Do you need to take action before 3 May?

With the 2016 Federal Budget and an election looming, speculation is rife regarding possible changes to superannuation law.

While only Treasury insiders are privy to the changes, there are some actions that you might like to consider, pre-empting any adverse events. We offer some thoughts below.

1. Contributions

The government may decrease the amount you and your employer are allowed to contribute to your superannuation fund each year.

Should you contribute more to your fund?

In recent weeks, contribution caps have garnered a lot of media attention – the loudest and most common being that the Government may again reduce the caps.

While we oppose a reduction in the caps on the basis that it reduces the incentive to self-fund retirement, it appears to be very much on the agenda.

The consensus of speculation indicates concessional contributions (i.e. before-tax contributions, employer superannuation guarantee contributions, salary-sacrificed contributions, etc) may be reduced to around $20,000 per annum (currently $30,000 or $35,000 depending on age).

Non-concessional contributions, currently limited under legislation to six times the concessional cap, would automatically decrease to $120,000 (from $180,000) unless the caps are uncoupled through legislation (although this is unlikely).

In practice, this would mean a limit of $360,000 (rather than $540,000) if under 65 and using the three year 'bring forward' system.

Actions: If you are considering making the maximum contribution, including entering the $540,000 bring forward system, do so prior to 3 May. Take care not to exceed the contribution caps.

2. Pensions

The government may make it difficult for you to access your superannuation benefits while you are still working.

Should you start a transition-to-retirement income stream (TRIS)?

The intent of a TRIS was to allow those close to retirement to remain in the workforce longer (perhaps part-time), supplementing their income with an income stream from their superannuation fund. However, the reality is that most TRISs aren't used for this purpose, but rather to reduce tax.

Once a TRIS is established, an amount between 4 per cent and 10 per cent of the pension balance must be withdrawn each year, and at the same time, investment earnings on assets supporting the pension become tax-free.

By having a smaller pension withdrawal, tax savings can be made. If recipients are aged over 60 the pension withdrawn is tax-free, while for those under 60, pension withdrawals are taxed at marginal tax rates less a 15% rebate.

The benefit of a TRIS is further enhanced if you re-contribute the monies back into the fund. You can also stop your TRIS and revert to accumulation should you wish to do so. Note that while this strategy is permitted under current laws, it is clearly outside the intent that TRIS's were introduced for.

This anomaly could be addressed in a number of ways, including adding additional criteria, before a TRIS can commence, preventing them all together, or perhaps imposing a tax on earnings above a certain threshold.

Action: If a TRIS is appropriate for you, you may wish to consider commencing it prior to 3 May 2016.

3. Capital Gains tax

The government may tax the profits made when selling superannuation assets during your retirement.

Should you realise assets in pension phase?

Under current legislation, investment earnings and capital gains derived from assets that are supporting a pension are tax-free.

The Opposition has announced it intends to tax pension earnings above certain thresholds should it win government and their current policy sets this threshold at $75,000 per pensioner per annum.

We believe that the Government could implement a similar policy.

Introducing the measure would have no impact on most voters, and would be seen as the Government targeting wealthy taxpayers, who are perceived as taking advantage of the superannuation system.

Action: Review asset holdings and, where appropriate, consider disposing of assets in line with your fund's investment strategy, in order to realise capital gains while tax-free in pension phase.

Note: Selling and repurchasing assets to realise a capital gain is subject to anti-avoidance provisions. Please discuss any planned disposals with your adviser.

4. Superannuation balances

The government may impose additional tax on large superannuation balances.

Should you equalise your family's superannuation balances?

There has been some debate about the objective of superannuation (currently drafted and undergoing consultation - "to provide for income in retirement to substitute or supplement the age pension"), and how large super balances fit into this.

The view of some is that holding a large superannuation balance falls outside this objective, and shouldn't, therefore, enjoy the same concessions as smaller balances, as an incentive to self-fund retirement where possible.

For this reason, there is speculation that the Government may seek to introduce legislation to reduce or remove the tax concessions available to large accounts – potentially all accounts greater than $1 million.

One strategy to minimise the impact of this scenario is to equalise super balances within a family. This can be achieved by:

- Contribution splitting – a mechanism that allows non-retired members of a superannuation fund to split/transfer 85 per cent of their concessional contributions to their spouse (married or de facto).
- Withdrawal and re-contribution strategy – where the member with the large balance, if permitted, withdraws an amount from their account, gifts it to a spouse or child who then contributes it to their account (within their caps).

Note: We don't recommend that monies be permanently withdrawn from the superannuation environment. Despite additional taxes being imposed, we still believe superannuation remains one of the best environments to hold, grow and protect wealth.

Action: For those with large super balances, and a considerable imbalance in family superannuation accounts, you may wish to consider steps to equalise these over time.

Should you have any queries, or would like to discuss how this applies to your specific circumstances, please do not hesitate to contact the following Grant Thornton advisors:

Adelaide
Stephen Kuchar
Partner – Private Advisory
T +61 8 8372 6550
E stephen.kuchar@au.gt.com

Brisbane
Dennis Eagles
Partner – Private Advisory
T +61 7 3222 0242
E dennis.eagles@au.gt.com

Cairns
Deanne Quinn
Manager – Private Advisory
T +61 7 4046 8812
E deanne.quinn@au.gt.com

Melbourne
Andrew Steer
Partner – Private Advisory
T +61 3 8663 6251
E andrew.steer@au.gt.com

Perth
Simon Gow
Senior Manager – Private Advisory
T +61 8 9480 2059
E simon.gow@au.gt.com

Sydney
Minny Talasch
Manager – Private Advisory
T +61 2 8297 2639
E minny.talasch@au.gt.com