



January 2006

TECHNICAL UPDATE

CHOICE OF FUND REMINDER, SUPERANNUATION SPLITTING AND TRANSITION TO RETIREMENT

In this Technical Update we thought that we would remind Employers of what is required to ensure on-going compliance with the Choice of Fund legislation. In addition, we thought that we would update you the introduction of the “Superannuation Splitting” and “Transition to Retirement” legislation and outline some of the possible opportunities available to superannuation fund members and their spouses.

Both pieces of legislation contain some financial planning opportunities for super fund members.

A CHOICE OF FUND REMINDER

Employers must provide a Standard Choice Form to all new eligible employees within 28 days of their start date of employment. You are not required to issue a Standard Choice Form if the employee chooses a fund and gives the employer the required information when they start work. In this case, the employer must act on the employee’s choice but the employer does not need to give them a Standard Choice Form.

When are Employers Required to Issue a Standard Choice Form from now on?

Employers will also need to provide a Standard Choice Form to eligible employees within 28 days of:

- A written request from an employee asking for a Standard Choice Form (unless the employer has provided the employee with a Standard Choice Form within the previous 12 months);
- Becoming aware that they are unable to contribute to an employee’s chosen fund;
- Becoming aware that the employee’s chosen fund has ceased to be a complying fund;
- or,
- A change of their employer fund since the last contribution.

When do Employers Have to Act on the Employees Choice?

When an employee provides an employer with all the required information for their chosen fund, an employer has two months to make contributions to that fund. Please be aware, that an employer can make contributions earlier than the two months if they choose.

Do I have to become a “Participating Employer” to implement an Employees Choice?

No. Some superannuation funds, particularly industry funds, require employers to become “participating employers” to their fund by completing a “participation agreement”. Under the Choice of Fund legislation an employer can refuse to implement an employee’s choice if there is a specific requirement of the chosen fund to become a participating employer.



Be careful before completing any participation agreement as some of the terms and conditions outlined in the agreement may be quite onerous and the employer may well be agreeing to certain unreasonable requirements or undertakings.

SUPERANNUATION SPLITTING

The Government has recently passed legislation enabling the splitting of superannuation contributions made on or after 1 January 2006. This is earlier than previously anticipated, with the original date being 1 July 2006.

The regulations allow the opportunity for eligible couples to transfer employer and personal superannuation contributions paid on behalf of one spouse to the other spouse. The legislation applies to married and de facto relationships but it does not apply to same sex relationships.

Superannuation funds will not be forced to offer splitting but given a “choice” environment we would imagine that the majority of funds will offer this facility. The legislation allows a spouse to split 85% of employer contributions (including Superannuation Guarantee) and 100% of personal after tax contributions made in a year.

The application to split contributions is invalid if the receiving spouse is 65 or older, or is between preservation age and 65 and retired, therefore, to comply with this requirement, the splitting spouse will include a statement made by the receiving spouse that they are not retired or age 65. A trustee who accepts a super splitting application must affect the split within 90 days.

Where funds choose to offer splitting to members, the election to split must be made by the members after the end of each financial year. At this stage, defined benefit members are excluded from splitting.

Possible Opportunities?

- Splitting of contributions will potentially enable couples to more fully utilise two “post age 55” tax free thresholds and two Reasonable Benefit Limits (“RBL’s”) at retirement. This will be particularly attractive to people who have a spouse with a relatively low level of accrued superannuation assets. Splitting of contributions, when combined with salary sacrifice, can enhance the tax effectiveness of retirement income streams;
- Splitting of contributions, particularly now that the Superannuation Surcharge has been abolished from 1 July 2005, will encourage a wider use of salary sacrificing as a tax effective retirement income planning strategy.

TRANSITION TO RETIREMENT

The Government released amendments applying from 1 July 2005 that allow anyone of “preservation age” (age 55 for people born prior to 1 July 1960, and at a later date, maximum age 60, for people born after 1 July 1960) to access their superannuation in the form of a non-commutable income stream, without having to retire or resign from the workforce.

These new rules are intended to encourage people to transition into retirement through part-time employment- with the non-commutable income stream from superannuation



supplementing their income requirements. On full retirement from the workforce, the non-commutable income stream can be converted to a commutable income stream, or alternative superannuation can be accessed as a lump sum.

The new rules do not require any minimum or maximum employment hours before superannuation can be accessed with a non-commutable income stream. Accordingly, a potential tax saving planning opportunity which has been identified is commencing a non-commutable income stream and salary sacrificing back into super at the same time. The ATO has recently clarified that provided the salary sacrifice arrangement is structured appropriately, this strategy is acceptable.

REMINDERS

- Standard Choice forms need to be sent to all new employees within 28 days of commencing employment;
- Quarterly SG contributions must be paid by 28 April 2006;
- Don't forget to keep records as to when Standard Choice Forms were issued to both existing and new employees, in case of a Tax Office audit;
- The legislation to abolish the Contribution Surcharge received Royal Assent on the 12 August 2005 and, as a result, no surcharge will apply to superannuation contributions or termination payments made on or after 1 July 2005.

FOR FURTHER INFORMATION

For further information please contact either David Lewis or Brendan Paddison at NFC on (02) 9929 2700, e-mail us at info@northbridgeadmin.com.au or visit our website www.northbridgeadmin.com.au.

If you are interested in finding out more about some of the "possible opportunities" provided by the introduction of the superannuation splitting legislation, financial planning services can be provided via our sister company, Northbridge Financial Solutions Pty Ltd ("NFS"). NFS is licensed under Community and Corporate Financial Services Pty Ltd, ("ComCorp", AFS Licence No 225085, ABN 44079121136) and neither NFS or ComCorp are aligned with any financial institution.

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