

Smart Money DIY super

Your questions

Tax prompts safety first approach

Tax issues can arise from alterations to a DIY fund paying a pension, so sometimes a degree of caution is needed.

John Wasiliev

Our do-it-yourself super fund was in unsegregated pension mode when last financial year a retired 56-year-old member made a non-concessional contribution and commenced an additional account-based pension with the full amount on the same day. My understanding was that the income of the new pension assets, along with all the existing assets (all in pension phase) would be exempt from income tax and that an actuarial certificate would be unnecessary. When my accountant prepared the annual return, I discovered an actuarial certificate had been obtained. Was this really necessary in order for the pension income to be exempt from tax?

You wouldn't require an actuarial certificate if the whole of your fund was in pension phase for the whole of the year, says actuary Geoff Morley of Bendzulla Actuarial. So if your fund received a contribution during the year that was immediately used to start a pension, this shouldn't in itself mean you need an actuarial certificate.

You would normally only need a certificate if some part of the fund was in the accumulation phase for



A cautious approach may be necessary when it comes to non-concessional contributions.

Photo Greg Newington

part of the year. You could ask your accountant if this was the case, which in turn should help explain the need for the actuarial certificate. When you use the unsegregated method to calculate how much of the fund investment earnings will be tax exempt, you compare the average pension balance over the year to the average fund balance over the year.

The percentage of the investment earnings that is tax exempt is based on the average pension balance divided by the average fund balance.

If this percentage is less than 100 per cent then it's likely that part of your fund was in accumulation

phase for part of the year. So what circumstance might justify a certificate? If the fund wasn't in pension phase for the whole time that might be a reason, says Morley. If the pension was not started at the same time the contribution was received – even if this was just a day later – there will be a short period of time when all the fund's money was not fully in pension mode.

Another reason is that your accountant may have taken the view that because a contribution has come in and been in accumulation phase, even momentarily, then the fund's investment earnings are technically not fully tax exempt for

the whole of the year. This would be a particularly cautious approach if the contribution was indeed turned into a pension on the same day.

We recently changed the trustees of our fund from my wife and I as individuals to a corporate structure. Our bank account showed each of our names as trustees for our super fund, say the ABC Super Fund. When we changed the structure we set up a company called, say, XYZ Pty Ltd, purely to be the trustee. The question is, can the bank account stay the same and just change the account name to "XYZ P/L as trustee for ABC SF" or should a new

account be created with the XYZ Pty Ltd Australian company number? A strict requirement of the Superannuation Industry Supervision rules, says Danny Mewett of super administrator Heffron, is that all assets held by a self-managed superannuation fund are clearly identified as being the assets of the fund. This is to ensure that the fund's assets are kept separate from other non-super assets owned by members.

The Australian Taxation Office holds the view that in order to meet this requirement all fund assets where possible be held in the name of the trustee ATF (as trustee for) the fund. In a situation where trustees have been changed from individuals to a corporate trustee the ATO would expect the title of all assets, including the bank account, be changed to: XYZ Pty Ltd ATF (as trustee for) XYZ Superannuation Fund. Your bank should be able to change the name of the account. There shouldn't be any need to close the old account and re-open a new one. The bank will need some supporting documentation that shows the trustee change such as the deed of retirement and appointment of trustee.

Ask us

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