Super Outcomes
Federal Budget 2021

May 2021

It was a quieter night for superannuation in the 2021-2022 Federal Budget handed down on 11 May compared to the far-reaching “Your Future, Your Super” package introduced last year. However, there were a number of measures aimed at increasing the flexibility of the superannuation system. There was also a long-awaited change to the Superannuation Guarantee coverage.

Superannuation Guarantee

The government announced that the $450 per month minimum earnings threshold for the Superannuation Guarantee (SG) will be abolished. This means that the SG will be expanded to cover around 300,000 individuals (as estimated by the *Retirement Income Review*) whose earnings are currently too low to qualify. The measure will take effect from the beginning of the first financial year after Royal Assent of the enabling legislation (expected to occur before 1 July 2022).

There was no announcement on the SG contribution level, meaning that the currently legislated increase to 10% from 1 July 2021 will proceed.

Clarity on the SG increase will be welcomed by both employers and the superannuation industry. The abolition of the earnings threshold is long overdue and will improve superannuation savings, particularly for lower income and “gig” workers.

Flexible Super

Several measures were announced under the heading “Flexible Super”. All of these measures will take effect from the beginning of the first financial year after Royal Assent of the enabling legislation.

The work test that currently applies to voluntary contributions by individuals aged 67 to 74 will be abolished for non-concessional contributions (including under the bring-forward rule) and salary sacrifice contributions.

However, the test will remain in place for personal deductible contributions. This means that to make personal deductible contributions, individuals aged 67 to 74 will continue to need to work at least 40 hours in any 30 day period in the financial year. The existing contribution caps will continue to apply to these contributions.

The eligibility age for the downsizer contribution will be lowered from age 65 to 60 years.

Restricting the abolition of the work test to non-concessional contributions and employment-related concessional contributions (i.e. salary sacrifice contributions) seems complex, but it would appear this measure is intended to limit the ability of non-working individuals with wealth outside superannuation to channel that wealth into the concessionally taxed superannuation environment via personal deductible contributions.

Changes to the First Home Super Saver Scheme

As announced prior to Budget night, the maximum amount of voluntary contributions able to be released from super under the First Home Super Saver Scheme (FHSSS) will be increased from $30,000 to $50,000. The measure is intended to help first home buyers to raise a deposit more quickly, and will commence from the beginning of the first financial year after Royal Assent of the enabling legislation.

There will also be some technical changes to the FHSSS, intended to improve its operation and the experience of first home buyers accessing the scheme:

- increasing the discretion of the ATO to amend and revoke FHSSS applications
- allowing individuals to withdraw or amend their applications prior to them receiving a FHSSS amount, and allow those who withdraw to re-apply for FHSSS releases in the future
- allowing the ATO to return any released FHSSS money to superannuation funds, provided that the money has not yet been released to the individual
- clarifying that the money returned by the ATO to superannuation funds is to be treated as non-assessable non-exempt income in the hands of the fund and will not count towards the individual's contribution caps.

This measure will apply retrospectively from 1 July 2018.

Changes for SMSF members

The residency requirements for SMSFs and small APRA funds will be relaxed by extending the central control and management test safe harbour from two to five years for SMSFs and removing the active member test for both types of fund. The government has stated that this will ensure parity for members of these funds with APRA-regulated funds. It will also provide these members the flexibility to keep and continue to contribute to their preferred fund while undertaking overseas work and education opportunities.

Individuals will be allowed to exit a specified range of legacy retirement products, together with any associated reserves, for a two-year period. Eligible products will include market-linked, life-expectancy and lifetime products, but not flexi-pension products or lifetime products in APRA-regulated funds or public sector defined benefit schemes. Currently, these products can only be converted into another similar product and limits apply to the allocation of associated reserves without counting towards the individual's contribution caps. The inclusion of associated reserves means that the measure will permit full access to all of the product's underlying capital and allow individuals to potentially move to more modern retirement products.

Social security and taxation treatment will not be grandfathered for any new products commenced with commuted funds under this measure, and the commuted reserves will be taxed as an assessable contribution. The measure will apply for the two year period beginning at the start of the financial year following Royal Assent of the relevant legislation.

Facilitating individuals moving from legacy products will be welcomed both by affected individuals and by product providers. The application of the measure beyond SMSFs is not entirely clear at this early stage.

Changes to the Pension Loans Scheme

The government will make some changes to improve the uptake of the Pension Loans Scheme. Participants will be able to access up to two lump sum advances in any 12-month period, up to a total value of 50 per cent of the maximum annual rate of age pension. There will also be a "no negative equity guarantee" introduced so borrowers will not have to pay back more than the market value of their property. Finally, there will be funding to improve awareness of the Scheme among the public.

These changes should help enhance the visibility and utility of the Pension Loans Scheme, which is an underappreciated product among retirees despite comparing favourably to private sector reverse mortgages in many respects.

Other measures

There will be additional funding for APRA and Super Consumers Australia totalling $11.2 million over four years from 2021-22 to support stronger consumer outcomes for super fund members. The funding will be partly met through an increase in levies. There will also be additional funding of $11 million over four years (and $1 million per year ongoing) to the ATO to administer the transfer of unclaimed super money directly to KiwiSaver accounts, and funding for the continued operation of the Financial Adviser Standards and Ethics Authority (FASEA) until its windup on 31 December 2021.

The government has reiterated its previous announcement that it will not proceed with its plan to allow victims of family and domestic violence to access some of their superannuation under the compassionate grounds early release scheme. However, in its Women's Budget Statement released last night, the government has recommenced its plan to build an electronic information sharing mechanism between ATO and the Family Law Courts to allow superannuation assets to be readily identified during family law proceedings. This was originally announced back in 2018 but the Statement says that it was delayed by COVID-19 and the legislation will now be introduced shortly.

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