SUPERANNUATION CHANGES

"$1.6 million in pension. Does it affect you?"

As you may be aware, through our previous correspondence, media or newspapers, a number of changes are impacting on superannuation effective 1 July 2017. One of the primary changes will limit the amount a superannuation member can have in pension to $1.6m, across all funds. Therefore, for those with balances in excess of $1.6m and receiving a pension(s) you may be asking a number of questions, including:

- What pensions should I keep?
- What pension should I roll back to accumulation?
- What documents do I need to complete to roll back to accumulation phase prior to 30 June 2017?
- Should I withdraw a portion and gift it to my spouse for his/her superannuation contributions?

Worked Example: Bob and Jane and The Tired Superannuation Fund

Facts:
Bob and Jane operate The Tired Superannuation Fund.
Bob is aged 68 and retired.
Bob has $2.3m in superannuation.
Bob has commenced 3 account based pensions, and the taxable/tax free components are as follows:

Pension	Taxable $	Tax Free $	Total $
ABP#1	500,000	0	$500,000
ABP#2	90,000	210,000	$300,000
ABP#3	0	1,400,000	$1,400,000
Accumulation	100,000	0	$100,000
Total	**810,000**	**1,490,000**	**$2,300,000**

Jane is aged 63 and is still working.
Jane has $1m in superannuation.
Jane has a transition to retirement income stream (TRIS) for her $1m in superannuation. Jane is planning on retiring at age 65.

Bob and Jane have a son Ty who is 38 years of age.

<u>Suggested Strategy Prior to 30 June 2017</u>

Step 1: Increase Jane's Account and Decrease Bob's

- Bob withdraws $500,000 from ABP#1;
- Bob gifts the $500,000 to Jane;
- Jane makes a non-concessional contribution of $500,000 to the superannuation fund taking her balance to $1.5m. Bob is unable to recontribute such as a large amount as he is over 65 and doesn't satisfy the work test (40 hours in a 30 day period).

Step 2: Rollback of pension to $1.6m

- Bob keeps $200,000 of ABP 2 in pension phase so that the 70% tax free status can be preserved and rolls the remainder of APB 2 ($100,000) into accumulation.
- Bob keeps ABP 3 in pension phase so that the tax free status can be preserved.
- In order to achieve this, Bob ensures that the following documentation is completed prior to 30 June 2017:
  - Pension Commutation Request from Bob to the Trustee of Tired superannuation fund stating the order in which he wishes to roll his pensions back to accumulation; and
  - Trustee Resolution agreeing for the pension to roll back to accumulation.

Step 3: Capital Gains Tax Reset & Relief

Bob has the option to reset cost bases for the assets that he rolls back to accumulation phase (this can be done on an asset by asset basis), he elects not to reset these for the following reasons:

- Resetting the cost bases means that he effectively disposes of and re purchases the assets at market value. He is intending to sell a parcel of his shares in the next 12 months. If he is deemed to re purchase these shares he won't get the CGT 1/3rd discount for owning them greater than 12 months.
- All other assets he intends to hold long term, Jane will also be in pension by the time these assets are sold. Therefore, the proportion of the fund in pension compared to accumulation will be substantially higher in future years, resulting in the proportion of the fund that is taxable being substantially less.

Step 4: Timing on Jane's Non-Concessional Contribution

Please note Bob elects to rollback his pensions above into accumulation prior to Jane making her non-concessional contribution. If Jane had made her non-concessional contribution before Bob rolled back a portion to accumulation, the amount of the fund in accumulation would have been higher and potentially given rise to a higher amount subject to Capital Gains Tax.

<u>Suggested Strategy 1 July 2017 - 30 June 2018</u>

Step 1: Minimum Pension Withdrawal and Lump Sum payments

Bob realises that he also has some major expenses for house renovations in the next twelve (12) months. In order to preserve the tax free portion of his pensions, Bob draws the minimum from the pensions during the next twelve (12) months and takes a lump sum from the accumulation account. By doing this, Bob preserves the tax free portion of the pension, which is the portion that will pass to Ty. Bob does this because Ty is no longer a dependent and should Bob become deceased Ty will not have a tax liability on the tax free portion, as opposed to the taxable portion.

Step 2: Continuation of Transition to Retirement Income Stream (TRIS)

Jane is aware that all earnings generated by the TRIS become taxable again from 1 July 2017 and that she has the option to cease the TRIS or continue with it. Jane decides to continue with the TRIS as payments to her remain tax free as she is aged over 60. Jane thinks to herself, "I'm glad I'm over 60 otherwise I would have considered cancelling that TRIS in May/June 2018 as all earnings are taxable in the fund and I also pay tax when I receive the funds personally".

(Note: TRIS is not classified as a pension asset and whilst a minimum amount is required to be withdrawn, it is not required to be withdrawn until the end of the financial year. Keeping the TRIS until this time doesn't change the taxability of the earnings in the superannuation fund, but Jane still has the flexibility to take a payment should she wish to).

If you feel your member balance exceeds $1.6m, or have any queries, please contact your Director at Williams Hall Chadwick for the necessary documents to be forwarded.

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