

## SELF MANAGED SUPER FUNDS

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## INTRODUCTION

**By Pauline Hammer**

The April 2009 AIA SMSF edition provides an extensive overview of the recently announced new legislation in relation to the halving of the minimum pension drawn down requirements for the current financial year – prepared by Barbara Smith and Ed Koken, this important information is for people with account – based, allocated and market linked pensions.

The Daniel Butler and Bryce Figot paper provides clarification and guidance on can a SMSF run a Real Estate Development business and when will property development constitute a business.

Negative returns – is there a bright side? Heffron Consulting explore some opportunities available in a falling market – optimising the tax free component and in some cases, eliminating the taxable component altogether.

AIA Councillor Jenni Eason provides an update on the relief for members of SMSFs who have defined benefit pensions (DBPs) which fail to meet actuarial requirements in their annual review (solvency test). A relief period will apply until 30 June 2010.

We would like to extend our best wishes for a happy and safe Easter to all AIA members.

*Pauline Hammer CFP SSA Dip SA Fin Sub-Authorised Representative, Professional Investment Services AFS Licence 234951 Premium Adviser Rating and Self Managed Superannuation Fund Professionals Association of Australia (SPAA) Specialists Adviser.*

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# REDUCTION IN MINIMUM SUPER PENSION DRAWDOWN REQUIREMENTS

Prepared by Barbara Smith and Ed Koken

## ***Reduction in minimum superannuation pension drawdown requirements. Important information for people with account-based, allocated and market-linked pensions***

On 18 February 2009, the Federal Government announced that it has reduced the minimum pension draw down requirements for account-based, allocated and market-linked pensions and annuities for the 2009 income year by 50%.

This is due to downturn in global financial markets and it aims to protect retirees' capital from being diluted in a depressed market.

The Government will suspend the minimum drawdown requirement for account-based pensions for the second half of 2008-09. This will occur through a 50 per cent reduction in the minimum payment amount for 2008-09.

If you have already taken at least half of the current minimum payment for 2008-09 you will not need to withdraw any more payments until the 2009-10 year (the latest date for withdrawal in that year is 30 June 2010).

The reduction in the drawdown aims to address the fact that asset values have declined substantially since the minimum pension drawdown was calculated for pensions at 1 July 2008. The substantial drop in many member balances since 1 July 2008 would have meant that assets would have had to be sold to meet minimum pension requests, thus forcing fund trustees to crystallise losses.

If you have not yet taken at least 50 per cent of the minimum payment you will now only need to draw down half the required amount, for example:

- for a person under age 65 on 1 July 2008, 2% rather than 4% of the pension account balance.
- for a person age 65 to under age 75 on 1 July 2008, 2.5% rather than 5% of the pension account balance.

If you have already withdrawn more than 50 per cent of the minimum amount for 2008-09 there is no further relief (ie you cannot pay the excess drawdown back to your fund).

### **Example 1**

John (aged 63) had an account balance of \$1 million on 1 July 2008 with a minimum drawdown of 4% or \$40,000 in 2008-09 is only required to drawdown \$20,000. If he has already drawn down \$18,000 he is only required to take another \$2,000 by 30 June 2009.

For most people this reduction will provide sufficient relief, however, if your assets have reduced to the extent that you would like to withdraw a lesser amount it may still be beneficial to commute (stop) and commence a new pension as the pro-rata minimum drawdown for the new pension will be further reduced by the 50%.

### **Example 2**

If John's assets have fallen by half to \$500,000 in March 2009 and he took a reduced minimum pro-rata pension payment for 9 months of about \$15,000 on 31 March 2009 based on the 50 per cent reduced minimum drawdown for 2008-09, then commuted his existing pension and commenced a new pension with a minimum drawdown of \$2,500 (reduced to \$5,000 with the 50 per cent relief) he only has to withdraw \$17,500 for 2008-09.

|   | <b>1 July 08 to<br/>30 June 09</b> | <b>1 July 08 to<br/>31 March 09</b>     | <b>1 April 09 to<br/>30 June 09</b> |
|---|------------------------------------|---|-------------------------------------|
| Account balance                               | \$1,000,000                        | \$1,000,000                             | \$500,000                           |
| Minimum payment<br>based on 4%                | \$40,000                           | \$30,000 (\$40,000 x<br>$\frac{3}{4}$ ) | \$5,000 (\$20k x 1/4)               |
| New minimum<br>payment after 50%<br>reduction | \$20,000                           | \$15,000                                | \$2,500                             |
| Reduction in<br>drawdown                      | \$20,000 without<br>commutation    | \$22,500 with commutation               |                                     |
| Drawdown required                             | \$20,000 without<br>commutation    | \$17,500 with commutation               |                                     |

Note: calculations in examples are in months, whereas actual calculations are required to be on the days remaining in the financial year.

In summary:

1. if you want to reduce your minimum superannuation pension drawdown in 2008-09 and you do not need the money to meet your living expenses you are only required to drawdown 50% of your minimum account based, allocated and/or market linked pension(s) minimum for the current income year.
2. if you would like to reduce your minimum amount further and you have not already withdrawn 50 per cent of the minimum amount for the full year you may also consider commuting existing pensions and commencing a new pension based on the reduced asset values of the fund.
3. if you have a self managed superannuation fund, before acting you should contact your accountant if you have any doubts about any aspect of this information.
4. if your pension is not from a self managed superannuation fund contact your fund administrator if you wish to cease any further pension payments and you have already drawn down at least 50 per cent of the minimum.

*Barbara Smith and Ed Koken are authors of the Superannuation Handbook 2008-2009.*

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# CENTRELINK RELIEF FOR SMSF DEFINED BENEFIT PENSIONS

By Jenni Eason

On 17 March the Minister for Families, Housing, Community Services and Indigenous Affairs, Jenny Macklin announced some relief for members of SMSF who have defined benefit pensions (DBPs) which fail to meet actuarial requirements in their annual review (solvency test). A relief period will apply until 30 June 2010.

SMSF DBPs are required to meet a solvency test every year – typically there needs to be a 50% probability of the fund continuing to meet its liabilities. If a fund does not meet this test then it must take action to ensure the fund is solvent by 30 June of the following income year (ie twelve months after the effective date of the actuarial review). Failure to do so can result in penalties, including the loss of the fund's complying status.

However, to be eligible for an ongoing Centrelink Assets Test Exemption (ATE) the trustee must provide an annual actuarial certificate confirming that the fund has a high (70%) probability of being able to meet its liabilities.

Failure to meet this high probability requirement can result in severe Centrelink penalties eg repayment of five years worth of Centrelink benefits.

The relief measures are as follows:

1. Keep the complying pension but forego the Centrelink Assets Test Exemption (ATE).  
SMSF defined benefit pensions (DBP) which fail the solvency test prior to 1 July 2010 and choose not to restructure to a complying annuity (through a Life Office) will become permanently assets tested six months after the date of the complying pension review. No Centrelink debts will arise if this occurs during the relief period.

It is understood that restructuring to a market-linked pension will not be an option.

2. Commute the complying pension to a complying annuity with a Life Office by 31 December (ie six months from the date of review) and retain the 100% ATE. (Effectively the existing rules.)

The above is a very brief summary of the provisions and as there are many issues to consider in deciding on the most appropriate option it is strongly advised that you obtain specialist advice.

*Jenni Eason is the Treasurer and Secretary of the AIA. Thanks to MLC and Bendzulla Actuarial Pty Ltd for some of the source information.*

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# CAN A SMSF RUN A REAL ESTATE DEVELOPMENT BUSINESS

By Bryce Figot and Daniel Butler

A long standing question is whether an SMSF trustee may run a business. Naturally, few trustees want to run a regular trading business. However, a significant number do want to run a real estate development business.

This paper provides clarification and guidance to two questions:

- Can an SMSF trustee run a business?
- When will property development constitute a business?

## The ATO position

The ATO have never expressly forbidden SMSF trustees from running a business. However, they have made many cautionary comments, such as:(1)

[T]here is nothing in the legislation to prevent it. However, there are potentially a number of issues in carrying on a business that might lead to contraventions of the SIS Act and regulations (such as the sole purpose test), or the borrowing of money. *As each case must be considered on its own merits, the Tax Office cannot give a more definitive answer.* (Emphasis added)

This is not a definitive no and suggests that an SMSF trustee might be able to run a business, subject to a number of provisos.

## The legislative position

As the ATO correctly state, there is nothing in the superannuation legislation (2) to prevent an SMSF trustee from running a business. However, there are a number of provisions that trustees must be aware of, including:

**Investment strategy**(3) — the trustee must formulate and give effect to an investment strategy that has regard to the whole of the circumstances of the entity including issues such as diversification.

**No remuneration**(4) — no trustee (or director of the trustee) of an SMSF may receive any remuneration from the fund for any duties or services performed in their role as trustee in relation to the fund. This might prove problematic if the trustees were working in the business and required a wage for day-to-day living expenses yet were under their preservation age.

**No financial assistance and arm's length requirements**(5) — an SMSF trustee must not give any financial assistance using the resources of the fund to a member or a relative. Further, an SMSF trustee must only deal with related parties on an arm's length basis. This is important to bear in mind if a related party is being engaged to do work for the fund.(6)

**No charges**(7) — the trustee must generally not give a charge over a fund asset. Many common business arrangements involve charges.

However, the most important legislative provision raised by the ATO is the sole purpose test.(8) This test requires that each trustee must ensure that the fund is maintained solely for certain core and ancillary purposes. Naturally, these include purposes such as the provision of benefits for members upon retirement. Some commentators have suggested that this is a subjective test.(9) In other words, provided that the trustee genuinely believes that their activities are enhancing the prospects of providing retirement benefits to members etc, then the sole purpose test will not be failed and a 'business enterprise can be included as part of the investment strategy for [a] fund.'(10).

However, the modern approach of courts has been to look at the objective facts, rather than the subjective intent of the trustees.(11) Accordingly, the sole purpose test will be met if a third party

were to look at the activities of the fund that third party would regard those activities as being consistent with purposes such as the provision of retirement benefits. The trustee's belief — regardless of whether it is genuine — will not make any difference.

## **Case law**

There have been no cases expressly considering whether an SMSF trustee may engage in a property development business. One relevant decision is Scott's case,<sup>(12)</sup> a 1966 High Court decision. In Scott's case, Leslie Scott, in addition to practising as a lawyer, had large interests in land, both in buying and selling and in letting to tenants for rent. He also engaged in these real estate activities through private companies. Scott arranged for a superannuation fund to be formed. The fund members were Scott, his wife and his parents-in-law. Over five years, the fund received approximately £5,500 of contributions yet its assets grew to £59,869.

The judgment does not detail the exact extent of the trustee's activities. But it is made clear that the massive growth in fund assets was 'not made by investing in the ordinary way' and was instead mainly due to profits made by dealings in land involving subdividing and selling the land off in allotments. These dealings were financed through borrowed monies (superannuation funds could borrow in those days). It was accepted that the fund's activities constituted a business.

The High Court found that the fund had been established merely as a continuation of Scott's activities outside of the fund. The High Court ultimately concluded that profits made by buying land with borrowed money and selling it were not income of a fund and that the fund was not actually a superannuation fund.

Although we now have very different legislation in place, in order to be a regulated superannuation fund under the current legislation, a fund must be a 'provident, benefit, superannuation or retirement fund'.<sup>(13)</sup> The expression 'provident, benefit, superannuation or retirement fund' is not defined in the SISA, therefore the meaning given to 'superannuation fund' in Scott's case is still relevant.

Sixty-six subsequent judgments, and AAT and TBR decisions cite Scott's case, but not one has overruled it. Yet none of those 66 judgments and decisions consider a superannuation fund that is in the business of land development. Accordingly, although Scott's case is still technically 'on the books' it has not been affirmed. Accordingly, there is a chance that if a court revisited it today, it might be decided differently in light of commercial realities: namely, in Scott's case the assets grew over 10 fold in less than five years.<sup>(14)</sup> If an SMSF trustee can identify such a lucrative investment opportunity, arguably the trustee is under a duty to invest in it,<sup>(15)</sup> subject to the usual provisos.<sup>(16)</sup>

Nevertheless, Scott's case has been identified as one of the leading reasons why there is a reluctance to have a business conducted by a SMSF.<sup>(17)</sup>

It should also be noted that any trustee (eg, trustees of SMSFs, discretionary trusts, unit trusts, etc) who wants to carry on a business must be expressly empowered to do so under the trust's governing rules (typically annexed to or contained in the trust deed).<sup>(18)</sup> Accordingly, an appropriate trust deed would be necessary for an SMSF trustee to run a business.

## **When will real estate development not constitute a business?**

There is no 'hard and fast' test for when real estate development will constitute a business, however, there are a list of salient features that are relevant. These features include:<sup>(19)</sup> whether there is repetition and regularity of the activities; whether the activities are of the same kind and carried on in a similar manner to that of the ordinary trade in that line of business; and the size, scale and permanency of the activity.

The case of Statham<sup>(20)</sup> provides interesting insights as to whether large tracts of land may be developed and will only constitute the mere realisation of a capital asset, rather than the carrying on of a business. The case involved a 270 acre farm and over a period of six years, 105 lots were subdivided and sold. Clearly there was repetition, regularity, size, scale, etc. However, the subdivisions and sales were held to only be a mere realisation of a capital asset. The crucial

feature here was that the landowner had been very passive: the landowner engaged the local council and real estate agents, and they had essentially handled everything else for the landowner.

### Practical implications

The legislation does not prohibit an SMSF trustee from carrying on a business of property development, but it does contain a number of provisos that must be born in mind if carrying on such a business. In particular:

- the fund should ensure its deed, investment strategy and related documents are carefully reviewed to ensure they authorise the activity;
- in many cases property development exposes a fund to commercial risks, for example, cost overruns, illiquidity of a builder/contractor/tenant;
- building contracts have to be checked and any charge in favour of the builder for their payments should be excluded; and joint venture development activities give rise to a range of other issues that are outside the scope of this article.

Even if these provisos are met, carrying on a business may still entail an element of risk. In light of the above risks, an SMSF trustee might well consider engaging another entity to carry out the development 'leg work' so that any vacant land that forms part of the SMSF assets would still be developed but the SMSF trustee is merely realising an asset rather than carrying on a business. Moreover, the arrangement with the developer should be benchmarked with competitive quotes and otherwise reflect arm's-length terms.

*Bryce Figot and Daniel Butler, DBA Butler Lawyers.*

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## OPTIMISING THE TAX FREE COMPONENT

Provided by Heffron Consulting Pty Ltd

**Negative returns – is there a bright side? We explore some of the opportunities available in a falling market – optimising the tax free component and in some cases, eliminating the taxable component altogether.**

Few self managed superannuation funds will have escaped the turmoil on investment markets in 2007/08 and 2008/09. This edition of HC Super News identifies some small silver linings that may assist advisers to make the best of a bad situation. We explore how clients can use negative investment returns to increase the "tax free component" of their superannuation balances.

### Proportioning rule – impact of negative returns

As reported in earlier editions, the "proportioning rule" dictates the calculation of the tax components of benefits drawn from super (ie, how much is classified as a "tax free component" and how much is a "taxable component").

While clients over 60 pay no tax on benefits they draw during their lifetime, the tax components are still crucial for:

- anyone drawing on their super before 60; and
- payments made to non death benefits dependants<sup>1</sup> (say adult children) on death.

How the "proportioning rules" are applied depends primarily on whether the member's balance is in accumulation phase or pension phase.

### Accumulation phase

As most practitioners would be aware, the rules governing tax components in accumulation phase are quite simple.

<sup>1</sup> As defined in ITAA 1997 rather than SIS.



Firstly, the tax components are only actually calculated when a benefit is taken (ie, a lump sum is paid or a pension starts).

When a benefit *is* taken, the process is as follows:

- the tax free and taxable components of the total balance are determined;
- those components are then expressed as a proportion of the total account balance; and
- the tax components of the lump sum being drawn / pension being commenced are then dictated by these proportions.

The dollar amount of the “tax free” component of the overall balance is calculated as follows:

- the tax free component at 30 June 2007 (the ‘crystallised segment’); plus
- subsequent non-concessional contributions<sup>2</sup> (the ‘contributions segment’); less
- the tax free component included in any prior benefit (ie, lump sum payment or amount set aside to commence a pension).

The taxable component is simply the rest of the member’s balance.

When an individual’s balance is increasing due to investment returns, the returns are added to the taxable component.

However, the corollary is also true. When markets are falling, the negative investment returns **reduce** the taxable component of an accumulation balance. They do not affect the **tax free component**.

The current state of investment markets has therefore produced some unusual results for clients with balances in accumulation phase. In some cases, the tax free component is higher than the accumulation balance itself!<sup>3</sup>

The ramifications and opportunities here are perhaps best explained by looking at an example.

### Example

Peter made a \$1m undeducted contribution in June 2007. By 30 June 2008, his balance had fallen to \$750,000. If he took a \$500,000 benefit then (say, he started a pension or received a lump sum), what would the tax components be?

The **tax free component** of the total balance is:

- the tax free balance at 30 June 2007 (\$1m); plus
- subsequent contributions (\$nil)

capped at \$750,000 (ie, it is capped at the value of the accumulation balance at that time).

This is 100% of the value of the accumulation balance at that time and the \$500,000 benefit is therefore comprised entirely of “tax free” component.

What is perhaps more important is what happens later when he takes his next benefit.

### To continue...

What if Peter’s remaining accumulation balance (\$250,000) grew by \$300,000 (up to \$550,000) by 30 June 2010? The growth came via concessional contributions and investment earnings (but no new non-concessional contributions were made).

Say Peter now cashes out his entire \$550,000 balance by taking a lump sum benefit (or perhaps starting a pension).

<sup>2</sup> Plus certain other amounts such as contributions relating to some CGT small business concessions, structured settlements / orders for personal injuries or a portion of contributions transferred from a foreign superannuation fund after 30 June 2007.

<sup>3</sup> Some superannuation software packages actually report a negative taxable component. This is not strictly true – when a benefit is actually taken, the taxable component cannot be lower than \$nil.



Intuitively, one would assume that the \$300,000 growth between 2008 and 2010 should fall into the taxable component - since we know that it came from "taxable" sources (concessional contributions and investment earnings). This would leave only \$250,000 tax free.

But in fact, the tax free component of the total balance is calculated using the usual method:

- the tax free balance at 30 June 2007 (\$1m); plus
- subsequent non-concessional contributions (\$nil); less
- the \$500,000 tax free component withdrawn / converted to pension phase on 30 June 2008.

This gives a total tax free component of **\$500,000** for the \$550,000 balance.

### **What has happened here and what are the opportunities?**

Several points emerge from this example:

- Peter was effectively able to "carry forward" his full tax free component (adjusted by the \$500,000 he withdrew in 2008) even though there were periods when it exceeded his balance. For example, when he took his first benefit in 2008, he left only \$250,000 in his accumulation account. Nonetheless, he could carry forward the full tax free amount remaining at the time (\$500,000) behind the scenes.
- This ability to carry forward the full tax free entitlement effectively allowed him to convert some of the \$300,000 growth (that would normally fall into his taxable component) into a tax free component.

### **Could Peter have missed out on this opportunity?**

Absolutely.

It was crucial that Peter left *something* in accumulation phase at 30 June 2008. If he had:

- cashed out / rolled over; or
- converted to a pension

his *entire* balance at 30 June 2008 he would have effectively closed his accumulation interest.

At that point, the amount of his tax free component that he had not been able to use (\$250,000) would have been lost.

It was also crucial that Peter's fund administrators knew the rules well enough to keep track of his total tax free component (ie, \$1m less the \$500,000 withdrawn at 30 June 2008) rather than simply assuming it should be capped at \$250,000 at 30 June 2008.

These points are particularly relevant for clients looking to consolidate superannuation accounts. While it is an attractive time to (say) move from one fund to another because little CGT would be payable, remember to consider the impact on the client's tax free component.

In Peter's case, for example, if he wanted to combine several superannuation accounts at 30 June 2008, he shouldn't necessarily roll his \$750,000 balance into another fund.

If he did, his new fund's records would simply show his balance and his tax free component as being \$750,000. He would have no opportunity to make use of the strategy identified here.

Instead, he might be better advised to:

- add his \$100,000 concessional contributions first; and/or
  - roll a largely taxable balance from another fund into the \$750,000 fund first
- and then transfer the combined amount into his desired superannuation vehicle.

## Pension phase

Unlike balances in accumulation phase, the tax components of a pension are calculated on commencement<sup>4</sup> only.

At that point, the tax free component is expressed as a percentage of the original pension balance and this percentage is fixed for the life of the pension.

This percentage is then applied to:

- pension payments during the pensioner's own lifetime;
- any lump sums drawn from the pension;
- pensions or lump sums paid to other beneficiaries when the pensioner dies; and
- the rollover amount should the pension be commuted and returned to accumulation phase.

In effect then, any investment earnings are divided between the taxable and tax free components once a balance is in pension phase.

This contrasts with the situation in accumulation phase where earnings are added to / subtracted from the taxable component as described earlier.

The allocation of negative investment returns therefore *does erode* the underlying dollar value of the tax free component of balances in pension phase.

Can we do anything about this?

Let's use another example.

## Example

Anne's entire fund has been set aside to pay her a pension. When this pension started, its tax free component was determined as 50% of the total pension balance. Her balance at 30 June 2008 is \$1m.

What if Anne's fund lost \$250,000 in value during 2008/09?

If no changes were made to the pension, the underlying tax components in dollar terms at 30 June 2009 would be:

- \$375,000 tax free (50%)
- \$375,000 taxable (the full balance of \$750,000 less \$375,000).

What if instead, Anne had converted back to accumulation phase either:

- on 1 July 2008; or
- later in the year but **before** investment earnings were allocated to her pension account?

Her balance at the time of the conversion back to accumulation phase would be \$1m.<sup>5</sup>

The tax components would be:

- \$500,000 tax free (50%)
- \$500,000 taxable (remainder).

Once the earnings (negative \$250,000) were allocated the tax components would become:

- \$500,000 tax free (no change because earnings are all added to the taxable component in accumulation phase); and
- \$250,000 taxable (the rest of the balance).

<sup>4</sup> There were some special arrangements for pensions in place at 1 July 2007.

<sup>5</sup> We have ignored pension payments during 2008/09 just to make the comparison easier. Of course, if the pension was commuted back to accumulation phase after 1 July 2008, the pension would need to be paid up to date first.

If a new pension then commenced with the proceeds its tax free proportion would be 66.67% (\$500,000 ÷ \$750,000) rather than 50%.

Clearly, this will be beneficial for:

- Anne herself if she is under 60 (as she will pay less tax on the pension payments drawn); and
- Any of her beneficiaries that are not death benefits dependants.

It may also give Anne some protection against future legislative change.

For example, even if tax is one day reintroduced on superannuation payments, it is likely that tax free components will still receive beneficial treatment (eg, perhaps they will still be tax free or taxed at a lower rate than the taxable component).

### **To continue...**

What if Anne also had an accumulation balance of \$200,000 that consisted entirely of a taxable component? During the year, her total fund (\$1.2m) lost \$300,000.

The current market conditions provide a rare opportunity for taxable accumulation balances to be combined with a pension balance containing a tax free proportion without diluting that tax free proportion.

In Anne's case, if she once again commuted her pension on 1 July 2008 or later in the year before investment earnings were allocated, her \$1.2m balance would be divided as follows:

- \$500,000 tax free (50% of her \$1m pension); and
- \$700,000 taxable (the rest).

When the negative earnings are allocated (\$300,000), the overall accumulation balance will be \$900,000.

If a new pension started with this balance, its tax free proportion would be 56%.

In other words, the tax free component has increased slightly despite the fact that it now includes the \$200,000 (entirely taxable component) accumulation balance.

### **Another variation**

Instead, Anne has two pensions. One is valued at \$1m and is 100% tax free. The other is also \$1m but is 100% taxable. She expects her fund (total \$2m) has lost 30% (\$600,000 in total) but earnings have not yet been allocated by the trustee.

What if the 100% tax free pension was fully commuted in, say, June prior to the allocation of earnings?

After the 30% loss is applied to this account, the following would apply:

- the balance reduce from \$1m to \$700,000; but
- the tax free component would be \$1m.

If she also "rolled back" \$300,000 from the 100% taxable pension to accumulation phase we would find that:

- the total accumulation balance would now be \$1m (\$700,000 + \$300,000 from the taxable pension); and
- the tax free component would also be \$1m.

In other words, her accumulation balance of \$1m could be converted to a new 100% tax free pension.

The following table shows how Anne's pensions could be divided:

| Anne's position if she: |              |              |
|-------------------------|--------------|--------------|
| Pension                 | Does nothing | Re-organises |
| 100% tax free           | \$700,000    | \$1,000,000  |
| 0% tax free             | \$700,000    | \$400,000    |
| Total                   | \$1,400,000  | \$1,400,000  |

In effect, Anne could convert \$300,000 of her "taxable component" into an additional "tax free" component.

This comparison highlights one of the peculiarities of our new system:

- the calculation of the tax free component encourages locking into *pensions* in a rising market (because then the positive earnings are shared between the taxable and tax free components - effectively having the balance in pension phase allows the tax free component to grow); but
- *accumulation* balances are ideal in a falling market (because the negative earnings are all applied to the taxable balance).

## Conclusion

There is not a great deal of good news in the current economic climate.

However, there are some opportunities worth exploring for those clients who have an interest in maximising their tax free component.

There are also some pitfalls to be aware of – particularly for those clients looking to use the low asset valuations (and therefore low capital gains tax impost) as an opportunity to consolidate multiple funds into one vehicle.

Nor surprisingly, our administration team has devoted considerable time to implementing these strategies for advisers in recent months. If we can assist you in this process please do not hesitate to contact us.

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