details of the proposal.

Contributions changes from 1 July

As highlighted in our Autumn Newsletter, from 1 July 2014, the standard (concessional) contribution cap increased to \$30,000 and the cap for those aged 50 and over increased to \$35,000.

As a result of the above increase in the standard concessional contribution cap, the after-tax (non-concessional) contributions cap also increased to \$180,000 for 2014/15 (up from \$150,000 in 2013/14). This will also increase the bring-forward amount to \$540,000 over a three-year period.

Total & Permanent Disability Insurance Changes from 1 July

Trustees of an SMSF must have a strategy to address insurance for members of the fund.

This does not make insurance mandatory, but it forces the trustees to actively review the insurance requirements for fund members on a regular basis e.g. annually.

The changes from 1 July 2014 will mean that only “any occupation” TPD policies definitions will be permitted to be purchased by SMSFs after this date. The “own occupation” definition of TPD will be prohibited from any new policies. Policies with TPD held prior to 1 July 2014 will be grandfathered under the old rules.

Changes to Account-Based Pension deeming rules

From 1 January 2015, the normal deeming rules will be extended to superannuation account-based income streams. This will mean all financial assets are assessed under the same rules.

Account-based income streams held by pensioners prior to 1 January 2015 will continue to be assessed under the existing rules unless they choose to change products or buy new products from 1 January 2015.

Changes to Commonwealth Seniors HealthCare Card eligibility

From 1 January 2015, income drawn from a superannuation pension will be included in the income test for new recipients of the Commonwealth Seniors Health Card (CSHC).

Under the current legislation, this income is excluded from the test. The current income thresholds are \$50,000 for a single person and \$80,000 (combined) for members of a couple.

This proposal will not affect anyone receiving a CSHC as at 31 December 2014. If you plan to start a superannuation pension after 31 December 2014, and you will not be eligible for the CHSC, you may need to review the impact on your retirement planning.

ATO and LRBA zero interest loans

The ATO will soon clarify its position over the validity and tax treatment of related-party limited recourse borrowing arrangements charging zero interest being used by SMSFs.

This is in response to concerns from the industry over recent ATO private binding rulings imposing tax liabilities on SMSFs with zero interest related-party loans on the basis that they generated non-arms-length income.

In previously released private binding rulings, the ATO stated that nil or low interest loans would not generate non-arms-length income and also issued favourable public comments regarding contributions and arm's-length-rule aspects of the law.

SuperStream

The government announced on 26 May 2014 that the date by which superannuation funds must comply with the SuperStream contributions data standards has been pushed back, a move which is said to provide "certainty" to SMSF trustees.

Superannuation funds will have up to 1 July 2015 to meet the new standards.

SPAA spokesman, Jordan George, said this announcement from the government provides "more time and greater certainty" for employers and SMSF trustees who still need to take action to comply with the SuperStream contribution standards.

Horizon is equipped to ensure that your fund complies with the SuperStream reforms.

2014/15 Checklist

Beneficiary Nominations

Your superannuation member balance does not form part of your estate unless it is specifically nominated as a beneficiary. If your fund's trust deed permits, a member can nominate to whom they want their death benefit paid, by way of a death benefit nomination. If your trust deed does not do this it needs to be updated.

A death benefit nomination is a notice given to the trustees setting out who to pay the death benefit to and in what proportion. It is either:

Binding - it directs the trustees to pay the member's death benefit to a legal personal representative or dependent; or

Non-binding - it notifies the trustees of the member's preferred beneficiaries, leaving the trustees to make the final decision.

If your fund does not have a valid binding nomination for a member, their death benefit is paid according to the fund's trust deed, with the trustees being guided, as appropriate, by any non-binding nomination.

It is prudent to regularly update any nominations as these nominations lapse after a period of only three years.

SMSF Deed Update

Any SMSF deed older than five years should be reviewed as your fund deed can quickly become out of date and possibly non-compliant.

In instances where the trustees decide to update their deed, we recommend that they also consider appointing a corporate trustee at the same time (if not already in place). Benefits of having a corporate trustee over individual trustees include:

- Continuous succession
- Administrative efficiency
- Greater asset protection
- Estate planning flexibility.

Enduring Power of Attorney

It is vital that every trustee/member of a SMSF has an Enduring Power of Attorney (EPoA) so that the nominated attorney can continue to operate the fund when a trustee is no longer capable of doing so. Failure to do so can cause non-compliance issues for your fund.

An EPoA allows one person to give another person the authority to make decisions on their behalf if they find themselves unable or incapable of conducting their affairs at any time in the future.

Wills

We are concerned that some clients, surprisingly, do not have a will in place.

If you do not have a will we urge you to please take the time this year to visit a solicitor and have a will drafted or your existing will/s reviewed. For clients with an existing will, please note that these should be reviewed at least every 4-5 years. If you do not currently have a solicitor we have a panel of solicitors from which you can select one.

Please contact us if you have any questions in relation to any of the matters discussed in this newsletter

***Disclaimer:** The information presented in this newsletter is of a general nature only and does not constitute advice. Please seek the services of your financial adviser and/or tax agent should you wish to discuss the matters further.*

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