Super Concepts

FACT SHEET

New reporting requirements for SMSFs

Brought to you by SMSF experts you can rely on

To support the introduction of the transfer balance cap (TBC), the Australian Taxation Office (ATO) has announced new reporting obligations for SMSFs.

Commencing from 1 July 2018, SMSFs will be required to report events to the ATO which impact on an individual's transfer balance account (TBA). This reporting is required to assist the ATO to track an individual's TBA and to administer the tax consequences if the individual's TBC is exceeded.

Relaxed reporting rules will apply to SMSFs with member balances under $1 million.

SMSFs will need to report the requisite events using a *transfer balance account report* (TBAR).

What events need to be reported?

An SMSF is only required to report if one of its members has an event that impacts their TBA. Events which impact a member's TBA and are therefore required to be reported include:

- The commencement of a new retirement phase income stream
- Full and partial commutations of retirement phase income streams
- Some limited recourse borrowing arrangement payments
- Personal injury (structured settlement) contributions
- Compliance with a commutation authority issued by the Commissioner

Super funds are also required to report the value of existing superannuation income streams as at 30 June 2017, and in most cases have up until 1 July 2018 to do so.

SMSFs with members who only have an accumulation interest in the fund will not be required to report transfer balance events, other than structured settlement contributions, until a retirement phase income stream is commenced, which in some cases may be a number of years away.

Reporting will generally need to occur at the income stream level. Therefore, if a member had two or more income streams within a fund just before 1 July 2017, the fund will need to report the value and account details of each of these income streams.

When do these events need to be reported?

Unlike other types of superannuation funds, which will generally be required to report relevant events on a monthly basis, an SMSF's reporting timeframes will be determined by the Total Superannuation Balance (TSB) of its fund members.

Where all members of the SMSF have a TSB of less than $1 million, the SMSF can report the relevant events at the same time as when its annual return is due. If the SMSF has any members with a TSB of $1 million or more, the relevant events must be reported within 28 days after the end of the quarter in which the event occurs.

Importantly, SMSFs are only required to assess their reporting frequency in relation to the $1 million threshold on the 30th of June immediately prior to the first income stream commencing in the fund (or 30 June 2017 if an income stream is already in place on 1 July 2017). Once the fund's reporting frequency has been determined it will not change regardless of what happens to the member's TSB thereafter, or even if new pensions are commenced.

Irrespective of the member's TSB at 30 June prior, SMSFs will still be required to abide by legislated TBC reporting timeframes specified within a Commutation Authority issued by the Commissioner.

EXAMPLE:

Reporting the commencement of a pension in 2017/18

Jane commenced her retirement phase income stream in her SMSF back in October 2016. As at 30 June 2017, Jane's TSB was $800,000. Jane makes a lump sum withdrawal (commutation) in November 2018. Jane is required to report the 30 June 2017 balance of her pension to the ATO by no later than 1 July 2018. Jane's SMSF is only required to report the lump sum pension withdrawal to the ATO on the due date of her fund's 2018/19 annual return.

If Jane's TSB as at 30 June 2017 was instead $1,100,000, Jane's SMSF would be required to report the lump sum pension withdrawal to the ATO by 28 January 2019.

EXAMPLE:

Commencing a new pension after 1 July 2017

Harvey, aged 59, establishes an SMSF in July 2018 and rolls over his APRA fund balance to his SMSF in late July 2018. Harvey's TSB as at 30 June 2018 was $750,000. Harvey has recently received an inheritance following the death of his father and makes a $300,000 contribution to his SMSF in August 2018. He immediately commences a retirement phase income stream with his balance which, at the time of his pension commencement, was valued at $1,060,000.

EXAMPLE CONTINUED:

As Harvey commenced his income stream on or after 1 July 2017, and at 30 June immediately prior to Harvey starting his income stream all members of his SMSF had a TSB of less than $1 million, Harvey's fund is only required to report the commencement of his pension by the due date of his fund's 2018/19 annual return. This is despite Harvey's pension balance exceeding $1 million when it was commenced. All future lump sum withdrawals will also only need to be reported on an annual basis. This won't change even if another pension is commenced in the fund and one or more members in the fund at 30 June immediately prior to the pension commencing had a TSB of $1 million or more.

If Harvey's TSB was $1,060,000 as at 30 June 2018, and instead of making a $300,000 contribution he made a $300,000 withdrawal in August 2018 prior to commencing an income stream, his fund would be on a quarterly reporting cycle despite having a balance of less than $1 million when the pension was commenced. This is because a member of the SMSF had a TSB in excess of $1 million at 30 June immediately before the income year the first pension was commenced in the SMSF.

As the above examples illustrate, the requirement to use a member's TSB at 30 June prior to assess the fund's reporting frequency can give rise to situations where an SMSF will be required to report its TBA events on a quarterly reporting cycle even though the fund has no members with a TSB greater than $1 million when the first pension is commenced.

Similarly, there may be situations where an SMSF will only be required to report its TBA events on an annual basis despite the member's TSB exceeding $1 million when the first pension is commenced in the fund.

SMSF trustees and advice providers should be alert to these situations and, when applying the ATO's relaxed reporting rule, should always determine the fund's reporting frequency using member TSBs as at 30th June prior to the first pension being commenced, rather than at the date the first pension is commenced.

How do these events need to be reported?

All super funds, including SMSFs, will be required to report transfer balance cap events via the TBAR, which must be submitted via one of the three following channels:

- Bulk data exchange
- An online form
- A paper form

All three channels are available to SMSFs. The bulk data exchange channel will generally be more appropriate for large providers and online reporting more appropriate for smaller providers.

What are the penalties for not reporting?

If a super fund fails to report by the required date, a 'failure to lodge' penalty may be imposed by the ATO. Generally, for SMSFs, this penalty is calculated at the rate of one penalty unit for each period of 28 days (or part thereof) that the event remains unreported, up to a maximum of 5 penalty units (one penalty unit is currently equal to $210).

Valuation of new income streams

As SMSFs generally align the valuation of their assets with the completion of the fund's end of year financial accounts, it is possible that an SMSF that is required to report the commencement value of a pension to the ATO within 28 days after the financial quarter in which the pension commenced, will not know the exact value of a pension on the date of commencement.

SMSFs should continue to apply the ATO's Valuation guidelines for self-managed super funds which specify that: "it is accepted that a reasonable estimate of the value of the account balance can be used when a pension is started part way through the year".

Consistent with these guidelines, the ATO would accept a 'reasonable estimate' of the starting value of an income stream. The fund should record this value in its accounting records at the time of commencement.

In making this estimate, the general valuation principles would apply. A valuation is generally considered fair and reasonable when:

- It takes into account all relevant factors and considerations likely to affect the value of the asset
- It has been undertaken in good faith
- It uses a rational and reasoned process
- It is capable of explanation to a third party

Potential adverse consequences of deferred reporting

While the ATO has relaxed the event based reporting rules for SMSFs, the tax penalties which could apply if a member exceeds their TBC have not been relaxed. SMSF members will incur excess transfer balance earnings for every day their pension balance exceeds their TBC, even though the event that gave rise to the excess may not be required to be reported to the ATO for 12 months or even longer.

It's worth noting that fund members are subject to tax on excess transfer balance earnings, and these earnings will continue to accrue until the member's excess pension balance is removed. Therefore, SMSF members who exceed their TBC, and who have events reported close to, or on, the statutory reporting date, may end up paying substantially higher rates of excess transfer tax than would have been the case if the event had been reported earlier, and the excess amount identified and removed sooner.

For SMSF members who are close to their TBC, or are likely to have an excess transfer balance, it is in the member's best interest to ensure events which impact their TBA are reported to the ATO as soon as practical and before the required reporting date. Early reporting also means SMSF members and their advisers will be more able to rely on the ATO's online information about their TBA.

Consequences of deferred reporting

EXAMPLE 1:

James and Ava have an SMSF and are both receiving a retirement phase income stream from their fund. As at 30 June 2017, their respective TSBs were $900,000 and $800,000.

As both of their pension balances were less than $1 million as at 30 June 2017, their TBA events only need to be reported to the ATO on an annual basis. James passes away and prior to James' death both James and Ava made a number of lump sum withdrawals from their pensions. James' pension automatically reverts to Ava on his death.

As their fund is on an annual reporting cycle, their commutations have not yet been reported to the ATO. Ava will not be able to rely on the ATO's online information about her TBA or her late husband's TBA. To determine how much of James' pension can revert to Ava without Ava exceeding her TBC, Ava will need to do her own TBA calculations.

EXAMPLE 2:

Mick has an account based pension with a balance of $800,000 at 30 June 2017. As his TSB at 30 June 2017 is less than $1 million, his fund can lodge TBARs on an annual basis.

In October 2018, Mick decides to rollover his pension to an APRA regulated fund and wind up his SMSF. The commutation value of his pension at that time is $850,000 and his SMSF can lodge the TBAR at the same time as the 2018/19 SMSF annual return – as late as 15 May 2020.

The APRA regulated fund commences Mick's new pension in October 2018. As APRA regulated funds are required to report the commencement of a pension within 10 days after the end of the month, the APRA regulated fund reports the commencement of Mick's pension in early November 2018.

If Mick's SMSF defers reporting the commutation until 15 May 2020, Mick's TBA would go in excess, as his TBA would show two pension balances totalling $1.65 million without an offsetting commutation. Until such time that the commutation is reported, Mick's pension is essentially double counted for the purposes of the TBC.

Mick will receive an excess determination from the ATO showing the excess amount plus notional earnings, which must be commuted from Mick's pension. If Mick fails to report the initial pension commutation from his SMSF within 60 days of receiving the determination, the APRA regulated fund will be required to reduce his pension balance by the excess amount stipulated on the determination.

How can SuperConcepts help?

SuperMate

As a standard software feature, SuperMate will provide TBAR functionality to enable SMSFs to comply with their reporting obligations. The SuperMate TBAR option generates a data file that can be lodged using the business portal or the tax agent portal. It allows multiple member data records to be lodged and can generate the data file across all funds or a list of selected funds. It also allows users to test the TBAR data file report to check for any errors prior to generating the data file to be uploaded on the portal. Each TBA event in SuperMate has its own TBAR status so users can ascertain whether the event is waiting to be included in the next TBAR data file sweep, has been included in a TBAR generated data file or, in the case of a manually entered TBAR event which has been reported by another super fund, is not to be reported. Users can also cancel a previously lodged TBAR and lodge a replacement TBAR.

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