



ATO to monitor SMSFs set-ups for Part IVA

Accountants need to take care when setting up additional self managed super funds (SMSFs) for clients as the ATO is closely monitoring using SMSFs as a way to circumnavigate the new segregation rules that come into effect from July 1. If the new SMSFs are found to be established for tax reasons then Part IVA may apply.

A number of superannuation changes come into effect from July 1 including a cap of \$1.6 million that can be transferred from an accumulation account into the pension phase. This cap applies as a total across all super accounts and not per fund. (There will be no limit on the amount that can be held in an accumulation account, which is taxed concessionally at 15 per cent.)

Also from July 1, segregation between pension and accumulation assets for tax purposes is no longer allowed within super funds. Generally, SMSFs can be run as either a segregated or unsegregated fund. Segregated funds hold separate asset pools that are specific to different members or specific to pension versus accumulation balances. Unsegregated funds just have the one large asset pool and all members share in the combined investment returns.

Now that segregation will be banned, a proportionate method for tax purposes will be introduced. Here, all of the assets within the fund will be taxed based on the proportion that is in pension mode and the proportion that is in accumulation mode.



Malcolm Howell

For example, say you have \$2 million in super with \$1.6 million in the pension phase and \$400,000 in the accumulation phase. Then 20 per cent of the gains will be taxed at the accumulation rates and 80 per cent will be taxed at the pension rates.



Segregation may not have been widely used in the past as pension funds were allowed to contain an unlimited amount of funds – so most people had their funds in pension mode – but they had their uses, especially in SMSFs where some people were in their pension phase while others were in accumulation.

“However, care should be taken if SMSFs are now being set up to beat the segregation ban,” says Jirsch Sutherland Partner **Malcolm Howell**. “The ATO has said Part IVA, the general anti-avoidance rule for income tax, may apply if the funds are established for tax reasons.”