LE CORNU LEWIS HANCOCK
LLH FINANCIAL SERVICES PTY LTD

SELF MANAGED SUPER NEWSLETTER

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SPECIAL POINTS OF INTEREST:

1. Superannuation amendments now law
2. Most changes to apply from 1 July 2017
3. CGT relief may apply to existing pensions

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SUPERANNUATION CHANGES...NOW LAW!

Parliament has just agreed to enact most of the superannuation changes announced in the 2016-17 Federal Budget. This month, we outline the key changes, with a focus on the pension reforms.

IMPORTANT–The changes are now **law**, with most amendments commencing from 1 July 2017. However, the changes to allow 'catch-up' concessional contributions have been delayed to 1 July 2018.

Superannuation changes

The table shows the key superannuation changes that are law:

Change	Description
$1.6 million transfer balance cap	**Law**–applies from 1 July 2017
Removal of tax free income status on transition to retirement income streams	**Law**–applies from 1 July 2017
$25,000 annual concessional contributions cap for **all** individuals – see **Note 1**	**Law**–applies from 1 July 2017
Current annual non-concessional contributions cap of $180,000 reduced to $100,000. However, individuals with total superannuation balances over $1.6m will be unable to make non-concessional contributions.	**Law**–applies from 1 July 2017
Scrapping the '10% rule' for individuals (allows eligible individuals up to age 74 to deduct personal superannuation contributions)–see **Notes 2 and 3**	**Law**–applies 1 July 2017
'Catch-up' concessional contributions for individuals with a total superannuation balance below $500,000	**Law**–applies 1 July 2018
Additional tax on concessional contributions for high income earners - income threshold reduced from $300,000 to $250,000	**Law**–applies from 1 July 2017
Removal of the anti-detriment deduction	**Law**–applies 1 July 2017
Low Income Superannuation Tax Offset	**Law**–applies 1 July 2017

Note 1–For the 2017 income year, the concessional contributions cap is $30,000 (individuals aged under 49 on 30 June 2016) and $35,000 for individuals aged 49 years or over on 30 June 2016).

Note 2–Individuals aged 65 to 74 will need to meet the 'work test' (see below), whilst personal deductible contributions are not permitted for individuals aged 75+.

Which changes did not proceed?

The following table outlines the changes that were **not** enacted:

Change	Description
$500,000 lifetime non-concessional contributions cap	Abandoned – replaced by the $100,000 annual cap
Abolishing the work test for individuals aged 65 to 74 – see **Note 3**.	Abandoned – work test to remain in place post 30 June 2017

Note 3–The 'work test' requires individuals aged 65 – 74 to work at least 40 hours in 30 consecutive days during the income year in which the contribution is made.

$1.6m transfer balance cap

From 1 July 2017, a new cap will restrict the level of capital that can be transferred into a retirement phase pension. This cap is intended to limit the amount of tax free income that a fund can earn on pension assets. Essential features of the new cap are:

- For existing pensions (at 1 July 2017), pension balances over the cap cannot remain in pension phase. The excess must either be moved to accumulation phase or be cashed out to the member.
- Reducing the pension balance to comply with the new rules before 1 July 2017 is likely to also reduce the required minimum pension payment.
- The cap will **not** apply to transition to retirement income streams. This is because fund earnings on assets supporting a TRIS will be taxable from 1 July 2017.

SUPERANNUATION CHANGES...NOW LAW!

$1.6 million transfer balance cap continued

- The cap is a 'global' limit, not a 'per fund' limit. This means that account-based pensions an individual has across different superannuation funds all count towards their cap.

INFO–The new $1.6 million cap will apply to an existing pension in place at 30 June 2017. However, transitional rules apply – see below.

EXAMPLE–Andrew began an account-based pension two years ago, with the pension currently valued at $2 million. The reforms mean that Andrew must remove $400,000 from his existing pension (e.g., transfer it back to accumulation phase). Andrew does not need to withdraw $400,000 from his fund to comply with the changes.

Transition to retirement income stream reforms

The tax exemption currently available for income earned on assets supporting a transition to retirement income stream (TRIS) will cease on 1 July 2017.

The tax exemption has been removed to ensure that TRISs are used to assist individuals phase into retirement, rather than minimise tax.

Hence, individuals who reach preservation age (currently 56) after 30 June 2017 can still start a TRIS – however, fund earnings will be subject to tax from this time.

TIP–The tax exemption has been removed for an existing TRIS, as well as a new TRIS commenced from 1 July 2017.

Capital gains tax relief for existing pensions

Individuals with pension balances over $1.6 million must remove capital from pension phase to comply with the superannuation reforms.

Members currently receiving a TRIS may be worse off if the fund sells assets after 30 June 2017 due to the removal of the tax exemption on pension earnings, and may seek to stop the pension.

A fund that must reallocate a pension asset before 1 July 2017 to comply with the $1.6 million cap or the TRIS reforms may choose CGT relief in the 2017 income year. The relief aims to ensure that the same CGT outcome arises for existing pension assets – irrespective of whether the asset is sold before or after 30 June 2017. Key features of the relief are:

- the relief applies to pension assets owned by the fund during the period 9 November 2016 to 30 June 2017 – assets purchased after this time do not qualify;
- pension assets sold before 1 July 2017 will not qualify. Instead, the existing tax rules will apply; and
- the transitional rule does not provide 'across the board' CGT relief for all members in pension phase – it is restricted to members who need to comply with the $1.6 million cap, or the TRIS reforms.

WARNING–It is not clear whether a member who keeps an existing TRIS on foot (rather than stopping the pension) after 30 June 2017 will qualify for the CGT relief.

The tax implications of the relief being chosen for a pension asset that has increased in value are:

Item	CGT relief
Asset solely supporting a pension ('segregated asset')	Results in a **tax exempt** capital gain in the 2017 income year.
	The asset's cost is reset to its current market value when it ceases being segregated (e.g., on 30 June 2017).
Asset supporting both pension and accumulation interests ('unsegregated asset')	Results in a capital gain in the 2017 income year that is: (a) **exempt** to the extent the asset supports a pension; and (b) **taxable** to the extent it relates to accumulation phase benefits. (c) The fund can indefinitely **defer** paying tax on the gain until it sells (or disposes of) the asset.
	The asset's cost is reset to its market value as at 1 July 2017.

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"The transitional rule does not provide 'across the board' relief..."

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