Media Release

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Separation surge, super and pensions: what's top of mind for advisers

When clients separate, advisers face an ethics-related question: can they advise one or both? How can advisers manage a conflict of interest?

Since the COVID pandemic, BT's Technical Services team have been fielding more queries around client separation. The most recent available national statistics on divorce are from 2021; in that year, the total number of divorces was 56,244, the highest number recorded since 1976.[1]

Questions on client separation were among the most frequently asked by advisers via the BT technical hotline during the July to September 2023 quarter. Also popular were questions on superannuation and the indexation of pension thresholds. More information on the topics that have been top of mind for advisers is below.

The BT Technical Services team field around 2,000 questions from advisers every quarter.

1. **The ethics around client separation**

"The pandemic and ensuing lockdowns may have unfortunately led to more relationship breakdowns," said Mr Howard, Technical Consultant, BT.[2] "Since the pandemic, we've also seen higher inflation – with the accompanying rise in cost of living and then interest rates – placing financial pressure on families, and changing the financial circumstances of many clients."[3]

The breakdown of a relationship can have wide-ranging impacts on all the members of a family. In some cases, the parties' interests align. For example, the living arrangements and education costs of young children are the agreed priorities and other financial issues fall into place around these – and a financial adviser can advise both parties. In other situations, there may be conflicting interests.

While advice practices may have specific policies that apply to client separation, advisers must always be guided by ethical principles, and their obligations under the *The Financial Planners and Advisers Code of Ethics 2019*, when faced with a potential conflict of interest. "Similar to legal advice, in some cases it is more appropriate or even necessary for each individual to seek their own independent financial advice," said Mr Howard. "The next challenge for the adviser is deciding who, if any, to keep as a client, and approaching how they end a client relationship with empathy and sensitivity."

2. **Carry-forward concessional contributions**

From July 2023, clients can look back and carry-forward their unused concessional contributions for the previous five financial years. "As the measure started from 1 July 2018, an individual could only look back to the 'start' and carry-forward one previous year from FY2020, then two years from FY2021 and so on," said Mr Howard.

Clients are eligible to carry forward unused concessional cap amounts from previous years, and effectively increase their contribution caps in later years, if they have a total super balance of less than $500,000 at 30 June of the previous financial year, and have unused concessional contributions cap amounts from up to five previous years.

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[1] Australian Institute of Family Studies: https://aifs.gov.au/research/facts-and-figures/divorces-australia-2023#:~:text=The%20crude%20divorce%20rate%20(divorces,of%20divorces%20recorded%20since%201976

[2] See note 1 above. Also comments from counselling services, for example, *The Guardian*, 30/7/2023: https://www.theguardian.com/lifeandstyle/2023/jul/30/while-life-has-largely-returned-to-normal-since-the-pandemic-many-relationships-have-not

[3] Selected Living Cost Indexes, Australian Bureau of Statistics: https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/selected-living-cost-indexes-australia/jun-2023

Advisers may wish to remind their clients that unused cap amounts are available for five years and expire after this time. If a client has an unused cap amount from the financial year ending 2019, and does not use that amount by the end of June 2024, it will expire.

3. Total super balance and bringing forward a non-concessional contribution

The BT Technical Services team are seeing a high demand for BT's non-concessional contribution (NCC) calculator, which helps advisers cross-check clients' eligibility to bring forward an NCC.

A client's total superannuation balance (TSB) can impact eligibility; for example, a client's NCCs across three years can total $330,000 if their TSB is below $1.68 million; or two years, $220,000, if below $1.79 million as at 30 June of the previous financial year. Advisers also need to consider the trigger age (less than 75 years on 1 July), timing of the acceptance by the trustee (must be before the 28th day of the month following the client's 75th birthday), and using the client's remaining cap space in following years.

"The calculation can be complicated," said Mr Howard. "Advisers are asking questions on calculations more frequently, especially since the work test no longer applies for these types of contributions. They are confirming the ins and outs, and using tools such as our handy NCC calculator."

4. Indexation of pension thresholds on 20 September

As the cost of living has continued to rise in the first six months of the calendar year,[4] indexation offers some respite to those who are impacted – with the rates of social security payments such as the maximum basic rates of age pension, disability support pension and carer payment increasing on 20 March and 20 September each year.

Also notable is the means testing thresholds for these payments have changed from 1 July 2023 due to the high rates of inflation, increasing since the previous financial year by almost 8%.[5] The increases may lead to clients receiving a higher rate of payment, given the same level of means before 1 July; or for those holding means above disqualifying limits prior to 1 July, they may suddenly be eligible.

"Receiving social security income support such as the age pension – even if it's a small rate of payment – may give a client several ancillary medical and pharmaceutical benefits via the pensioner concession card, helping to ease cost of living pressures," said Mr Howard. "Clients may also be able to receive a range of state government rebates." For example, in NSW these include an electricity rebate of up to $285; plus there is a National Energy Bill Relief Household Payment of $500 for FY2024.[6]

5. Winding up self-managed super funds (SMSFs)

Advisers with SMSF clients have been asking questions on the implications of winding up SMSFs, such as on transferring SMSF assets to public offer funds or to a member. Most listed assets can often be transferred in-specie to a public offer fund. Other investments can be purchased from the fund by the fund's members.

"SMSFs may need to be would up for many reasons, such as a relationship breakdown, and it's good for trustees to be across the exit strategy and potential costs involved as their circumstances change," said Mr Howard.

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[4] See note 3.
[5] Department of Social Services, *Indexation Rates July 2023* (1 July 2023).
[6] NSW Government, 'Apply for the NSW Low Income Household Rebate (retail customers):
https://www.service.nsw.gov.au/transaction/apply-for-the-low-income-household-rebate-retail-customers