

## SELF MANAGED SUPER FUNDS

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### Introduction

**By Pauline Hammer**

It's that time of year again, post budget and end of Financial Year. The June 2009 AIA SMSF edition provides a brief summary of the 2009 Federal Budget in relation to the superannuation changes from 1 July 2009.

Remember there is an opportunity to maximise the Government co-contributions in the next few weeks. After 30 June 2009 the maximum co-contribution will decrease from \$1,500 to \$1,000 and the income test will include salary sacrificed contributions being counted as income, so now may be the time to act.

Grandparents have always wanted to provide for grandchildren. Recent legal changes have created exciting new ways to do this. DBA Butler Lawyers provide an overview of these changes and also key rulings on contributions as they relate to SMSF borrowing and guarantees, distributions from discretionary trusts, SGC and excess contributions and the 30 June 2009 deadline for Related Unit Trusts.

The financial crisis has significantly impacted SMSF's paying a Lifetime Pension. Olivera Ivcovici believes now is a good time to review the appropriateness. Thank you to Bryce Figot, Vic Rajah, Daniel Butler and Olivera Ivcovici from DBA Lawyers for their contribution to the June 2009 edition.

As we countdown the days to the end of the Financial Year, AIA members ensure you have maximised your superannuation strategies such as the Government Co-Contribution, Concessional Contributions and Spouse Contributions.

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# 2009 Government Budget Update

Prepared by Pauline Hammer

The Government's 2008-2009 budget included a number of changes to taxation, superannuation and government pension benefits. The superannuation changes include reducing superannuation salary sacrifice concessions from 1 July 2009, progressively increasing the age pension age to 67 and the reduction of the Government co-contribution.

The following provides a summary of the relevant budget announcements on superannuation.

## Tax rates 2008-09

<i>Taxable income</i>	<i>Tax on this income</i>
\$0 – \$6,000	Nil
\$6,001 – \$34,000	15c for each \$1 over \$6,000
\$34,001 – \$80,000	\$4,200 plus 30c for each \$1 over \$34,000
\$80,001 – \$180,000	\$18,000 plus 40c for each \$1 over \$80,000
\$180,001 and over	\$58,000 plus 45c for each \$1 over \$180,000

## Tax rates 2000-10

<i>Taxable income</i>	<i>Tax on this income</i>
\$0 – \$6,000	Nil
\$6,001 – \$35,000	15c for each \$1 over \$6,000
\$35,001 – \$80,000	\$4,200 plus 30c for each \$1 over \$35,000
\$80,001 – \$180,000	\$18,000 plus 38c for each \$1 over \$80,000
\$180,001 and over	\$58,000 plus 45c for each \$1 over \$180,000

## Reduction of concessional contribution cap from 1 July 2009

The Government will reduce the concessional contributions (CC) cap to \$25,000 per annum (indexed), with effect from the 2009-2010 financial year.

The transitional concessional contributions cap (applicable to individuals aged 50 and over for the 2009-2010, 2010-2011 and 2011-2012 financial years) will be reduced to \$50,000 per annum. 'Grandfathering' arrangements will apply to certain members with defined benefit interests as at 12 May 2009 whose notional taxed contributions would otherwise exceed the reduced cap. Similar arrangements were applied when the concessional contributions cap was first introduced.

The annual cap on non-concessional contributions (NCC) is \$150,000 per annum for the 2008-09 financial year and will remain at that level in 2009-10. In the future, the non-concessional cap will be calculated as six times the level of the (indexed) concessional contributions cap.

The reduction of the concessional contribution cap to \$25,000 (\$50,000 transitional to 30 June 2012) from 1 July 2009 does not apply until next financial year so individuals will not be penalised for contributing within the current concessional contribution (\$50,000 or \$100,000 transitional) cap this financial year.

Next year's cap reduction means employees will need to review their salary sacrifice arrangements, and self-employed their personal deductible super contributions and consider contributing more this financial year. In addition, individuals may also need to consider drip-feeding contributions over a longer period in order to meet their retirement goals.

The 2009-2010 concessional contributions cap has technically been reduced by more than half if indexation is taken into consideration (the indexed 2009-2010 cap was to have been \$55,000).

The non-concessional contributions cap is essentially unaffected, remaining at \$150,000, but has been slightly reduced if indexation is taken into account (the indexed 2009-2010 NCC cap was to have been \$165,000). The NCC cap will be calculated as six times the CC cap in future years. There has also been no change to the bring-forward rule, which will be capped at \$450,000 for 2009-2010.

The transition to retirement (TTR) strategy remains unaffected other than the amount that can be salary sacrificed tax effectively into super. For example an individual age 55 on a salary of \$150,000 and with a super balance of \$800,000 could see the benefits of a TTR plus salary sacrifice strategy reduce by \$57,000 over 10 years due to limiting their total concessional contributions so as not to exceed the relevant cap. This example assumes the individual draws a pension payment so as to maintain their original net income. Investment returns are assumed at 7% pa after fees but before tax and inflation is assumed to be 3% pa.

Remember that the concessional contribution cap applies to all concessional contributions. For example, a high income-earning employee under age 50, with SG contributions limited by the maximum contribution base (\$152,720 pa for 2008-2009), only \$11,255 can be tax-effectively salary sacrificed from 1 July 2009.

Individuals will now need to be more cautious about the possibility of their concessional contribution cap and incurring excess contributions tax. Approximately 25,000 individuals have been assessed as exceeding contribution caps in 2007-2008 – lower caps will likely mean greater numbers will receive similar assessments in the future.

For this financial year, remember that the transitional concessional cap is available to anyone age 50 or more at any time during the financial year. For example, an individual reaching age 50 on 30 June 2009 can make concessional contributions of up to \$100,000 during 2008-2009 without incurring excess concessional contributions tax.

### **Temporary reduction of the Government co-contribution from 1 July 2009 to 30 June 2014**

The Government will temporarily reduce the matching rate and maximum co-contribution that is payable on an individual's eligible personal non-concessional superannuation contributions, with effect from 1 July 2009. Under this measure, the matching rate and corresponding reduction will be:

	<b>2009-2010</b>	<b>2010-2011</b>	<b>2011-2012</b>	<b>2012-2013</b>	<b>2013-2014</b>	<b>2014-2015</b>
Maximum co-contribution payable	\$1000	\$1000	\$1000	\$1250	\$1250	\$1500
Reduction for each \$1 of total income above shade out threshold	3.333 cents	3.333 cents	3.333 cents	4.167 cents	4.167 cents	5 cents

	Super contribution (\$ pa)			
	1000	750	500	250
Income (\$ pa)*	Government co-contribution (\$ pa)			
30,342	1000.00	750.00	500.00	250.00
32,342	933.34	750.00	500.00	250.00
34,342	866.68	750.00	500.00	250.00
36,342	800.02	750.00	500.00	250.00
38,342	733.36	733.36	500.00	250.00
40,342	666.70	666.70	500.00	250.00
42,342	600.04	600.04	500.00	250.00
44,342	533.38	533.38	500.00	250.00
46,342	466.72	466.72	466.72	250.00
48,342	400.06	400.06	400.06	250.00
50,342	333.40	333.40	333.40	250.00
52,342	266.74	266.74	266.74	250.00
54,342	200.08	200.08	200.08	200.08
56,342	133.42	133.42	133.42	133.42
58,342	66.76	66.76	66.76	66.76
60,342	0.00	0.00	0.00	0.00

\* Based on shade-out thresholds for 2008-2009.

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## Government Co-contribution prior to 30 June 2009

### Are you eligible for the Co-contribution prior to 30 June 2009?

See the table below for details of the Co-contribution payable if you make a personal contribution to your super account.

If your total income for co-contribution purposes is \$28,000 or less in a year of income, the Government will deposit \$1.50 into your superannuation account for every dollar you personally contribute, up to a maximum of \$1,500 a year.

When your total income is more than \$28,000 but less than \$58,000 in a year of income, your co-contribution will be adjusted based on your total income and how much you personally contribute as demonstrated in the following table.

If your personal superannuation contribution is:				
	\$1,000	\$800	\$500	\$200
And your income is:	Your Super Co-contribution will be:			
<b>\$28,000 or less</b>	\$1,500	\$1,200	\$750	\$300
<b>\$30,000</b>	\$1,400	\$1,200	\$750	\$300
<b>\$32,000</b>	\$1,300	\$1,200	\$750	\$300
<b>\$38,000</b>	\$1,000	\$1,000	\$750	\$300
<b>\$40,000</b>	\$900	\$900	\$750	\$300
<b>\$42,000</b>	\$800	\$800	\$750	\$300
<b>\$48,000</b>	\$500	\$500	\$500	\$300
<b>\$50,000</b>	\$400	\$400	\$400	\$300
<b>\$52,000</b>	\$300	\$300	\$300	\$300
<b>\$54,000</b>	\$200	\$200	\$200	\$200
<b>\$56,000</b>	\$100	\$100	\$100	\$100
<b>\$58,000</b>	\$0	\$0	\$0	\$0

## How do you apply for the co-contribution?

The good news is you don't need to apply for the co-contribution. As long as you are eligible you just need to make a personal contribution to your super account and lodge an income tax return for that financial year.

The Australian Taxation Office (ATO) will use the information supplied on your tax return and contribution information from your super fund to work out if you are eligible for the co-contribution. If you are, they will forward the payment automatically to your fund, and the fund will deposit it straight into your account, provided they have your Tax File Number (TFN) on record.

## How will you know that the co-contribution has been paid?

The ATO will send you a letter to confirm that the co-contribution has been forwarded to your superannuation fund. Payments will be reflected in your next member statement.

Your co-contribution will be calculated after you have lodged your tax return and your fund has forwarded your contribution information to the ATO. All super funds must send contribution details to the ATO by 31 October, so if eligible, confirmation of the co-contribution will generally be sent to you after this date.

## Why now?

After 30 June 2009 the maximum co-contribution will decrease from \$1,500 to \$1,000. Also the income test will include salary sacrificed contributions being counted as income, so now may be the time to act.

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# Superannuation Contributions for Grandchildren?

By Bryce Figot and Vic Rajah

Grandparents have always wanted to provide for grandchildren. Recent legal changes have created exciting new ways to do this.

## Co-contributions

The superannuation co-contribution is an initiative by the Commonwealth Government to help people save for their retirement. Broadly, if a person with total annual income under a certain level (currently \$60,342) makes a personal contribution to a complying superannuation fund, the government will also contribute to that person's superannuation.

There is a maximum age in order to be eligible to receive the co-contribution (71 years old at the end of the year of income). However, there is no minimum age.

This raises an interesting question. If a grandparent makes a contribution to a superannuation fund for their grandchild, will the government match it by 150%? The short answer is yes, but there are important quirks to be aware of.

## Eligibility

There are a number of hurdles that must be passed in order to be eligible for the co-contribution. They include:

***Ten percent or more of the person's income must attributable to either or both of being an employee or running a business***

Employment income for children can prove tricky as there are laws regarding the minimum legal age for employment. These laws vary from jurisdiction to jurisdiction. For example, in Victoria, there is no minimum age for the employment of a child in a family business or in entertainment.

A child aged 11 or more may be employed to deliver newspapers, etc and there are various other exceptions and restrictions in respect of children under the age of 15. For more information, see the *Child Employment Act 2003* (Vic) (available from [www.dms.dpc.vic.gov.au](http://www.dms.dpc.vic.gov.au)).

Typically a grandchild would not be considered to be carrying on a business. But in the recent decision of *Hance v FCT* [2008] FCAFC 196 the Full Federal Court found that under particular managed investment schemes, even passive investors are carrying on a business. Accordingly, a grandchild who receives income from certain managed investment schemes might fulfil this requirement.

## ***Lodge an income tax return***

For a grandchild who might be a minor with little income, lodging an income tax return can seem quite unusual. Nevertheless, it is a vital step in the process of receiving the co-contribution from the government.

## ***Assessable income***

Grandparents need to take special care to ensure that the contributions they make are not included in the superannuation fund's assessable income (otherwise, the contribution will be taxed at 15% — regardless of whether the grandparent obtained a tax deduction for the contribution). A superannuation fund's assessable income includes a contribution to provide a superannuation benefit for someone else (eg, a grandchild). The grandparent might provide the money to the grandchild and then the grandchild contributes to the superannuation fund. If this were to occur, the contribution is not providing a superannuation benefit for someone else and would not be included in the fund's assessable income.

## Is there a better option?

Contributing to a superannuation fund and obtaining the government co-contribution has many benefits. These include:



- The government co-contribution can mean that a \$1,000 gift effectively becomes a \$2,500 gift. This represents an instant return of 150% at zero risk.
- The money is locked away pursuant to the preservation rules, so there is peace of mind that the grandchild won't be spending the money at age 18.
- A complying superannuation fund receives generous tax concessions so the money accumulates in a concessional tax environment.
- An interest in a regulated superannuation fund is typically not available to creditors upon bankruptcy.

However, there are disadvantages with the strategy. They include:

- The money is generally locked away until age 65. This can be very frustrating if the grandchild later wants to withdraw money before age 65 for a purpose that the grandparent approves of (eg, university education, purchasing a house, etc).
- Superannuation funds are subject to very strict investment restrictions.

An alternative is for the grandparent to settle a family trust. The trustee then gears the trust's assets. Although the trust will not receive the government co-contribution, over time this can be more than offset by the following:

- gearing has a magnifier effect and provided the underlying assets generally have a higher return than the interest on the debt, the overall return in the family trust should be significantly higher, especially as the years pass and the higher returns compound.
- due to negative gearing, the trust might have no taxable income. Therefore, no income tax might be payable if the grandparent settled a family trust, whereas 15% income tax might be payable if the grandparent had contributed to a superannuation fund.

Accordingly, consider two scenarios. In scenario 1, a grandparent contributes \$1,000 to a superannuation fund for a 5 year old grandchild and the government then pays the co-contribution (effectively giving the grandchild superannuation benefits of \$2,500). In scenario 2, the grandparent settles a family trust with \$1,000 and the trustee gears it. In both scenarios the super fund and the family trust both invest in the same underlying assets, the ASX S&P 300, which returns 12% pa. The results are as follows:

	<b>Scenario 1 (using government co-contributions)</b>	<b>Scenario 2 (using geared family trusts)</b>
<b>Wealth when grandchild attains age 65</b>	\$1,966,002	\$3,841,627

[for the full calculations, email [bfigot@dbabutler.com.au](mailto:bfigot@dbabutler.com.au)]

### Implications upon relationship breakdown

There is another implication to be aware of when deciding between a super fund and a geared family trust. Since 2002, an interest in a superannuation fund has been deemed to be property of a marriage. The Full Court of the Family Court in *Coghlan v Coghlan* (2005) 193 FLR 9 stated that superannuation interests are a species of assets different from matrimonial property however a court may nevertheless adjust the superannuation interests of parties.

In recently enacted changes to the *Family Law Act 1975* (Cth), the law has extended to cover the superannuation interests held by partners to a de facto relationship (inclusive of same sex relationships) in all States except Western Australia and South Australia.

As a consequence of the above, superannuation entitlements held by a grandchild will be available for distribution in the event of a relationship breakdown irrespective of whether the parties were married or not.

However, consider a situation where money has not been particularly ear marked for the grandchild, and instead had been put in a family trust where:

- the grandchild had never contributed to the trust
- the grandchild had never received a distribution from the trust (remember that the trust has been negatively geared so may never have had any income to distribute)
- the grandchild might not be the trustee nor the appointor of the trust.

At best it is likely that an interest as a beneficiary to a discretionary geared family trust will be deemed to be a financial resource of the grandchild as opposed to an asset of the marriage / de facto relationship. This means that a court may consider the (future) availability of the financial resource to the grandchild when exercising its discretion to divide the assets upon the breakdown of the marriage / de facto relationship. It is arguable based on the 3 abovementioned points as to whether any adjustment would be likely taking account of the grandchild's arms length interest in the trust.

In a family law context, it would need to be shown that the trust is an *alter ego* of the grandchild to enable the Court to draw the trust assets into the pool of assets available for division between the grandchild and his or her partner (*Goodwin and Goodwin Alpe* (1990) 14 Fam LR 801). Accordingly, there is a far greater chance of monies surviving a marriage / relationship breakdown in a geared family trust as opposed to a superannuation fund.

## Conclusion

Contributing to a superannuation fund is a valuable strategy for grandparents wanting to provide for grandchildren and can have very positive side benefits, such as the government co-contribution. However, there are alternatives, which can have even greater side benefits.

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## Key Ruling on Contributions

By Bryce Figot and Daniel Butler

The recently released draft tax ruling TR 2009/D3 outlines the ATO's view on a range of situations in which a 'contribution' is made to a super fund, including some important timing aspects. In this newsletter, we draw out some of the key points to be taken from the draft ruling.

### SMSF borrowing and guarantees

The draft ruling discusses s 67(4A) or 'instalment warrant'-style borrowings by super fund trustees where the borrowing is supported by a guarantee (eg, given by one or more members of the fund). This is the first substantial comment by the ATO on this topic since it first raised concerns about guarantees in April 2008 (see taxpayer alert TA 2008/5).

The ATO states that if a payment is made under a guarantee (eg, the fund defaults and the guarantor is called upon to pay any outstanding amount), this will constitute a contribution to the fund if the guarantor has no right of indemnity against the fund. This is on the basis that the fund derives a benefit which ultimately increases the capital of the fund (ie, by not having to meet the liability it has incurred).

According to the ATO, a contribution is also made if the guarantor subsequently forgoes their right of indemnity or is prevented from enforcing it (eg, under the statute of limitations).



## Further clarification still needed

While the ruling sheds some light on guarantees, some questions remain unanswered:

- The ATO does not clarify exactly when a person is taken to 'forego' a right of indemnity. For example, it is not clear how the ATO would treat a situation where a member guarantor makes a payment to a lender under a guarantee and has a right of indemnity, but simply takes no action to enforce it.
- Moreover, it is unclear how the ATO's analysis of guarantees sits with its general position that any expense or liability of a super fund paid for by another entity will count as a contribution to the fund if the fund does not reimburse the payer. This was stated in TA 2008/12 and in this draft ruling.
- The draft ruling appears to accept that, in practice, guarantees are being given for super fund loans. However, the ATO has not expressly clarified whether they consider that guarantees comply with the s 67(4A) borrowing law, given their earlier comments in TA 2008/5 that a guarantee could breach the limited recourse requirement.

However, what is clear is that payments made pursuant to a guarantee could have consequences for members' contributions caps, and possibly excess contributions tax. SMSF trustees should therefore closely examine their ability to repay a loan before the arrangement is entered into.

DBA recommends that all advisers ensure their SMSF clients understand the risks related to guarantees before proceeding. Some alternatives may be available, such as sourcing finance from a lender that does not require a guarantee (even a related party lender), using the non-g geared unit trust structure instead of the SMSF borrowing or, where possible, maximising contributions to the fund to allow it to purchase the asset outright.

### ***Related party loans?***

Where the debt of a superannuation fund is forgiven, the ATO considers that a contribution has been made to the fund. This is particularly relevant where a fund has borrowed from a related party so trustees need to be mindful of possible consequences.

## Distributions from a discretionary trust

An SMSF may qualify as a beneficiary under a member's discretionary family trust and may have therefore previously received distributions of either income or capital.

The ATO notes that this will be treated as a contribution to the SMSF, because unlike a distribution from a unit trust in which an SMSF holds units, a distribution from a discretionary trust cannot be justified as a return on investment or a profit or gain.

Some family trusts may have previously distributed to SMSFs due to the apparently attractive 15% tax rate, compared with the rates applying to its individual or corporate beneficiaries.

However, if the amount is to be counted as a contribution as the ATO argue, then the implications for contributions caps need to be considered, including any excess contributions tax. Excess concessional contributions ('CCs') are taxed at an additional 31.5%. Any excess CCs also become non-concessional contributions ('NCCs') and may push a member into excess-NCC territory, incurring an additional 46.5% on any excess NCCs.

The potential application of the non-arm's length (aka 'special') income provisions should also be considered. Thus, discretionary distributions to SMSFs could prove extremely costly if the ATO's view is correct as this will extend what previously was considered a contribution.

## SGC & Excess Contributions

Employers and employees should now review their superannuation guarantee ('SG') position as the SG system may produce excess contributions tax even where employers are compelled to contribute.

By way of background, under the SG regime each employer is generally required to contribute 9% of an employee's salary to a complying fund each quarter.

An employer is only liable to provide superannuation up to the maximum contribution base which is currently \$38,180 per quarter. This equates to a salary of \$152,720, meaning that an employer is not compelled to provide any more superannuation support above this, ie, SG of \$13,744.80 p.a. For a person under 50 years, this would only leave another \$11,255.20 to be contributed by the same or other employers in 2009-10 without there being an excess contributions tax assessment.

Thus, if an employer has a locked in salary sacrifice arrangement that results in the employee's concessional contributions cap being exceeded, an additional 31.5% excess CC tax is payable. Moreover, there is nothing preventing an employee with multiple employers from contributing towards an employee's super fund that results in excess CC tax. Each employer is required to comply with the 9% contribution or pay the shortfall penalties. Even worse, if an employee makes their maximum NCCs, then they would also receive an excess NCC assessment since excess CCs count towards their NCC cap.

Prior to mid-2007 there was to be a mechanism where an employee could forever elect out of receiving SG support from a particular employer if they obtained appropriate evidence that they had exceeded their pension reasonable benefit limit ('RBL'). Sadly, there is no longer a mechanism where an employee can opt out of the SG system.

Advisers must therefore take extreme care in recommending contributing strategies. DBA's FY2010 SMSF Checklist can assist in this regard.

### **30 June 2009 Deadline for Related Unit Trusts**

Many are aware of SMSFD 2007/1 which provides that a present entitlement once applied or dealt with as requested by an SMSF is taken to have been 'received'. However, many have overlooked that the SMSF must have made their investment in the related unit trust prior to the 30 June 2009 deadline. To do this the process of issuing units in the unit trust deed must be finalised prior to 30 June 2009. DBA's Geared Unit Trust kit provides instructions, checklists and example documents to guide you through this field and should allow you to get this done in time.

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## **Lifetime Pensions – it's time to review!**

**By Olivera Ivcovici and Daniel Butler**

### **Lifetime Pensions – it's time to review!**

Complying lifetime pensions (ie, s 1.06(2) *Superannuation Industry (Supervision) Regulations 1994* (Cth) ('Lifetime Pension') were commenced by members of SMSFs for various reasons. In particular, these include:

- being favourably valued for Reasonable Benefit Limit ('RBL') purposes (RBL compression); and
- Centrelink Asset Test exemption ('ATE') (100% ATE if commenced before 20/9/2004 and 50% ATE if commenced between 20/9/2004 and 31/12/2005).

### **Financial Crisis**

The recent financial crisis has resulted in many SMSF account balances being significantly reduced. This decline may also cause SMSFs to fail to meet the actuarial 'high degree of probability' requirement.

For such members this could result in the SMSF becoming insolvent and the ATE status of the Lifetime Pension being lost. Once the ATE status is lost a Centrelink debt is raised for all Age Pension payments received by member from the commencement date (or within 5 years).

Also, as a minimum amount of a Lifetime Pension must still be paid each 12 months, some SMSFs may be finding it difficult if their investments are frozen or lost considerable value. Note, the halving of the minimum generally only applies to Account-based Pensions ('ABPs').

## **Centrelink Options & Relief**

Members who are placed in this position have various options available to them. These include:

- commuting the Lifetime Pension and commencing a qualifying annuity – the ATE status is retained (there are disadvantages with this option – expert product advice should be obtain); or
- commuting and commencing a market-linked pension ('MLP') up to 30 June 2010 – the ATE status is lost but no debt liability arises.

## **Commutation**

A Lifetime Pension can be commuted if the monies supporting the Lifetime Pension are used to commence an MLP. Actuarial advice is required to determine the commuted amount.

Expert advice should be obtained as this area is quite complex and depends on the deed, pension documents especially if surplus reserves exist.

## **Reasons favouring commutation**

Other reasons which favour commutation include:

- members may be eligible to receive some Age Pension under the new asset test rules even if they do not have the ATE pension in place;
- income from an MLP or ABP are income tax exempt (whereas income from any reserves related to the Lifetime Pension are assessed at 15%);
- estate planning perspective, reserves may be trapped in the SMSF and it provides greater access to capital; and
- MLPs and ABPs are easier to understand and their administration is less complex and less expensive.

Please note that the above is not an exhaustive list. Even if a Lifetime Pension is not ATE, some may still prefer to convert to obtain the lower minimum now on offer for ABPs.

## **Documentation**

The following is required if a Lifetime Pension is to be commuted:

- the deed must allow the commutation and the commencement of the new pension to take place;
- an actuarial report is obtained; and
- documents evidencing the commutation and commencement of the pension and allocation of reserves.

Legal documentation and support are available from DBA. DBA can engage an actuary, if required.

## **Conclusion**

The financial crisis has significantly impacted SMSFs paying a Lifetime Pension and therefore now is a good time to review the appropriateness or otherwise of such a pension for each member. Whether the Lifetime Pension should be commuted is a question of fact and should be considered in light of all of the circumstances of the particular member. Once commuted, a Lifetime Pension cannot be established.

This bulletin is produced by the:

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