



MAY 2013

AIA 'Investor Update'

Welcome again to 'Investor Update'. This issue mainly contains taxation and superannuation information. It is just what came together for this issue. We will try and 'spice it up' next month!

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Missing the mark with your minimum pension payment

Travis Allen CPA, Director, Hillyer Riches

What happens if you don't meet the minimum pension payment obligations in your SMSF this year? In this article you will find what the minimum pension payment rules are, what happens if you break them, and how to fix the problem.

Background

The ATO has held the view that trustees failing to make a minimum pension payment would risk losing their pension status for the financial year in question, and all investment earnings would become taxable in that year. This stance was problematic, as failure to meet the pension payment inadvertently by a minor amount would potentially breach the regulations. This particularly had the potential to cause large unexpected amounts of tax payable (for example in the event of a large capital gain from the sale of an asset occurring in a year the minimum pension payment amount was unknowingly underpaid).

(Continued over)

Upcoming Events [\[view events schedule\]](#)

Brisbane Shares Discussion Group

15th May 2013 6.30pm
Carindale Library

Sunshine Coast Discussion Group

15th May 2013 6.30pm
Wembley Downs Tennis Club

Melbourne, Frankston South Discussion Group

15th May 2013 1.00pm

Brisbane, Chermside Equities Discussion Group

20th May 2013 7.00pm
Chermside Library

Sydney Hills District Discussion Group

21st May 2013, 7.00pm
Castle Hill RSL Club

Brisbane Managed Investments Discussion Group

21st May 2013 7.30pm
Carindale Library

Perth Shares Discussion Group

21st May 2013, 7.30pm
Wembley Downs Tennis Club

Melbourne, Kew Discussion Group

29th May 2013, 7.00pm
Kew Library

Melbourne, Bayside Discussion Group

30th May 2013 4.00pm
Hampton Community Centre

Missing the mark with your minimum pension payment (Cont'd)



A benefit is taken to be a pension in accordance with the Superannuation Industry (Supervision) Regulations 1994 in regulation 1.06 generally if:

- The pension payment occurs at least annually
- A minimum pension payment is paid for each member each year
- A further payment via a contribution or rollover does not directly go into the pension fund once a pension has commenced

The minimum pension payment is based on the pension assets as at 1st of July each year and multiplied by the below percentages for each member. If a pension commenced during the year the market value of the pension account is determined at the date the pension starts and the minimum pension payment is determined on a pro-rata basis. The only exception to this is if a pension commenced in June in which case there is no pension payment required to be made in the first financial year.

Age	Minimum % withdrawal for the 2012-13 years for certain pensions and annuities	Minimum % withdrawal in all other cases
Under 65	3%	4%
65 – 74	3.75%	5%
75 – 79	4.5%	6%
80 – 84	5.25%	7%
85 – 89	6.75%	9%
90 – 94	8.25%	11%
95 or more	10.5%	14%

The taxation benefits of being in a pension are substantial. If a member has commenced a pension, and provided the above rules are satisfied, the investment earnings including capital gains that relate to the pension are tax free.

When the member has both an accumulation account and a pension account (because they are for example making contributions into the fund and also drawing a pension), the assets will either need to be segregated (separated) into pension and accumulation assets, or an actuary certificate will be required. The tax is then calculated on a proportionate basis.

A practical solution

The ATO has now issued some general guidance on what happens if a pension member does not meet the minimum pension payment guidelines. The Commissioner has stated that he can exercise his discretion for the pension to not revert back to a taxable accumulation account if:

- 1) The trustee has failed to pay the minimum pension payment because:
 - An honest mistake was made resulting in a small underpayment or;
 - It was outside the trustees control
 - 2) The entitlement to retain pension status would have continued but for the minimum pension payment failure
 - 3) The trustees make a catch-up payment as soon as practicable
 - 4) Had the trustee made the catch-up payment in the prior year, the minimum pension would have been met
 - 5) The trustee treats the catch-up payment as if it occurred in the prior year
- A 'small underpayment' is considered to be less than one-twelfth of the minimum pension payment. Also, a payment 'as soon as practicable' is thought by the ATO to be within 28 days of the trustee becoming aware of the underpayment.

Do you need to advise the ATO if you fail to make your minimum pension payment?

It depends on the circumstances. If the failure was an honest mistake or outside of the control of the trustee, the underpayment is only small, a previous breach of the regulation has not occurred in a different year, and all of the other conditions have been met, then we can self-assess and not advise the ATO. If all of the conditions have not been met, then the ATO will need to be advised in writing.

We welcome the approach taken by the ATO on this issue as it is a pragmatic position and will solve the uncertainty for trustees in the vast majority of cases.

Travis Allen is a director of specialist superannuation and business advisory firm Hillyer Riches. Hillyer Riches holds SMSF and business planning strategy seminars. To learn more about how we can help you visit www.hillyerriches.com.au

This article is for general information only and should not be relied upon without first seeking advice from an appropriately qualified accountant or other suitable professional.

Increase in SMSF Supervisory Levies

The government will reform the levy on self-managed superannuation funds (SMSFs), by changing when the levy is collected from SMSFs and increasing the levy to ensure our regulatory costs are fully recovered. The payment of the SMSF levy will be brought forward so it is levied and collected in the same financial year. This is consistent with Australian Prudential Regulation Authority (APRA) regulated funds, which pay the superannuation supervisory levy in the same financial year as it is levied. The change in the timing of the collection of the SMSF levy will be phased in over the two financial years (2013-14 and 2014-15) to give SMSFs time to adjust.

There is currently a shortfall of SMSF levy revenue compared to the costs of regulating the sector. The government will increase the annual SMSF levy from \$191 (in 2012-13) to \$259 from 2013-14 onwards to ensure full cost recovery. This will enable the ATO to continue to regulate this rapidly growing and diverse sector effectively.



Where to from here?

Life Planning
Financial Strategies
Asset Protection

Marriott Resort & Spa
Surfers Paradise

28th July – 31st July

www.investors.asn.au

AIA National Conference

Sunday 28th to Wednesday 31st July 2013

Three good reasons to book during May

- * Save \$100 on the registration fee
- * Be in the draw to win a free room night at the Marriott Resort
- * Be eligible to attend a special 'Masterclass' on the Monday evening

Where to from here?

Come to the annual conference and learn from industry renowned speakers, including, Brian Parker, Alan Hull, Colin Nicholson, Julia Lee, Roger Montgomery, Louise Biti, Elizabeth Mornan, and many others.

[Visit the website for details and to register](http://www.investors.asn.au)

Amazing rate on accommodation

We have been able to negotiate an extremely attractive room rate this year of \$175 per night at the Marriott Resort. Of course, other accommodation options are available also.

Proposed Changes to Medical Expense Rebate

On 8 May 2012, the government announced in the 2012-13 Budget that it will income test the net medical expenses tax offset from 1 July 2012.

Taxpayers with an adjusted taxable income above \$84,000 for singles or \$168,000 for a couple or family in 2012-13 will be affected. The family threshold will increase by \$1,500 for each dependent child after the first. These taxpayers will only be able to claim a reimbursement of 10% for eligible out of pocket expenses incurred in excess of \$5,000 (indexed annually).

Taxpayers with an adjusted taxable income below these thresholds will be unaffected. These taxpayers will continue to be able to claim a reimbursement of 20% for net medical expenses over \$2,120 (CPI indexed for 2012-13) when they lodge their tax return.

Superannuation Reform

From the **Donnelly Wealth Management** 'Donnelly Update' – May 2013. Reproduced with permission.

Last month the Federal Government announced significant changes to superannuation rules. Given the broad implications of these changes we have undertaken our own analysis and provide you with a summary of the major changes as well as our assessment of the impact they may have on your situation.

Exempt earnings of Superannuation Assets

From 1 July 2014 earnings on superannuation assets supporting pension income streams over \$100,000 p.a. will be taxed at 15%. This will be assessed per individual member within the fund.

Donnelly comment:

This change is likely to impact clients where their individual pension member balances are over \$1,670,000 (based on income returns of 6% including franking). The following table illustrates the impact that this reform will have on an individual with a pension member balance of \$2,000,000 (assuming that all earnings are fully franked):

	Current Rules	Proposed Changes
Pension Balance	\$2,000,000	\$2,000,000
Investment Earnings	\$84,000	\$84,000
Franking Credits	\$36,000	\$36,000
Total Earnings	\$120,000	\$120,000
Tax Payable		- \$3,000
Refund of Franking Credits	\$36,000	\$36,000
Total Refund	\$36,000	\$33,000

We note that earnings from unfranked sources and other factors may impact on the actual outcome and this should be considered in assessing the impact that the changes may have on your situation.

As you can see from the table the implications for a superannuant with an individual pension member balance of \$2m whilst not being excessive, are at least material. On the assumption that the majority of superannuation investors hold a portion in ASX-listed equities paying franked dividends, it is likely that this change would be felt via a reduction in the level of tax refund received each year.

Note - The proposed changes will include realised capital gains as earnings under the following guidelines:

- Assets purchased prior to 5 April 2013, only gains accrued from 1 July 2014 will be assessed;
- Assets purchased between 5 April 2013 and 30 June 2014 will have the option to elect to apply the reform to the entire capital gain, or that which is accrued after 1 July 2014; and
- Assets purchased after 1 July 2014 will have this reform applied to the full capital gain.

Donnelly comment:

The inclusion of realised capital gains as earnings will result in individuals who have lower balances being caught out by the new tax rules. This is applicable when large capital gains are realised which result in the member's earnings exceeding the \$100,000 tax-free threshold. It is pleasing to see generous grandfathering rules which will allow restructuring of large unrealised gains prior to the end of the ten year transition period.

Concessional Contributions

To allow for greater concessional contributions for those who have not had access to employer contributions for their entire working lives the Federal Government is providing an unindexed higher concessional contribution

cap to those who meet age requirements, this cap will be \$35,000 per annum and apply as follows:

- Those aged over 60 will be able to access this higher cap from 1 July 2013;
- Those aged between 50 and 60 will be able to access this higher cap from 1 July 2014;
- For those aged under 50, the general concessional cap is expected to reach \$35,000 from 1 July 2018

The higher caps will be available to all individuals (dependent on age) and will not be limited to those with balances under the previously mentioned \$500,000 member balance.

Donnelly comment:

These changes will allow for someone who reaches age 60 in the 2013/14 financial year to contribute an extra \$50,000 in concessional contributions over the five years until they reach 65. We recommend that you contact your adviser to consider the full impact that these changes could have on your overall financial situation.

Excess Contributions

The government will allow for the withdrawal of any excess concessional contributions from superannuation and will impose the excess contributions tax at the individual's marginal tax rate, plus an interest charge, reducing the tax rate from 46.5% on these contributions to your marginal tax rate. Where you decide to leave the contribution in superannuation it will have the same impact as if you made a non-concessional contribution for that amount (after tax).

Donnelly comment:

These changes remove the harsh penalties that currently apply for excess contributions and allow for flexibility where excess contributions are made. These changes will mean that when excess contributions are made the member can assess whether to maintain the amount in superannuation as a non-concessional contribution, or remove this amount from the fund, either way the outcome will result as if the money was received as wages with the same tax implications.

Deeming of superannuation income streams for Age Pension Eligibility

The government has announced that the treatment of superannuation income streams for the "income test" used to calculate an individual's Aged Pension entitlements will change for new pensions commenced

from 1 January 2015. Under the new rules the capital will now be subject to the "deeming" provisions alongside all other financial assets. Under the deeming provisions, income from your pension will be assessed at up to 4.5% and pensioners will no longer be provided with a "deductible amount" for this income. Existing products, pensions or annuities will be grandfathered to remain under the existing rules, with the deductible amount continuing to apply.



Donnelly comment:

These changes are unlikely to have any impact on existing recipients of the Age Pension with the current rules continuing indefinitely for these individuals. Changes will be applied where a new pension or commutation is commenced after 1 January 2015. This would potentially see a drastic increase in the level of income assessed by the Department of Human Services (formerly Centrelink).

The following table illustrates the assessable income from an income stream of a 67 year old man who commenced his pension at age 58, with a current balance of \$200,000:

	Current	Proposed
Balance	\$200,000	\$200,000
Pension Drawings	\$18,000	\$18,000
Deductible Amount	\$14,380	
Deemed Income		\$9,000
Assessed Income	\$3,680	\$9,000
Pension Reduction:		\$81.85 pf

This table assumes that the initial balance was \$350,000 and the pension is fully deemed at the top deeming rates. The actual outcome of these changes will depend on your individual circumstances and this should be assessed based on a complete understanding of your financial situation.

Deferred Lifetime Annuities

The government has announced that they will extend the concessional tax treatments enjoyed by superannuation assets supporting income streams to deferred lifetime annuities from 1 July 2014.

Council of Superannuation Custodians

The government has announced the establishment of a Council of Superannuation Custodians to ensure that any future changes are consistent with an agreed Charter of Superannuation Adequacy and Sustainability. The Charter will be developed against the principles of certainty, adequacy, fairness and sustainability. The Charter will clearly outline the core objects, values and principles of the Australian superannuation system. The Council will be charged with assessing future policy against the Charter and providing a report to be tabled in Parliament.

Donnelly comment:

We doubt the appointment of a superannuation custodian will stop constant changes to superannuation

Donnelly Wealth Management

AFSL 383 169, ABN 89 145 903 840
Level 1, 360 Little Collins Street
Melbourne, Victoria 3000
Australia
T + 61 3 9903 7800
F + 61 3 9903 7810
www.donnellywealth.com
www.unconventional-wisdom.com.au

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Australian Investors Association Ltd
PO Box 7439
Gold Coast MC QLD 9726
Tel 1300 555 061
Fax 07 5538 8376
Email aia@investors.asn.au