Members Q&A: December 2023

Thursday 14th December 2023

Welcome

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Presenter

Garth McNally, GM Super Consulting

Garth has worked in the Australian Superannuation industry for over 25 years with a specific focus on self-managed super funds. He provides ongoing support and training to individuals as well as to professionals working in the superannuation area, including advisers, accountants and lawyers.

Garth is a regular contributor to industry publications and to the leading professional bodies including Chartered Accountants Australia & New Zealand (CA ANZ) & CPA Australia (CPA).

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IMPORTANT

Disclaimer

The information covered within this webinar is intended to be general in nature and is not personal financial (or financial product) advice. It does not take into account your objectives, financial situation or needs. Before acting on any information, you should consider the appropriateness of the information provided having regard to your objectives, financial situation and needs.

In particular, you should seek independent financial advice prior to making any investment decision.

You should consider the appropriateness of this information having regard to your individual situation and seek taxation advice from a registered tax agent before making any decision based on the content of this presentation.

Any examples & calculations within this presentation are provided for illustrative purposes only. They should not be relied on.

Attendance at this webinar and/or viewing the content provided, is considered as acknowledgement, acceptance and agreement to this Disclaimer and the contents contained within.

Questions

1. SMSF members and pension payments – Manoj
2. Total superannuation savings limits – Raewyn
3. Combining UniSuper pensions - Larry
4. Asset Segregation in a SMSF - John
5. Lump Sums from a pension - John
6. Retirement and accessing benefits - Adrienne
7. $3m threshold and retirement planning – Sebastian, Sam, Thomas, Anon
8. Pension minimum payments - Chris

Question 1

Myself and my wife run a SMSF. The fund owns 2 properties. My wife is 56 and I am 61. My wife owns 30% and I own 70% of the SMSF value. I have reached pension phase while my wife is in accumulation phase. How can we structure/split the fund between pension and accumulation phase so I can draw rent as pension for me? (This is only an issue now. In 4 years', time when my wife also comes in pension phase, we will be draw out complete rent as pension for both of us). I am also mindful of the min 4% pension withdrawal rule for myself. What if the rent is less than 4%.

Manoj

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Issues to consider

- As you have identified, the properties are assets of your SMSF; they are usually not specific assets of any particular member*
- The property rental income is simply added to the overall SMSF income
- This overall income can then be used to meet relevant SMSF expenses, including your pension payments and other expenses like bank fees, accounting expenses or audit costs etc.

Hence the need for a valid, relevant and updated investment strategy

* We will cover this particular issue shortly – referred to as asset segregation.

Issues to consider

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- The property rental income is simply added to the overall SMSF income
- This overall income can then be used to meet relevant SMSF expenses, including your pension payments and other expenses like bank fees, accounting expenses or audit costs etc.
- **If the rental income is not sufficient to meet the minimum pension payments, then other fund income will need to be used to fund these amounts – remember that the minimum goes up**

Age of beneficiary	Minimum percentage factor
Under 65	**4%**
65 to 74	**5%**
75 to 79	**6%**
80 to 84	**7%**
85 to 89	**9%**
90 to 94	**11%**
95 or more	**14%**

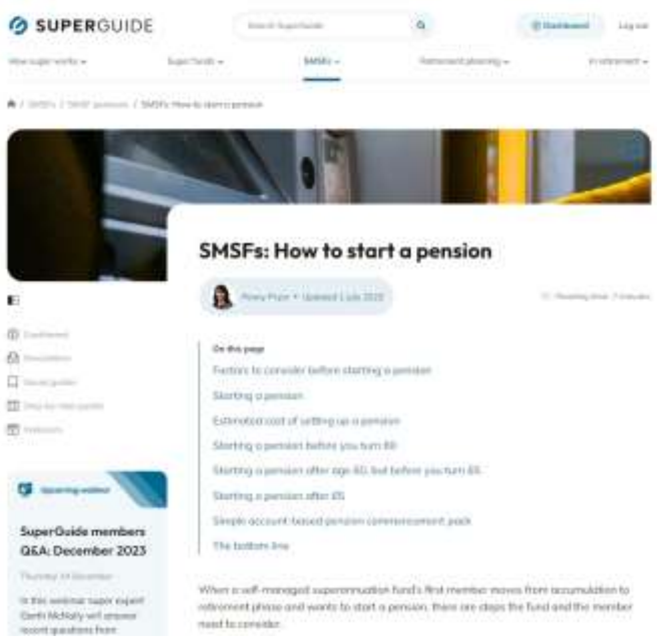
* We will cover this particular issue shortly – referred to as asset segregation.

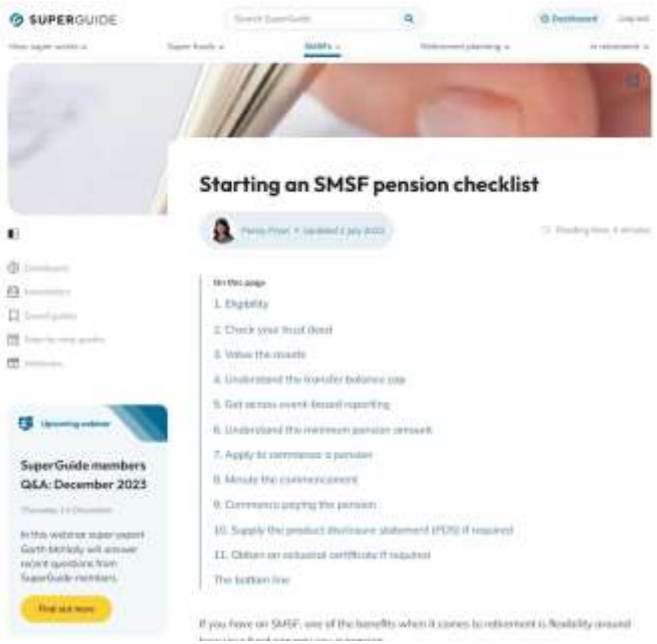
Issues to consider

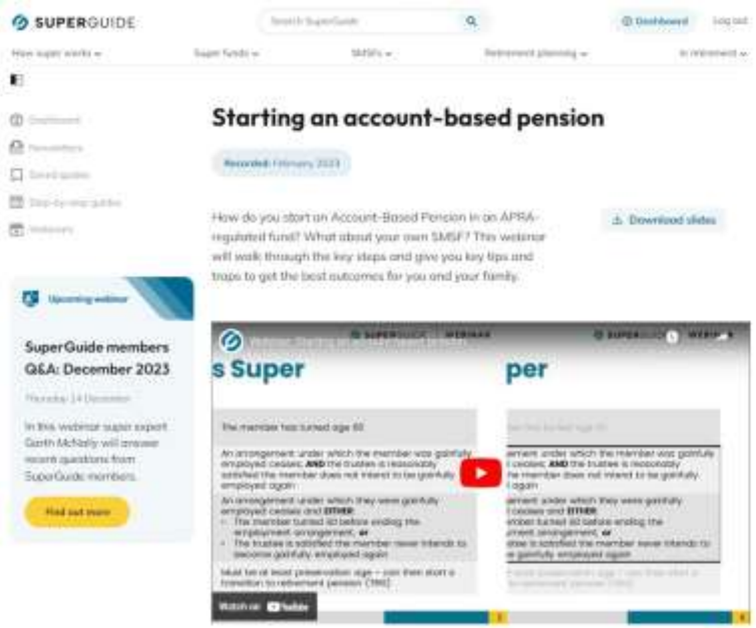
- You would need to request the commencement of a pension from your benefits in your SMSF; resulting in the fund now holding both pension benefits (for you) and accumulation benefits (for your spouse)
- Follow any required steps or processes in your SMSF trust deed
  - Member requests
  - Trustee acceptance
  - Valuation of assets?
  - Determine member balances and tax components
  - TBAR lodgement (end of quarter + 28 days)
  - Etc.

- The commencement of the pension results in the creation of a new account for you; what you set out in your query: "structure/split the fund between pension and accumulation phase"
- Your SMSF software, accountant or fund admin provider then deals with the separate member accounts (pension, accumulation etc.)

Resources







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Question 2

Is there a cap on the total balance (accumulation and Income funds combined) one can have in super once one has set up an income stream pension? What is the rule for a 67-year-old?

Raewyn

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Issues to consider

- There are no real limits imposed on the total balances that can be held in your superannuation savings

In 2022, it was reported that the largest balance held within a SMSF was more than $540M

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In 2022, it was reported that the largest balance held within a SMSF was more than $540M

The now Labor Government floated the idea around applying a total superannuation saving limit (approx. $5M), as you have queried – BUT this was replaced somewhat with the new Div296 tax on earnings on balances above $3M

Issues to consider

- There are no real limits imposed on the total balances that can be held in your superannuation savings

- There are limits imposed on the balances that can be held in the “retirement phase” of superannuation, balances on which earnings are tax-free

This is referred to as the transfer balance cap and currently sits between $1.6 - $1.9m

Issues to consider

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- There are limits imposed on the balances that can be held in the “retirement phase” of superannuation, balances on which earnings are tax-free

- There are changes taking place from 1 July 2025 to apply an additional 15% tax on fund earnings that relate to member balances above $3M

This is referred to as Div 296 Tax

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Issues to consider

- There are limits imposed on making further non-concessional contributions to super once your total super balance as at the prior 30 June has reached the general transfer balance cap (GTBC).

- This GTBC currently sits at $1.9M.

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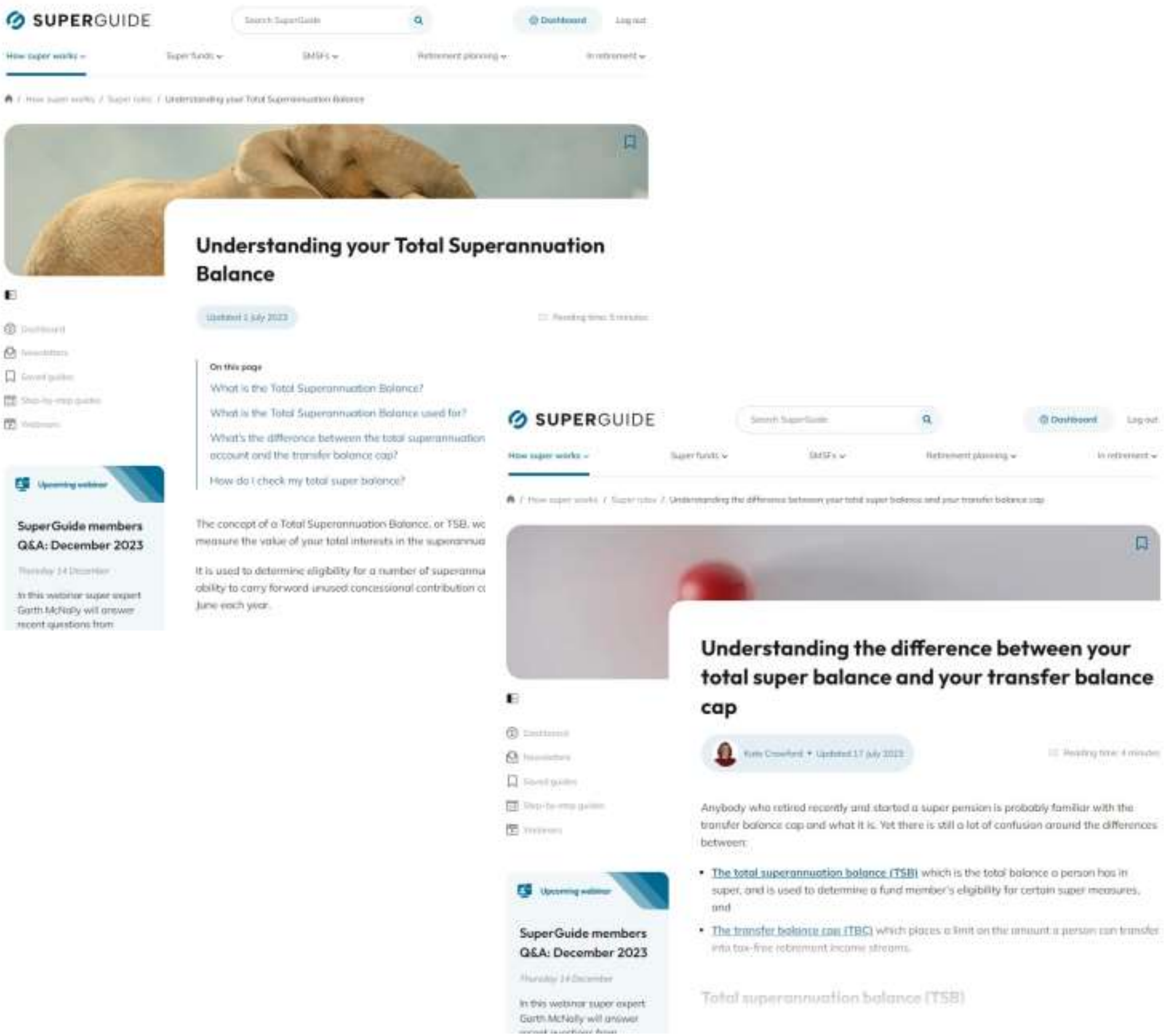
Issues to consider

- There are limits imposed on making further non-concessional contributions to super once your total super balance as at the prior 30 June has reached the general transfer balance cap (GTBC).
- This GTBC currently sits at $1.9M.

- Also keep in mind the restriction on making further non-concessional contributions once you reach age 75 (plus 28 days)

As you can see, there are no actual restrictions imposed on how much you can hold in superannuation savings *, but there are certain limits on tax benefits & making further contributions

Resources


SUPERGUIDE
Understanding your Total Superannuation Balance
On this page
What is the Total Superannuation Balance?
What is the Total Superannuation Balance used for?
What's the difference between the total superannuation account and the transfer balance cap?
How do I check my total super balance?
SuperGuide members Q&A: December 2023
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Understanding the difference between your total super balance and your transfer balance cap
Anybody who retired recently and started a super pension is probably familiar with the transfer balance cap and what it is. Yet there is still a lot of confusion around the differences between:
The total superannuation balance (TSB) which is the total balance a person has in super, and is used to determine a fund member's eligibility for certain super measures, and
The transfer balance cap (TBC) which places a limit on the amount a person can transfer into tax-free retirement income streams.
SuperGuide members Q&A: December 2023
Total superannuation balance (TSB)

Question 3

I know that you can easily combine multiple super funds that are in accumulation mode, but can you do it for accounts that are in pension mode? For example, if you have (or planning to have) more than one UniSuper Flexi Pensions, in your name, providing separate pension income streams, can you at some point in time combine them all into one primary Flexi Pension in order to save on account fees? If so, what would be the necessary procedure required to achieve this outcome?

Larry

Issues to consider

- You are 100% correct that you can only ever hold one accumulation account (interest) in each super fund
- You could have multiple super funds hence creating the ability to hold multiple accumulation across those multiple super funds
- BUT as you have mentioned, you can have multiple pensions in the same superfund

Issues to consider

- You are 100% correct that you can only ever hold one accumulation account (interest) in each super fund
- You could have multiple super funds hence creating the ability to hold multiple accumulation across those multiple super funds
- BUT as you have mentioned, you can have multiple pensions in the same superfund

- In most cases, you cannot add further amount “capital” to an existing pension.
- This would usually require you to cease the different pension accounts that exist, taking these amounts back to accumulation phase, and then recommencing a new, larger pension with the higher balance

Issues to consider

HOWEVER

Contact UniSuper and see how they can assist YOU PERSONALLY with this; they may have another fund specific mechanism or process that could be used to achieve your desired outcome.

The UniSuper website states:

"Once you start a Flexi Pension you can't add money to it—so if you want to transfer extra funds to your super, do that before you apply. "

Question 4

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I would love to understand a little more about segregating assets on reaching pension phase. i.e. how it works in practice and reasons when such a strategy might be appropriate

Thank you.

John

What you need to consider

Segregating assets is the process of identifying certain SMSF assets as being held for a certain member or class of member (i.e.: accumulation, pension etc.)

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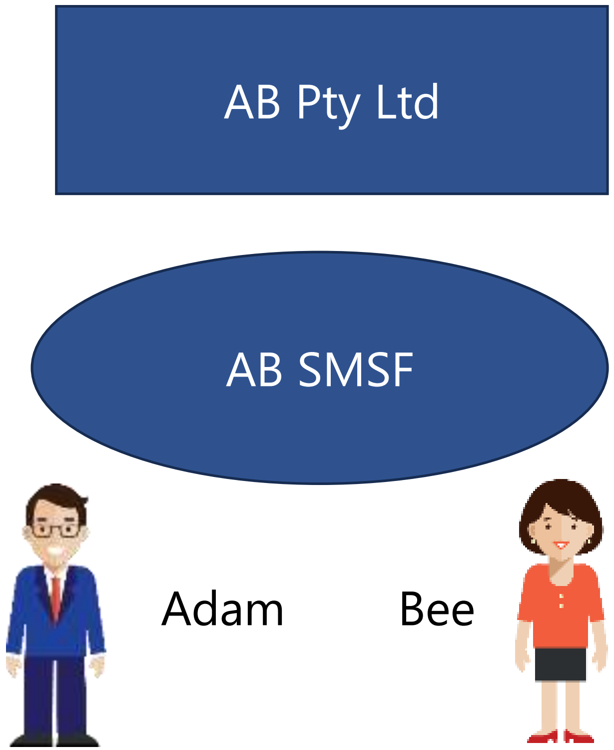

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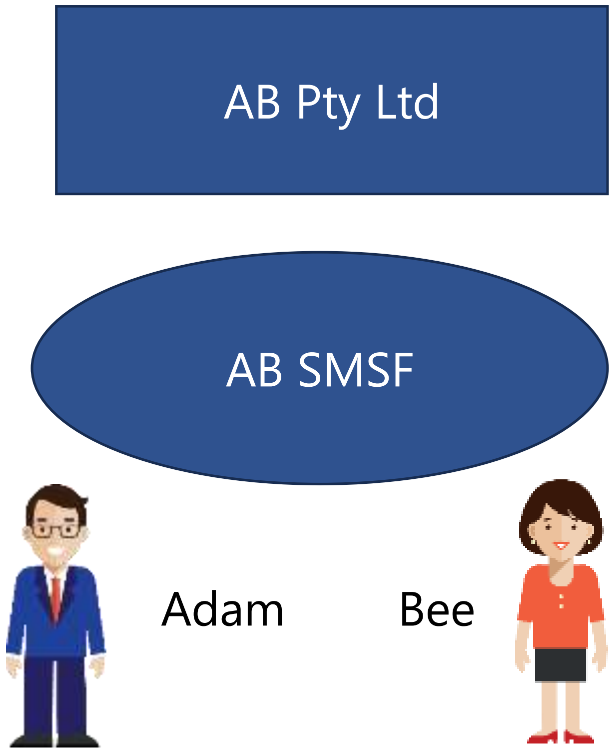

AB SMSF			
	Accumulation	**Pension**	**Total**
Adam	$200,000	$1,700,000	$1,900,000
Bee	$800,000	$0	$800,000
Total	**$1,000,000**	**$1,700,000**	**$2,700,000**

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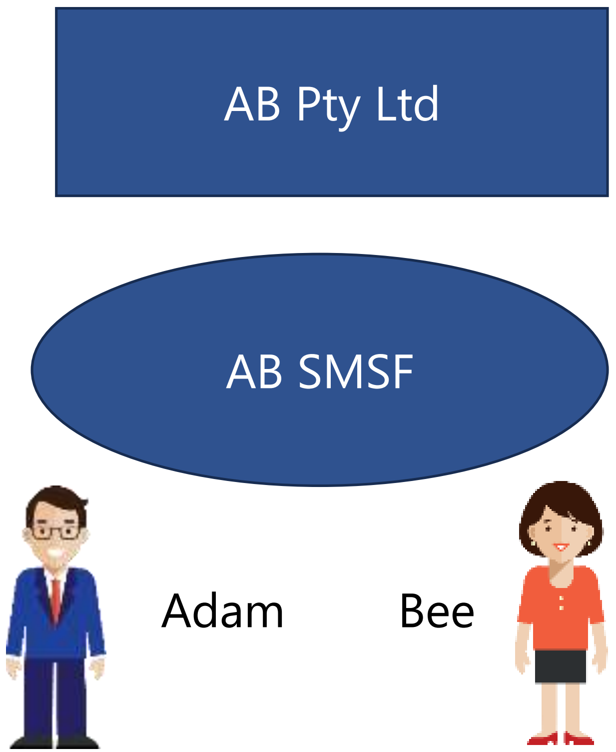

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AB SMSF	
Asset	**Value**
Property	$1,700,000
Shares	$800,000
Cash	$200,000
Total	**$2,700,000**

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What you need to consider

AB Pty Ltd

AB SMSF

Adam

Bee

AB SMSF			
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The SMSF trustees could identify that the SMSF owned property is being held solely for Adam's pension

AB SMSF	
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Property	$1,700,000
Shares	$800,000
Cash	$200,000
Total	**$2,700,000**

What you need to consider

Outcomes?

- All income (rent) from the property is treated as being only for Adam & allocated to his pension account
- All expenses from the property are met from Adams pension account
- As the asset (property) is 100% in pension phase, all income is tax exempt
- As the asset (property) is 100% in pension phase, all CGT is tax exempt

AB SMSF			
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Asset	**Value**
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Cash	$200,000
Total	**$2,700,000**

What you need to consider

How do you achieve this?

- Check your SMSF Trust Deed for any fund specifics
- Complete a Trustee minute / resolution in writing that identifies the particular fund asset as being segregated, to whom etc.
- Also keep in mind that once ALL members are ALL 100% in pension phase (so no accumulation balances), the fund would be automatically deemed to be 100% segregated!

What you need to consider

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- Also keep in mind that once ALL members are ALL 100% in pension phase (so no accumulation balances), the fund would be automatically deemed to be 100% segregated!

Why consider this / What are the benefits?

- All income / CGT on a deemed segregated pension asset is 100% tax free
- All growth / losses on that segregated asset apply only to the member who has been identified as holding the segregated asset
  - Already used 100% of TBC
  - Close to TBC limits
  - Taxation issues approaching

What you need to consider

IMPORTANT

- You should never change the segregation status of an asset solely to obtain a tax benefit (Part IVA of ITAA)
  - Changing an SMSF asset to be a deemed segregated pension asset just prior to the asset being sold, so as to receive 100% tax-free capital gains, would in most all cases be seen as tax avoidance!
- There would need to be very good reasons for an asset to stop being segregated at a later stage or move in or out of being segregated etc:
  - For example, the rental property income on the property no longer meets the required 7% minimum pension required when Adam turns 80!

Question 5

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Can you explain the conditions/requirements pertaining to Lump Sum Withdrawals from a SMSF in pension mode?

John

What you need to consider

Starting Point: IMPORTANT

All payments that are made from a pension are deemed to be pension payments UNLESS prior to the payment being made, the member sets out a written request for that payment to be treated as a commutation / lump sum payment

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Therefore, if you are looking to treat a payment made from your pension account as anything other than a pension, YOU NEED TO BE PROACTIVE and put in place the required paperwork BEFORE the payment is made

What you need to consider

Starting Point: IMPORTANT

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Therefore, if you are looking to treat a payment made from your pension account as anything other than a pension, YOU NEED TO BE PROACTIVE and put in place the required paperwork BEFORE the payment is made

Check any Trust Deed requirements but you would usually need a written member request to set out how much is to be paid as a lump sum and from which member interest (pension 1, pension 2, etc.)

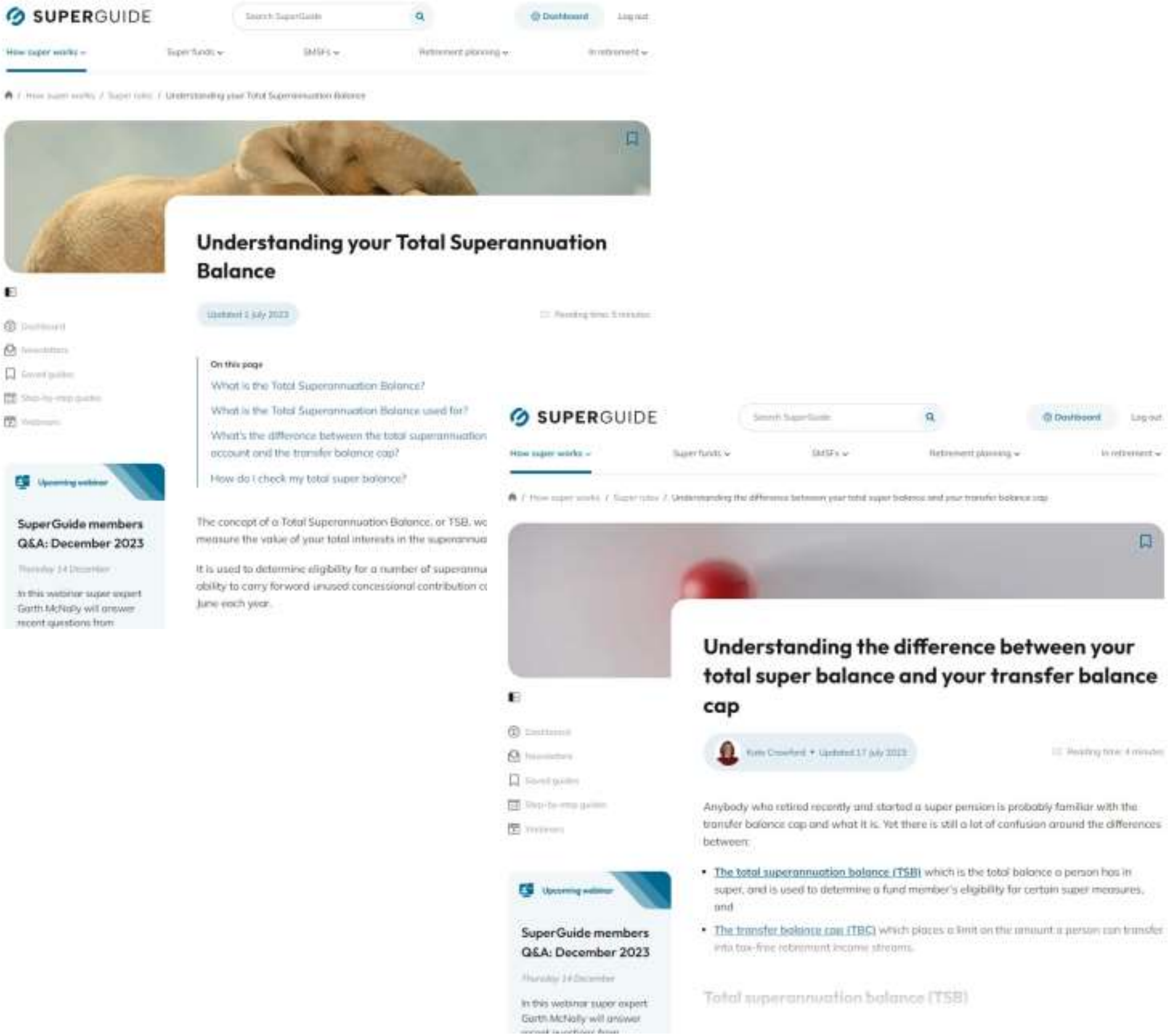
What you need to consider

Other issues

A lump sum can only be accessed from a pension if it is a “retirement phase income stream”. So, this would not work for a transition to retirement pension.

These lump sum payments from a retirement phase income stream are events that affect your Transfer Balance Account; hence the SMSF will need to lodge the required TBAR within the required time frame, being 28 days following the end of the relevant quarter.

Resources



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Question 6

I recently retired from my employment, and I am 68.

Do I now need to start taking a pension from my superannuation fund now that I am no longer working?

Adrienne

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Issues to consider

Compulsory Cashing Events

These rules changed many years ago.

The only compulsory cashing event that remains is on the Death of a member.

Always check your superfunds specific rules.

- On attaining age 65, your superannuation benefits become unrestricted non-preserved
- This allows access to these benefits
- ***However, you are not COMPELLED or REQUIRED to access these benefits. They can remain in your accumulation account for as long as you like***
- Earnings generated on your accumulation account will be taxed in the fund

Question 7

How will new super $3m threshold tax impact retirement planning?

Sebastian

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Other similar questions received

What is the most current position or update on the proposed tax on earnings above $3M

Sam

Has there been anything further on the 2025 start to the $3M tax cap?

Thomas

Can you update me on the new $3M tax issue for earnings in Super?

Anon

Issues to consider

How will new super $3m threshold tax impact retirement planning?

- SMSF liquidity and diversification will become EVEN more important (if we want the fund to pay the additional tax rather than personally)
- We may need to consider if a superannuation fund should be the only retirement savings vehicle we use
- If you have or will have total super savings above the $3M, what will the estimated additional tax be when these rules start?
  - Try and project that forward by 10 years and see what the new tax will look like

- Ongoing account balance maintenance will become more important; will we need to make withdrawals at certain times to stay within limits etc.
- If we have other retirement savings vehicles, we may be able to have a lower overall tax due to the $18K or so tax free threshold that all individuals receive
- Consider family trusts for investing – where profits can be distributed to who you wish
- Consider companies for investing – 30% tax rate payable by Company by when dividend paid out there may be a tax benefit (refund) of the tax paid by the company (franking credits)
- Consider what will happen on the death of a spouse and whether these death benefits may be payable as reversionary or death-benefit pension; could easily take you above $3M

Current state of play

Has there been anything further on the 2025 start to the $3M tax cap?

Thomas

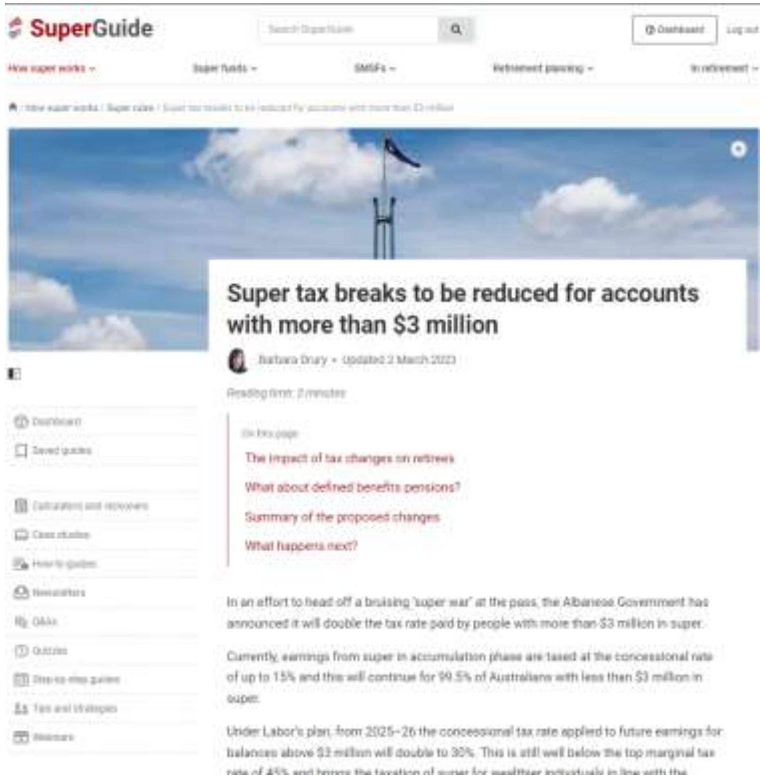
Can you update me on the new $3M tax issue for earnings in Super?

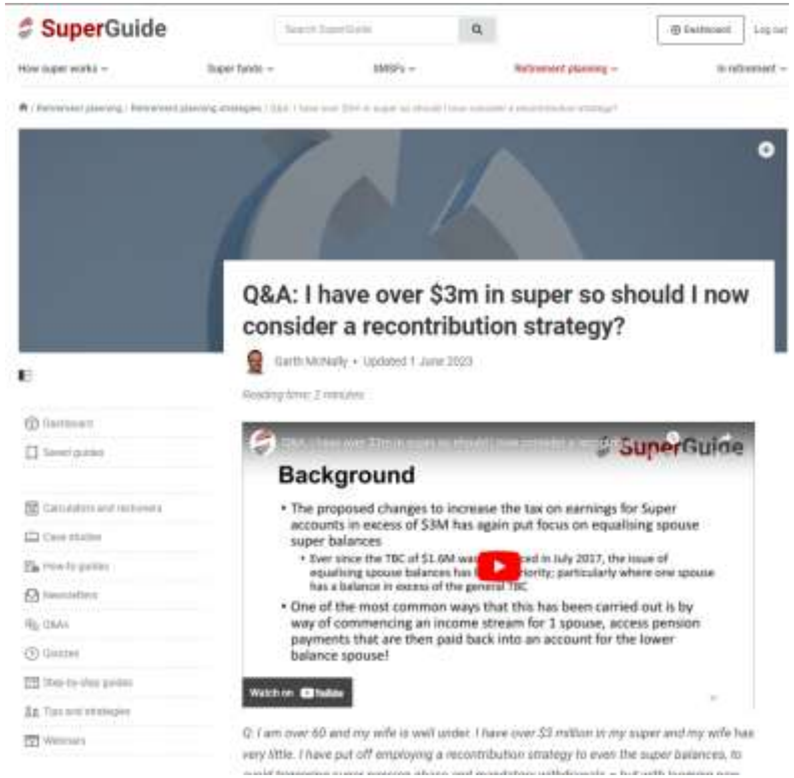
Anon

- The Treasury Laws Amendment (Better Targeted Superannuation Concessions and Other Measures) Bill 2023 and the Superannuation (Better Targeted Superannuation Concessions) Imposition Bill 2023:
  - Introduced in the Parliament of Australia, 30 November 2023.
  - Second reading of Bill moved (need to wait for House of Reps to set new hearing date

- Proposed start date is STILL 1 July 2025, with the first financial year being 1 July 2025 – 30 June 2026 (the 2026 Financial Year)
- Additional tax would therefore first apply to earnings received in the 2026 Financial Year; to earnings from 1 July 2025

Resources





The proposed new $3 million super changes: What you need to know

View webinar

Recorded: April 2023

We take a look at the proposed new tax regime for super fund members with balances above $3 million, how it will work, when it may come into play, and what you should be considering now.

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Question 8

My wife and are both 71 and we have delayed starting a pension in our SMSF to try and make our super last longer, but we now need to start a pension as the cost of living is just crazy now?

We wish to start a pension – do we have to wait until July 2024, or can we start one now?

How to we calculate the minimum? Is it still based on our 30 June 2023 balances?

Chris

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What you need to consider

- As both you and your wife are over age 65, you can start a pension whenever you like.
- You do not need to start a pension on 1 July of the year; you can start it whenever it best suits you
- The balance on the start date of the pension; which would usually be set out in the pension application or documentation etc, is the balance used to determine your minimum pension required
  - It is also your age on that date that is used to determine the minimum %
- You then "pro-rata" this minimum amount for the number of days left in the financial year

What you need to consider

Example

- Chris balance on 1 January 2024 which is the deemed start date for the new pension of $1,000,000
- Minimum pension % required for a 71-year-old is 5%
  - 5% x $1,000,000 = $50,000
  - 1 January 2024 – 30 June 2024 = 181 days
  - 181 days / 365 days = 49.5%
  - 49.5% x $50,000 = $24,750

I would round this up to $25,000 to be safe

Age of beneficiary	Minimum percentage factor
Under 65	**4%**
65 to 74	**5%**
75 to 79	**6%**
80 to 84	**7%**
85 to 89	**9%**
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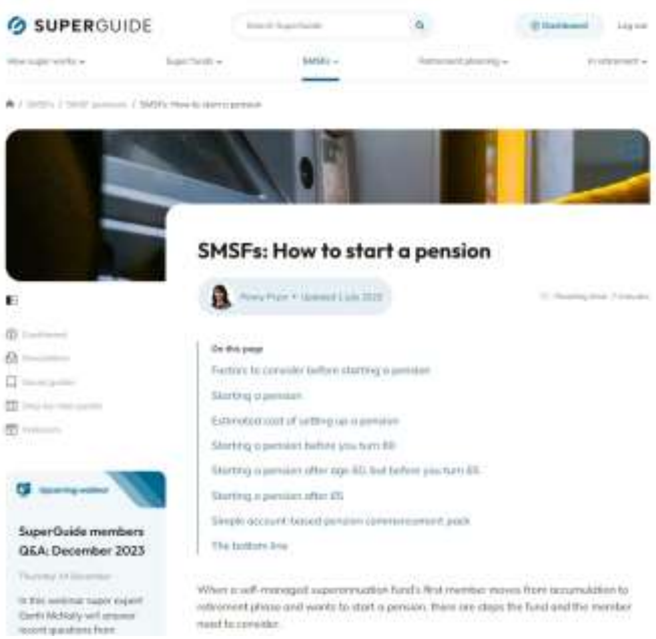
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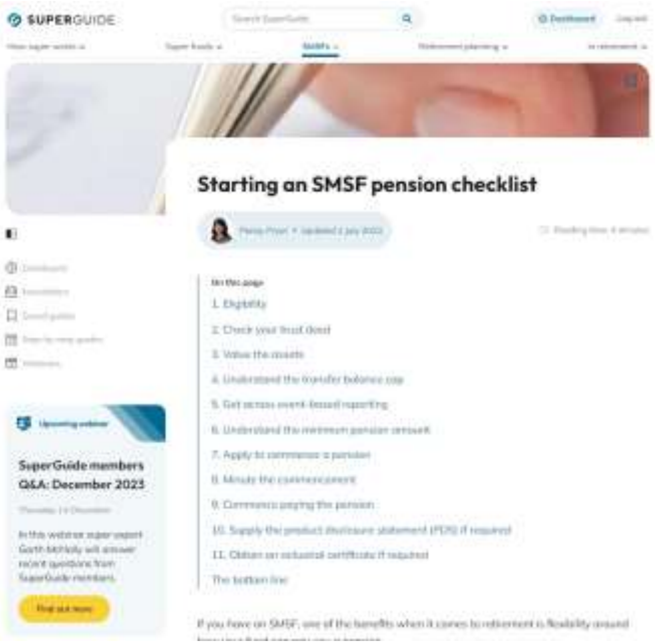
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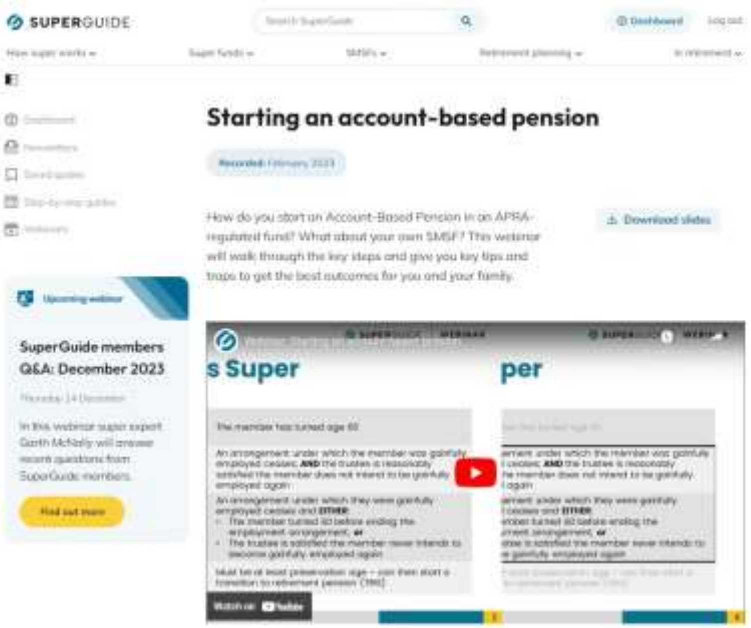
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Wrap up