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SMSF NEWSLETTER

November 2014

SPECIAL POINTS OF INTEREST:

1. **ATO issues guidance on transition to retirement pensions**
2. **Proposed changes to restrict eligibility for the Commonwealth Seniors Health Card**

INSIDE THIS ISSUE:

LATEST ATO NEWS ON PENSIONS

The ATO has published important information regarding 'transition to retirement pensions'. A number of key ATO messages are outlined below.

Quick recap - transition to retirement pension

When you reach age 55, you are currently eligible to start drawing down your superannuation benefits as a transition to retirement pension ('TRIS').

The attraction is that once you reach age 55, you can start a TRIS even though you have not yet quit working. An additional benefit is that earnings from assets supporting the pension are generally tax exempt within the SMSF.

If you start a TRIS, you need to ensure a minimum pension payment is made every year. Also, total pension payments made during the income year must not exceed 10% of the account balance on:

- the day you started the pension (if you commenced it during the year); or
- 1 July for each subsequent year.

10% maximum limit on pension payments

As noted above, one of the restrictions applying to a TRIS is that you are limited to withdrawing a maximum of 10% of your pension balance in any one year. Important points made by the ATO on the 10% rule include:

- the 10% limit does not change with age. However, if you 'retire' for the purposes of the superannuation rules, or reach age 65, the 10% limit will cease to apply. This means there is no restriction on the maximum amount you can withdraw from the fund as a pension payment;
- if you start a pension during the income year, the 10% limit is not pro-ratad; and
- you don't round the 10% maximum to the nearest $10 (whereas you are required to do so with the minimum pension payment).

EXAMPLE–Margot, aged 62, is currently receiving a TRIS with an underlying balance of $250,000. In July 2014, she 'retires' for the purposes of the superannuation rules. This means that the 10% limit no longer applies.

Failing to stick by the rules

If you don't adhere to the pension rules, serious tax consequences can arise for you and/or your SMSF. In particular, if you don't meet the minimum pension payment requirement for the year (or you pay more than the 10% limit), it causes a whole range of problems, including:

- your SMSF loses the pension exemption for the whole year;
- any 'pension payments' you made during the year are fully taxable to you at marginal tax rates. This means that the 'tax free' component, which you don't normally pay tax on, will be taxable and you won't get the 15% tax offset that generally applies to a taxable pension payment; and
- ATO penalties may also apply.

Keeping proper records

The ATO also included a reminder to keep proper records, including:

- if you are at least 60, your SMSF generally does not need to take out tax as the pension payments are usually not taxable to you.
- If you are under 60, your SMSF needs to withhold tax on the 'taxable component' of the pension. You also need to work out whether you want to claim the tax free threshold (i.e. to reduce the tax withheld by your fund on your pension payment).

COMMONWEALTH SENIORS HEALTH CARD

Self-funded retirees are on notice that Federal Budget changes to eligibility requirements for the Commonwealth Seniors Health Card are expected to commence from 1 January 2015. Note, the changes are yet to be legislated.

WARNING–Broadly, the Government is also seeking to abolish the Seniors Supplement for Commonwealth Seniors Health Card holders, with supplement payments expected to finish in September 2014.

Background

The Commonwealth Seniors Health Card is designed to assist qualifying self-funded retirees with certain health costs, including:

- concessional pricing on medicines listed on the Pharmaceutical Benefits Scheme;
- bulk-billed GP appointments (at the discretion of your GP);
- out-of-pocket hospital expenses above the concessional threshold of the Medicare Safety Net;
- discounted rail travel on Great Southern Railway services (such as the Ghan); and
- additional benefits that are offered (e.g. by states and territories).

When do I qualify for the card?

The Commonwealth Seniors Health Card is means tested to ensure it is appropriately targeted. You are generally entitled to the card if you satisfy the following requirements:

- you are at least Age Pension Age, but you do not qualify for income support payments (such as the Age Pension);
- you satisfy an 'income test' (note, an assets-based test does not apply). Generally, to satisfy the income test, your 'adjusted taxable income' must be under: $51,500 (single); $82,400 (couple) or $103,000 (couple separated due to illness, respite care or prison). Note, these thresholds apply from 20 September 2014; and
- you meet certain residency requirements.

TIP–Recent law changes mean that the income thresholds for the Commonwealth Seniors Health Card are indexed annually in September to changes in the CPI (rather than remaining fixed).

Proposed changes

Broadly, pension income drawn down from your superannuation fund is generally tax free if you are 60 or more (exceptions apply e.g. public sector superannuation fund pensions).

Currently, such tax free superannuation pension income is not 'income' under the Seniors health card income test. However, from 1 January 2015, 'deemed' income from account-based pensions is expected to be counted when determining your eligibility for the card under the income test.

If enacted, this is likely to result in new applicants with large pension accounts being ineligible for a card.

TIP–On a positive note, the proposals also extend the period you can travel overseas without losing the card from six weeks to 19 weeks.

Transitional rules

Generally speaking, transitional rules propose to exempt you from the changes if you receive an account-based pension **and** hold a Commonwealth Seniors Health Card at 31 December 2014 (other limited exceptions apply).

However, if your partner does not hold a seniors health card, your partner's pension income is expected to be counted as 'income' from 1 January 2015.

Deeming changes

Last month we reported that new deeming rules changes affecting Social Security entitlements generally apply from 1 January 2015.

We advise that the Department of Social Services has now stated that the deeming rule changes **will not** apply to transition to retirement income pensions. According to the Department, this concession is due to restrictions already placed on these pensions.

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