Legislative Update:

ECPI Changes Delayed

The Government have announced that they will be deferring the proposed Exempt Current Pension Income (ECPI) changes, announced in last year's Federal Budget, until 1 July 2021.

What are the proposed changes?

1. Providing 'choice' around which method can be used for claiming ECPI

Currently, for SMSFs that are eligible to use the Segregated Method and have periods during the given financial year that are solely supporting retirement phase, these periods will be 'deemed segregated' and the fund will have to use the Segregated Method to claim ECPI for that period of time. The Government's proposal is to review this requirement and provide SMSFs with a 'choice' around claiming ECPI.

We interpret this as either one of two things. The first possibility is that they could allow deemed segregation to become a choice where SMSFs that have a deemed segregated period during a given financial year could choose to use the Segregated Method for that period of time or choose to use the Unsegregated Method for the entire financial year.

At this stage we are not certain whether Trustees would need to choose their ECPI method prior to the start of the income year or at the time that they are preparing their SMSF annual return.

The second possibility is that the Government could choose to return to the old methodology where there is no 'deemed segregation' at all. This would mean that for SMSFs that had a mixture of non-retirement and retirement phase accounts during the financial year, they would need to use the Unsegregated Method and obtain an actuarial certificate that would apply to the entire year of income. Under this situation, the only form of segregation is if Trustees elected to segregate particular assets from the unsegregated pool. As to which avenue the Government decide to go down is something we will have to wait and see.

2. Amend the Disregarded Small Fund Assets legislation to remove the requirement for some funds to obtain a 100% tax exempt actuarial certificate

Currently, where a fund is not eligible to use the Segregated Method (i.e. they have Disregarded Small Fund Assets) and they are solely supporting retirement phase for the entire financial year, the SMSF is required to use the Unsegregated Method for the given financial year and obtain an actuarial certificate that states 100% income tax exemption. This scenario usually happens where a member has money in super that is outside of the SMSF that causes their Total Super Balance to be over $1.6 million and triggers the SMSF to not be eligible to use the Segregated Method, or where a fund is solely supporting retirement phase and due to income a member's Total Super Balance has grown above $1.6 million. The Government have proposed that they will amend section 295.377 of the Income Tax Assessment Act 1997 to remove this requirement.

Have a question?

Please do not hesitate to contact us:

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More Information

Revised start dates for technical superannuation and taxation measures, Australian Government – The Treasury:
https://ministers.treasury.gov.au/ministers/michael-sukkar-2019/media-releases/revised-start-dates-technical-superannuation-and?fbclid=IwAR0zaw7IdKx22uCUadopIMC5Kr1-xLntFz96KJSYVWqERfh0zoh9IZSe5F4

Eligibility to use the Segregated Method, Act2 Solutions:
https://static1.squarespace.com/static/5dafabe84912f22ed83fbb60/t/5e1ea7a387f6675d688d4403/1579067303116/act2_techdoc_apr2018.pdf

Deemed Segregation: The Beginners Guide, Act2 Solutions:
https://static1.squarespace.com/static/5dafabe84912f22ed83fbb60/t/5ef2b017cc949e3709636780/1592963099250/Act2_techdoc_May2018.pdf

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