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BENEATH THE SURFACE

Superannuation: Choice of Fund

Are you prepared for the new choice of superannuation fund legislation that comes into effect on 1 July 2005?

What Does Choice of Fund Mean for Employees?

Choice of fund means that eligible employees will be able to choose the superannuation fund into which their employer will pay superannuation contributions.

Making a Choice

◊ understand the current fund – ask for a product disclosure statement
◊ compare investment options and performance
◊ compare fees and charges – all of them
◊ look at the insurance options
◊ consider any extra benefits or services, eg low cost home loans for members, educational seminars, etc.
◊ beware of commissions.

Are you ready for the new choice of Super fund legislation?

Obligations for Employers

Employers have two major obligations to comply with the Choice of fund legislation:

1. Provide a standard choice form to employees

Employers are obliged to provide a standard choice form to:

◊ all existing employees who are eligible for choice by **28 July 2005**

◊ all eligible new employees within 28 days of their commencing employment

◊ within 28 days when requested by an eligible employee, provided they haven't made such a request in the previous 12 months.

The nominated fund must be an eligible choice fund into which an employer can legally make contributions. Employees can change their nominated fund once a year by notifying their employer each time. Employers are obliged to pay their superannuation contributions into the nominated fund within two months of notification, provided that the fund chosen satisfies the conditions of the legislation.

It is important to remember that employers are unable to give advice or make any recommendations about which fund an employee can choose (unless the employer holds an Australian Financial Services Licence).

2. Nominate a default fund

Employers must also nominate a default fund into which an employee's superannuation guarantee payments must be made if the employee does not return a completed standard choice form to the employer. The default fund is the fund specified in the employee's Federal Award, or if a Federal Award does not apply or does not nominate a superannuation fund, it is an eligible choice fund that the employer chooses. The default fund must be a complying fund that offers a minimum standard of life insurance cover (yet to be finalised). Details of the default fund must be included, by the employer, in the standard choice form.

Checklist for Employers

◊ *Identify if you are required to offer choice of fund to your employees*

Some awards and workplace agreements specify the fund that their employer must make payments into.

◊ *Review payroll and personnel systems*

Employers need to review their payroll and personnel systems to ensure that they can manage monthly (* see below) payments to multiple superannuation funds.

◊ *Provide the standard choice form*

When the standard choice form is provided by the Australian Taxation Office (expected to be around April 2005), employers will need to customise the form with information relevant to their employees. For example, details of the default fund (be on the lookout for hidden entry and exit fees).

◊ *Make the payments*

The frequency of the contribution payments may depend on any industrial arrangements or requirements of the nominated fund. While superannuation guarantee contributions are normally required to be paid within 28 days of the end of each quarter, many funds and industrial agreements may require contributions to be paid on a monthly basis.

Acknowledgement: National Institute of Accountants, The Association of Superannuation Funds of Australia Ltd

◊ *Keep informed*

E-mail, or phone our office today, if you would like to be sent a standard choice form when they become available. Watch for press releases, read tax office publications, and our newsletters, etc.

GOVERNMENT ACTS OVER SUPER CHOICE DISPUTE

The Government has announced that the rules of some superannuation funds requiring employers to make contributions more frequently than every three months could make the fund ineligible under superannuation choice rules.

The Minister for Revenue and Assistant Treasurer Mal Brough said that the rules of some superannuation funds requiring employers to become a 'participating employer' before they can make contributions to the fund could impose additional obligations on employers, such as the need to make contributions more regularly.

Editor's Note: So as an employer, you seem to have the discretion whether or not to accept such a choice by an employee. In our own case, we have allowed this type of choice, and thus make some contributions monthly.

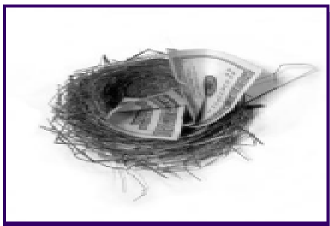
SUPER QUARTERLY PAYMENTS - BEWARE

Super Quarter (Quarterly Payments have been required since 1 July 2003)	Date by which payment must be banked into super fund	Date by which to notify Tax Office that you were late, including payment of penalties
1 July to 30 September	28 October	14 November
1 October to 31 December	28 January	14 February
1 January to 31 March	28 April	14 May
1 April to 30 June	28 July	14 August

We notice that many employers still do not fully understand the perils of ignoring these payment cut off dates. If you do not comply with the dates in column two, then all that quarter's superannuation contributions are no longer tax deductible. In addition, you have to pay penalties by the due date in column three. These penalties are also not tax deductible.

In a recent case (Williams and Commissioner of Taxation), the employer paid the **late** contributions to the super fund, and then had to pay them again to the tax office, plus charges and interest, effectively paying the employee's superannuation **twice**. Please ensure that you have an **early** internal control reminder about these dates.

The moral of the story: be on time, and if you are not, make that quarter's superannuation payments to the tax office (not the super fund), with the appropriate form and extra charges



Some super funds may be ineligible under superannuation choice rules.

SELF MANAGED SUPERANNAUTION FUNDS (SMSFs)

The law allows individuals to set up their own private superannuation fund and manage it themselves. Sometimes referred to as 'DIY funds', these require a significant investment in time and money to set up and run (for example, ongoing professional accounting, tax, audit and legal advice is required).

However, we have several clients who have chosen this option, been prepared for the investment of time and money, and the funds are working quite nicely for them. Please phone today to make an appointment if you wish to discuss SMSFs further.

SPOUSE REBATE

There is a superannuation rebate available whereby a contributing spouse will receive an 18% income tax offset for contributions up to $3,000 per annum to the superannuation fund or retirement savings account of a non-income earning spouse or working spouse with an income below $13,800 per annum. A spouse can make a larger contribution, but the amount over $3,000 will not attract a tax offset.

ABOUT SUPER

When can you receive your superannuation benefit?

Super contributions are preserved until retirement and you're aged 55+ ... The age limit is being increased to 60 by 2025.

Superannuation is designed to provide you with an income when you retire or if you become disabled and are unable to work. Accordingly, special low rates of tax apply to superannuation contributions and earnings.

For this reason, the Government places some restrictions on your ability to withdraw your superannuation benefits prior to retirement. This is called preservation. Higher taxation rates also apply to most benefits paid prior to age 55, with the major exceptions being in the cases of death or disability.

From 1 July 1999, all future superannuation contributions (including those that are made from an individual's post-tax income) generally are preserved until you retire and are 55 years old or older (the age limit is being increased to 60 by 2025 for those born after 30 June 1964 with phasing in for those born after 1 July 1960).

General exit rules:

55	retire, and never intend to work again
60	cease some form of employment
65	optional cashing, must take out unless you worked at least 240 hours in the last financial year
70	same as 65
75	must cash out, except for very narrow circumstances

From 1 July 2002 certain temporary residents may access their money once they have permanently departed Australia.

If you are not working or working limited hours can you still make superannuation contributions or have them made on your behalf?

From 1 July 2004 the rules on who can make superannuation contributions have been changed.

< 65	Contributions to a superannuation fund may be made in respect of any person under the age of 65. "In respect of a person" means that the contribution may be made by the person themselves or by any other person, ie no work test.
65 – 70	Have to have worked at least 40 hours in any not more than 30 consecutive day period in the year of contribution.
> 70 & <75	Have to have worked at least 40 hours in any not more than 30 consecutive day period in the year of contribution - only the owner of the superannuation account can contribute to it and only personal contributions ie those made from after tax income. In certain very limited circumstances an employer may be able to make contributions for a person in this age group.

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