

Advice Technical Podcast #40 - 26 March 2021 – Transcript.

Tech Know: How do you advise clients in times of pending indexation and proposed legislative change?

As we move closer toward the end of the financial year, in this podcast we discuss the ongoing proposed change to the bring-forward rule, plus indexation of contribution caps.

Bryan Intro

Hello and welcome to today's BT TechKnow podcast. My name is Bryan Ashenden, and I have the pleasure of leading the BT Technical Services team – a team of experts that are available to answer any technical advice strategy related queries you may have.

In this podcast we will continue to add a new dimension to our usual discussion. Today in the studio I am joined by Tim Howard, one of our Technical Services team members. I have asked Tim to come along to talk about a pressing issue for many advisers, the continued proposed change to the bring-forward contribution age.

I also thought it worthwhile to discuss some of the indexation changes, particularly around contribution caps, due from 1 July 2021.

Tim, welcome.

Tim – Hi Bryan, thanks for having me along today.

Bryan – Can you provide us with an update of where we are in relation to the proposed change to the bring forward contribution age?

Tim – If I can start by saying this is certainly one of, if not the most common question the team continues to receive.

Treasury Laws Amendment (More Flexible Superannuation) Bill 2020 remains in the Senate, following minority party proposed amendments which are yet to be debated.

Importantly, it should be noted these proposed amendments are not in relation to changing the bring-forward age, but are additional proposals added to the bill around employer contributions, concessional contribution limits, and COVID-19 early access integrity measures.

This bring-forward proposal remains as increasing the legislated age from under 65, to under 67, at any time in the financial year of contribution.

The proposed start date of this measure also remains as 1 July 2020.

Bryan – So how can an adviser advise a client, who is say, age 66, or turning age 67, and no longer working? The proposed changes may mean this year is their last chance to contribute such an amount, however by the time it becomes law, it may be too late.

Tim – If the unexpected delay in the passage of this piece of legislation is anything to go by, it highlights the importance of not providing your clients with any advice, outside of what is the law at the time.

For example, someone who is turning age 67 this financial year, would currently have a non-concessional limit of \$100,000. If the rules change, as proposed, they may have a non-concessional limit of \$300,000 if their total super balance is below \$1.4 million.

Matters get more complex for this client if they are no longer working, as from age 67 the work test must be met, before certain voluntary contributions, such as a non-concessional contribution, can be made.

Under current law, the answer here is \$100,000 only.

Bryan – For a number of years, some advisers have employed a “double deduction” strategy with clients in the month of June, making double the concessional cap as a contribution, and claiming the entire amount as a deduction this financial year, but allocating half this year and the rest in July. Is that an option here as well? And if so, how would it work?

Tim – It is an option, and an option not just restricted to concessional contributions. But it does tend to be restricted to individuals who run their own self-managed super fund.

For example, you have a client who is 66, turning 67 on the 25th of June 2021. They are no longer working, and therefore cannot make any additional contributions to super from their 67th birthday, but they do have \$200,000 they want to contribute to super.

Now, the bring forward changes have not passed, and are not yet available for this client, so what can we do when their non-concessional cap is only \$100,000 for 2020/21?

In this case your client could make two, separate, \$100,000 contributions in June 2020, before their birthday, to their SMSF. The first \$100,000 contributions is allocated this financial year, and the second can be held and then allocated within 28 days of the following month, i.e. by 28 July 2021.

So what do you have now? You have made use of next year's contribution cap. The reason this is possible is eligibility to contribute is at the time of contribution, but the allocation to the members account is what counts for contribution cap purposes.

While this is a strategy generally only employed by SMSF trustees for a number of practical reasons, I'd certainly say your clients, and your advice, would need more reason than just this to go out and establish an SMSF!

Bryan – What are the chances we will have certainty by 30 June 2021? Or earlier, given the time it can take to organise and then effectively make a contribution to super.

Tim – Parliamentary sitting days, in particular the Senate, are the crucial component. There will be three joint sitting days for both houses on the eve of, and then following the 2021 Federal Budget on 11th May. After this, the Senate does not sit again until the middle and then second last week in June.

This does not leave much time, I do agree. You also never know what might be in the Federal Budget in terms of changes which may impact this measure. Sometimes you will see new bills introduced to package together and tidy up unfinished business such as this, so keep a close eye on things.

Bryan – Another issue that plays into contribution planning which advisers may be contemplating is the indexation of contribution caps from 1 July 2021. Is this something we are going to see in the new financial year?

Tim – Required indexation thresholds have recently been reached to increase the general concessional contribution cap from \$25,000 to \$27,500. Note this is existing legislation, so unless additional legislation is introduced, and passed, to freeze or amend this, the general concessional cap will be \$27,500 from 1 July 2021.

The general non-concessional cap will increase to \$110,000, a product of being 4 times the general concessional cap.

So, yes, additionally, the non-concessional bring-forward will be \$330,000 for eligible individuals who trigger a bring-forward contribution from 1 July 2021.

Certainly, a lot to think about here!

Bryan – We can't really have a contribution discussion without considering the other end of the spectrum, the indexation of the transfer balance cap to \$1.7m. Where are the key considerations here?

Tim – Like the indexation of the concessional cap, and flow on effects to the non-concessional cap and bring-forward, legislation to increase the transfer balance cap to \$1.7m is existing, and we have hit the indexation points required for it to increase from 1 July 2021.

But it won't be \$1.7m for everyone.

Everyone will have their own transfer balance cap amount. Firstly, it will remain at an amount of \$1.6m for an individual who has previously fully utilised their cap space at any point in time. Secondly, an individual who has never made a transfer to retirement phase will benefit from the full indexation to \$1.7m.

It gets tricky for everyone else.

Indexation will only apply to the unused portion of an individual's partially used transfer balance cap. For these clients, their transfer balance cap number will be a unique one somewhere between \$1.6 and \$1.7 million!

Bryan – So we have continued uncertainty around the bring-forward provisions, but confirmation, in existing legislation, of the indexation of contribution caps and the transfer balance cap. Plus, we are fast approaching the 2021 Federal Budget in May, one that will be our second Federal Budget in 7 months! How do advisers approach year end planning in an environment like this?

Tim – Rely on the current law, at the time you are providing your advice. There is really no benefit in trying to predict outcomes from variable events, and it is through uncertainty such as this, that I am sure, your clients will be looking to you for help!

Bryan – Thanks very much Tim, great to have you along today.

Remember if you have any technical advice strategy questions, you can call our BT Technical Services team on 1800 655 901 or send the team an email at technical@btfinancialgroup.com.

And join us for our fortnightly BT Academy technical webinars where we dive in more depth into various technical and regulatory matters. Our next fortnightly BT Academy Technical Webinar will be on 7 April 2021, where Tim will be back, with an SMSF special, discussing the various strategies, limits, and alternatives to limited recourse borrowing arrangements. To register, head to www.bt.com.au/professional and follow the links to the BT Academy webinar series. You can also view previous webinars and all sessions qualify for CPD points.

Until next time, bye for now!

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