

« The recent X factors have mainly been negative for investors »

DON STAMMER { P12 }

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WEALTH



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Super trap for the unwary

A year of rule changes will require added
caution on the part of investors

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SUPERANNUATION planning will be dominated increasingly by measures to sidestep traps that could otherwise dearly cost fund members, sometimes in the least expected ways.

High-income earners, older fund members accelerating their contributions before retirement and members of self-managed super funds are

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among the most vulnerable to being ensnared in these traps.

Many fund members over 50 would not realise that within 12 months a range of strategies will become much less tax effective, ill-advised or require revamping, warns David Rolleston, director of UBS Wealth Management Australia. Much would depend on the members' personal circumstances.

Rolleston says high among the strategies for re-examination include gearing into SMSFs and taking a transition-to-retirement pension while making extra-large, salary-sacrificed contributions.

These strategies should be tested for

their suitability to members' circumstances. Rolleston is warning clients that the halving of the standard annual concessional contributions cap for members over 50 to \$25,000 (indexed) from July next year is creating these traps. (The concessional cap for members over 50 with under \$500,000 in super will remain at \$50,000.)

"These traps need to be a real focus for fund members," Rolleston says. "They need their eyes open and need to start planning right now." In short, the imminent cutting of the contributions cap will restrict the ability of many SMSFs to service investment loans as well as limit other strategies requiring extremely large concessional contributions. For instance, the claiming of extremely large tax deductions by eligible investors for super contributions to minimise capital gains tax on the sale of personal shares and property will soon become much more limited.

And the making of sizeable salary-sacrificed contributions in the final years before retirement will remain feasible from 2012-13 only for older members who have saved relatively little in super to date. This is because of

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Beware the superannuation traps being laid

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the provision allowing members over 50 with lower balances to have higher caps than other members from July next year.

Many fund members would be revising their strategies well before the next halving of the standard concessional caps for members over 50.

Gearing through a SMSF or taking a transition-to-retirement pension while recontributing much of the pension as salary-sacrificed contributions are longer-term strategies that require plenty of planning.

Meg Heffron, co-principal of specialist SMSF administrator Heffron, says the willingness of some SMSFs to gear their investments is already being questioned by members. "Their world is fundamentally changing," Heffron says. "Concessional contributions are key ingredients that make the strategy a success."

One of the big super traps for 2011-12 is that numerous members will try to beat the deadline for the next cutting of the concessional contributions cap and overshoot their limits. This will expose many to potentially huge liabilities for excess benefits tax.

Heffron agrees that maximising concessional contributions while trying hard to avoid the dreaded excess contributions tax is one of the key super strategies for the financial year ahead, including for members under 50. "In the past, even a

\$50,000 [standard concessional] cap was probably enough to give people a chance to catch up later on their contributions," she adds. "Now no one can just afford to wait until they are 50 to catch up."

Concessional contributions mainly comprise salary-sacrificed and superannuation guarantee contributions as well as deductible contributions by the self-employed and eligible investors. By contrast, non-concessional (non-deductible or personal) contributions are not nearly as tax effective.

Contributions that exceed the concessional cap are taxed at 31.5 per cent plus the standard 15 per cent contributions tax. And excess non-concessional contributions are taxed at 46.5 per cent. But in certain circumstances, a series of horrific tax consequences can result. For instance, members who exceed both caps are liable for up to 93 per cent in excess contributions tax. And it is possible for an excess concessional contribution of just a few dollars to set off a chain of events that could result in a \$70,000 or so excess contributions tax bill.

Such horror tax bills typically arise when members exceed their concessional contribution cap by a small amount — typically unwittingly — and at the same time are maximising non-concessional contributions in the countdown to retirement. (See accompanying feature.)

Heffron believes that another of the big super traps ahead involves the budget

confirmation that members who exceed their concessional caps by up to \$10,000 from July can have the excess refunded provided it is a first offence. The first offender's measure is "superficially a good thing", says Heffron. "And certainly you would rather it was there than not. But it doesn't fix a number of great evils in the system. What's worse is that it perhaps lulls people into a false sense of security because they have heard you can get a refund of the excess contributions."

In turn, this might make fund members less attentive about closely monitoring their contribution levels.

Australian Taxation Office statistics released four months ago showed that average potential excess contributions for 2007-08, 2008-09 and 2009-10 at that stage were much less than \$10,000. But a second breach may occur when a member happens to be making extra-large non-concessional contributions before retirement. This could still lead to large liabilities for excess contributions tax, depending on the circumstances.

Heffron says another of the many weaknesses with this measure is that the member is let off only once. She says some members may not know they have overshoot the concessional cap until 12 or 18 months after a financial year ends. By then, they may have exceeded the cap a second time. Finally, Heffron is concerned the first offenders' rule will apply only to concessional caps.