Fund Considerations

Contributions must be received by the fund by 30 June

To be eligible to claim a tax deduction for super contributions, the payment needs to be **received** by the fund before 30 June. Merely incurring a liability will not work.

A reminder that 30 June 2020 is on a Tuesday this year.

Therefore, to ensure the super fund receives the contributions pre 30 June, we recommend that all contributions (including employer contributions via the Super Clearing Houses and the ATO's Super Clearing House) contributions are paid no later than **Monday 22 June 2020**.

Review your plans and stay on track

- The cap limit on concessional (pre-tax) super contributions is $25,000 per annum regardless of your age (however different rules may apply if aged over 74).
- An additional 15% tax on concessional contributions (known as Division 293 tax) will be payable by people with incomes greater than $250,000 per annum.

It's important to review your current contribution strategy to assess the impact of these changes and any amendments that may be required.

Care should be taken to avoid contributing in excess of the contribution caps, as this can result in tax penalties.

Pension Minimums and Maximums

In order to be able to receive the tax-free income associated with having a retirement-phase pension, the Minimum pension payment needs to be withdrawn from the fund's bank account prior to 30 June.

The minimum pension amount should have been outlined to you in the tax pack letter, but please let us know if need to reconfirm this amount.

We further note that the minimum drawdown requirements for account-based pensions and similar products have been reduced by 50% in FY20 and FY21.

Age	Default (PRE COVID-19) minimum drawdown rates	2019-20 and 2020-21 reduced rates
Under 65	4%	2%
65-74	5%	2.5%
75-79	6%	3%
80-84	7%	3.5%
85-89	9%	4.5%
90-94	11%	5.5%
95 or more	14%	7%

Pre 30 June 2020 considerations

Every year SMSF Trustees are required to complete a thorough review of your fund's investment strategy including to confirm the existing insurance held by the SMSF on behalf of members is appropriate.

Ensure you have rectified any outstanding compliance issues noted by your auditor.

Review any salary sacrifice arrangements to ensure they are consistent with the $25,000 contribution caps and still appropriate.

Event-based reporting

A reminder that a significant reporting regime for SMSFs commenced from 1 July 2018.

Since 1 July 2017, SMSF members have been subject to a $1.6 million Transfer Balance Cap **(TBC).**

The TBC is a limit on the total amount of superannuation that can be transferred into the retirement (pension) phase, which in turn limits the tax-free status of a pension balance available to you (above this amount).

Events that affect the value of your Transfer Balance Cap need to be reported to the ATO within strict timeframes.

Since 1 July 2018 all events that affect the value of your TBC – new pensions, some limited recourse borrowing arrangements, some lump sum payments – need to be reported to the ATO within short timelines.

This means, to ensure you stay compliant with the ATO, it is crucial you let Hanrahans know if you plan to make any structural changes to your fund such as starting a new pension, stopping a pension or buying a property using debt.

Carry forward unused concessional contributions

Where a member:

- has a total superannuation balance below $500,000 as at 30 June, and
- has not used their entire concessional contribution cap for the year ($25,000)

Members now have the ability to 'carry forward' the unused contribution amount on a rolling 5-year basis. Unused cap amounts can be carried forward from the 2018-19 financial year (with 2020-2020 the first opportunity to access these unused concessional contributions).

To access this concession, remember:

- Your total superannuation balance must be below $500,000 on 30 June of the prior year before you utilize any carried forward amount (within the 5 year term); and
- In some cases, an additional 15% tax can apply (30% total) to concessional contributions made to super where income and concessional contributions exceeds certain thresholds ($250,000 in 2019-20). Your income could be higher than usual in the year when you sell an asset for a capital gain.

This is an excellent concession to help you top up your superannuation.

Fund house-keeping

Does your fund need a valuation?

SMSFs are required to value ALL ASSETS at market value each year.

Depending on the situation, a market valuation may be undertaken by a:

- Registered valuer
- Professional valuation service provider
- Member of a recognised professional valuation body, or
- A person without formal valuation qualifications but who has specific experience or knowledge in a particular area.
- Public market listings, eg. the ASX (all listed investments are valued as per available Stock Exchanges)

For real property, the valuation may be undertaken by anyone as long it is based on objective and supportable data. A valuation undertaken by a property valuation service provider, including online services or a real estate agent is acceptable.

However, if the asset value represents a significant proportion of the fund's value or the nature of the asset indicates that the valuation is likely to be complex, you should consider the use of a qualified independent valuer.

In general, real estate does not necessarily need a formal valuation each year by a licensed valuer unless there is a significant event that occurs during the year which may affect the previous valuation.

A significant event could be one that directly involves the property itself, the fund on a general level such as one of the funds members going into **pension mode**, or if the asset represents a significant portion of the funds value.

Review the fund's investment strategy

Trustees are required to regularly review the fund's investment strategy.

We recommend trustees review the investment strategy plan at least annually or when the fund circumstances change and recommend that you document this via written meeting minutes/or just email hanrahans to confirm your thoughts/decisions/actions.

Where a SMSF has entered into a borrowing arrangement to acquire an asset, trustees should consider the need for any insurance cover inside the fund to assist in meeting the on-going obligations of the debt repayments.

The fund's ability to meet the on-going debt repayments can be severely jeopardised where one member of the fund dies, as the fund may have needed to utilise contributions that were being made for that member to meet the repayments. Such a scenario could result in the fund having to sell the property.

If you wish to discuss your funds investment strategy further, please contact Michael or Eleanor Hanrahan.

Review Personal Insurance inside your SMSF

It is now compulsory for all SMSF trustees to consider the need for insurance cover for the fund members when formulating and reviewing the fund's investment strategy annually.

It's important that you review superannuation inside your SMSF not just for compliance with the law but also effectiveness.
An important issue to consider is how any insurance inside your fund should be structured; that is, from where the premiums are paid from the fund and what account any policy proceeds will be paid to inside the fund.

If you wish to discuss your funds insurance needs further, please contact Michael or Eleanor Hanrahan.

1) Contributions you didn't know you made

A contribution can be more than just a deposit of money into the bank account of a superannuation fund. It could include:

- Cash Money
- Using non super fund cash to pay a fund expense or liability
- In-specie asset transfers (e.g. transfer an allowable asset investment into the fund)
- Capital Improvements to existing fund assets for no consideration or less than arm's length consideration
- Rendering services to the fund at less than market value or generally increasing the value of a fund asset
- Forgiving a fund's debt or making Guarantor arrangements
- Some Discretionary Trust distributions

Trustees can often be surprised by what is considered to be a contribution, so please contact us if you wish to discuss the above in more detail or have any concerns.

2) Review and rectify any outstanding compliance issues

If your auditor has highlighted any breaches or issues in previous year fund audits, you should review and rectify these issues by 30 June.

SMSF compliance is a high-risk area for review by the Australian Taxation Office (ATO) and they have a number of powers to address non-compliance:

Education directions - require the trustee/director to complete an ATO approved education course within a specific timeframe. An administrative penalty of $2,100 applies for non-compliance.

Rectification directions - requiring the SMSF's trustee/director to take specific action to rectify the contravention within a specific timeframe.

Administrative penalties - penalties from $1,050 to $12,600 apply to specific breaches. Each individual trustee is liable for the penalty and directors of a corporate trustee are jointly and severally liable.

The penalties are payable by the trustee/ director and not refunded by the SMSF.

- Informal arrangements to rectify minor breaches
- Enforceable undertakings or Disqualification of a trustee
- Allowing the SMSF to wind up
- Notice of non-compliance or Freezing an SMSF's assets
- Civil and criminal penalties where the fund:
    - Breaches the sole purpose test
    - Lends to members of the fund
    - Breaches the borrowing rules
    - Breaches the in-house asset rules
    - Enters into prohibited avoidance schemes
    - Fails to notify the regulator of significant adverse events
    - Breaches the arm's length rules for an investment
    - Promotes an illegal early release scheme

These powers also enable the ATO to look back to any breaches from previous years that were unresolved previously.

Corporate Trustee – benefits

If the ATO charges a penalty as a result of a compliance issue - each Trustee is separately liable for the penalty.

Therefore there is a significant benefit to ensure your fund has a corporate trustee, as the company will incur a single penalty, rather than where a fund has a husband and wife individuals acting as individual trustee, in which case each individual trustee is charged the penalty amount (essentially doubling the penalty).