

Article Information

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Superannuation death benefits - Review succession plans

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The changes to superannuation announced in the 2016 Federal Budget have been passed by Parliament with the majority of reforms taking effect on 1 July 2017. One significant change relates to the introduction of the transfer balance cap (TBC) and the limit this imposes on the amount of capital that an individual can use to support a pension in retirement phase.

To date, the prominent headlines relating to the TBC have targeted people in or approaching retirement with less focus on how the TBC impacts on what happens to your superannuation if you die. The introduction of the \$1.6 million TBC applies to pensions paid to your dependants after you die (called death benefit pensions or reversionary pensions) meaning it has a substantial impact on estate planning.

The main changes that you need to plan for in the event of death include:

- Where you wish to pay a death benefit pension, your beneficiary's TBC will be relevant in determining how much can be paid as a pension to them. Any excess death benefit above their TBC must be paid as a lump sum to them. This limits the amount of money that can now be retained within the superannuation environment upon your death.
- Where your dependant has already used some of their TBC, you will need to carefully plan to:
 - limit accruing any excess transfer balance earnings and applicable tax,
 - maximise the amount of benefits remaining in your SMSF or the super environment, and
 - minimize the amount of death benefits that must be paid to your beneficiaries as a lump sum.
- The changes to reversionary pensions and in particular understanding:
 - the limited circumstances where a transition to retirement pension can revert to someone else,
 - the special rules to delay when the reversionary pension counts to the new recipient's TBC and managing any excess, and
 - the difference in how reversionary and non-reversionary pensions count to the new recipient's TBC.
- The special rules that operate to modify the TBC of a child in receipt of a death benefit pension to ensure that their personal TBC is not exhausted.
- The ability for a recipient of a death benefit pension to rollover the pension to another super fund although to satisfy the regulatory rules, a new death benefit pension must be commenced or the amount must be withdrawn from the superannuation environment as a lump sum death benefit.
- The changes to your SMSF claiming a deduction for an anti-detriment amount associated with the payment of a death benefit lump sum.

Given the significant shift in the landscape with respect to SMSFs and estate planning, we also strongly recommend that trustees have their SMSF trust deed reviewed to ensure maximum flexibility when dealing with excess TBC amounts, rollover of death benefits, reversionary pensions and child pensions. This should be done alongside the review of any binding death benefit nomination(s) you have in place to ensure that they too are valid and provide the certainty in how your death benefits will be dealt with upon your death.

The payment and tax treatment of death benefits paid from an SMSF has traditionally been a complex area, with the need

to obtain advice from a specialist. With the recent introduction of the TBC, the need for specialist advice is ever so important.

How can we help?

If you would like to understand how the Government's introduction of the TBC will affect your superannuation and succession plans, please feel free to give our team a call to arrange a time to meet so that we can discuss your particular estate planning requirements in more detail.