ACCURIUM

# Super reforms: the final countdown

www.accurium.com.au

P | 1800 203 123

# Agenda

- TTR pensions
- Defined benefit pensions
- Reversionary and death benefit pensions
- CGT relief and ECPI
- Documentation and reporting

# Transition to retirement pensions

# TTR pensions from 1 July 2017

- TTRs will lose tax exempt status at 1 July 2017
- Treasury Laws Amendment (2017 Measures No. 2) Bill 2017
- Allows for a TTR to be in tax free retirement phase
  - Automatically upon attaining age 65
  - Once trustee is notified the pensioner has satisfied another condition of release with a nil cashing restriction
- Pension is still a TTR not an ABP

# Accessing the CGT relief for TTRs

- If TTR retains tax exempt status at 1 July 2017 this will not count towards eligibility for CGT relief
- If a TTR that would lose tax exempt status is commuted prior to 1 July can still apply the CGT relief

# Claiming ECPI

- Earnings on assets supporting TTR pensions from 1 July 2017 that have not met a condition of release will not be eligible to claim ECPI
- TTR pensions must still meet minimum pension standards
- When condition of release is met and TTR pension converts to retirement phase the actuarial calculation will treat the interest as a tax free pension liability from that date
- If assets are segregated to a TTR pension they would no longer be segregated pension assets at 1 July 2017
  - Potentially require actuarial certificate for segregated non-current assets

# Defined benefit pensions

# Credits and debits

- SMSF complying pensions fall under capped defined benefit income stream rules
- Transfer balance credit at 1 July 2017 is based on a 'special value'
  - Market linked / Life expectancy pensions = term remaining x annual entitlement
  - Lifetime pensions = 16 x annual pension entitlement
- Transfer balance debit upon pension commutation post 1 July 2017:
  - Market linked / Life expectancy pensions = special value at commutation date
  - Lifetime pensions = special value at 1 July 2017
- New pensions after 1 July 2017 are *not* capped defined benefit income streams
- Transfer balance credit upon pension commencement post 1 July 2017:
  - Market linked pension = market value of income stream
  - Retail annuity = purchase price
- View fact sheets on our Technical Hub or give us a call

# Total superannuation balance

- Value at each 30 June for a member is generally based on sum of
  - Market value of accumulation interests and non-retirement phase TTR pensions
  - Transfer balance account

- Adjustment made for account based income streams
  - ABPs and market linked pensions in an SMSF
  - Transfer balance account credits/debits disregarded and instead valued at current account balance

- Complying lifetime and life expectancy (term) pensions effectively valued at sum of credits and debits against transfer balance cap

# Issues with DB pensions

- Commuting DB pensions post 1 July 2017 if account balance is greater than $1.6 million
  - Transfer balance account credit of new MLP is account balance
  - Important to review prior to 1 July!
- Working out the annual entitlement for a special value
  - Annual entitlement = (first payment / days in period of the payment) x 365
  - In practice SMSF payments are often ad-hoc
  - What about on commutation where all payments have already been made
  - What happens if there is indexation in the year
- Flexi pensions (SIS Regulation 1.06(6) pensions)
  - Not a capped defined benefit income stream, are commutable
  - Value at account balance subject to max commutation value using Schedule 1B factors

# Reversionary and death benefit pensions

# Existing death benefit pensions

- Automatically reversionary pension
  - Credit applied at latter of 1 July 2017 or 12 months after date of death
- Death benefit pension
  - Credit applied at 1 July 2017
- Credit = value of income stream at 1 July 2017
- Binding death benefit nomination not sufficient to make an income stream reversionary

# Death benefit cashing requirements

- LCG 2017/3 – detail on cashing death benefits and the transfer balance cap

- Cashing requirement of death benefits
  – must be cashed as a lump sum or/and death benefit pension
  – cannot be retained in super as an accumulation interest, nor used to commence new pensions or amalgamated with other pensions
  – death benefit pension (includes reversionary pension) cashing requirement not met until pension exhausted

- PCG 2017/6 – amnesty until 1 July 2017 on current death benefits

- If receiving a death benefit will tip beneficiary over the transfer balance cap could
  – pay some/all of death benefit as lump sum
  – receive as pension and commute other non-death benefit pensions of the beneficiary

# Dealing with an excess transfer balance

- Commutations to accumulation prior to 30 June may not attract compliance issues – see last example of PCG 2017/6

- If receiving a death benefit will tip beneficiary over the transfer balance cap could
  - pay some or all of death benefit as lump sum
  - receive death benefit pension and commute excess from other non-death benefit pensions of the beneficiary
  - combination of these

# CGT relief

# Contributions received after 9 Nov

- Assets solely supporting pensions at 9 November 2016 can still access CGT relief if contribution is received after that date

- ATO confirmed that provided a member does comply with transfer balance cap or TRIS reforms the relevant date for CGT relief is the date assets cease to be segregated pension assets

- Have two options:
  - keep pension assets segregated until time choose to cease to be segregated pension assets and apply CGT relief at that date
  - assets become unsegregated at date of contribution and apply CGT relief at that date

# Pensions commenced after 9 Nov

- CGT relief applies on assets held at 9 November 2017 that are affected by transfer balance cap or TTR reforms
- Pensions commenced after 9 November 2016 but affected at 1 July 2017 would provide eligibility to apply CGT relief to assets held at 9 November
- Will only apply for unsegregated assets held from 9 November 2016 to 30 June 2017

# Pension commutation minutes

- Funds commuting pensions at 30 June 2017 to comply with TBC and access CGT relief won't know value need to commute until a later date

- ATO confirm in PCG 2017/5 requirements for documentation of pension commutation when don't know how much need to commute at 30 June 2017
  - Request and acceptance to commute made in writing before 1 July 2017
  - Specifies method that will be used to determine commutation value
  - Specifies the income stream(s) that may be commuted and order of priority
  - Does not conflict with any other agreement and is allowed by the trust deed

# ECPI

# Pension payments

- From 1 July 2017 partial commutations paid as lump sum cannot count towards minimum pension standards
  - Partial commutations will create a debit in a member’s transfer balance account

- From 1 July 2017 superannuation income stream payments cannot be treated as lump sums for tax purposes
  - Income stream payments will not create a debit in a member’s transfer balance account

# Failure to meet pension standards

- Explanatory memorandum Treasury Laws Amendment (2017 Measures No. 2) Bill 2017 notes:

  > While a failure to meet the annual payment requirements would generally only occur at the end of a year, the consequence of that failure means that there is no superannuation income stream for the year.

- A debit against transfer balance account upon failing to meet pension standards occurs when an income stream ceases to be an income stream, and the debit amount is the value just before that time

- Amendments allow for this to be the time at which it is known the pension standards have not been met and the income stream stops being an income stream

# Segregated pension assets

- ATO interpretation
  - any time solely in pension phase are deemed to be segregated
  - must use the segregated method for assets in those periods
- Potential to affect tens of thousands of funds
- Greater administration requirements to keep track of multiple periods
- For 2016-17 ATO advice is:
  - *‘Where an SMSF that is ‘fully in pension phase’ moves from being deemed to be segregated to unsegregated for part of the 2017 income year as a result of a member (or members) commuting amounts back to accumulation phase to comply with the transfer balance cap before 1 July 2017, we will not seek to apply compliance resources to reviewing the actuarial calculation where the actuarial certificate obtained by an SMSF is for the entire income year, instead of the shorter period within that income year that the SMSF was unsegregated.’*
  - CGT relief must use segregated method if solely in pension at 9 November 2016

# Questions?

Email us: act@accurium.com.au

Call us: 1800 203 123

Visit our website: www.accurium.com.au/technical-hub/

www.accurium.com.au

P | 1800 203 123