

# SUSTAINING THE SUPER SYSTEM: HOW THE REGULATOR AND THE MARKET RESPONDED TO THE MOST SIGNIFICANT SUPER TAX CHANGES IN A DECADE

*(135+ pages of legislation, 364+ pages of Explanatory Memorandum and 8 months to implement.  
How did we go?)*

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# APPROACH

- The Reforms
- Two new accumulation measures: Transfer Balance Caps & Total Superannuation Balance
- Abolition of tax exemption for TRIS asset income
- Efficiency measure : Board of Taxation metric
- Responses: by ATO, by fund trustees, by advising community
- Conclusion

# THE REFORMS

- 2007 changes: tax equity controlled by contribution limits  
didn't address very large amounts already accumulated
- Majority of 2017 Reforms adjust eligibility and amount of contributions
- Also insert two accumulation measures: Transfer Balance Caps &  
Total Superannuation Balance
- Transfer Balance Caps: limit on exempt pension income by reference to amount accumulated supporting pension
- Total Superannuation Balance: limit on 5 contribution types by reference to amount accumulated
- Tax exemption for TRIS asset income abolished

# TRANSFER BALANCE CAPS

- Policy: limit on exempt pension income by reference to amount supporting pension, using commencing values not current values
- Conceptually: bank account with very specific debits and credits
- Credits: 1 July 2017 account value or later commencing account value
- Debits: pension commutations, super provider fraud losses, void bankruptcy contributions, personal injury compensation, payout to ex-partner, failing pension standards and ATO directs (failing to come within cap)
- ATO: holder of account record based on information from trustees
- TBC \$1.6M
- Regulatory actions on excess: deemed earnings taxed at 15%/30%, loss of exemption if not brought back within TBC

# TRANSFER BALANCE CAPS

- Death pensions only payable to specific class of members (Death Benefit Dependents) otherwise must be paid as lump sum
- But pensions paid on death creates Transfer Balance Account for survivor
- Problematic for survivor already in pension mode (discussed later)

# TOTAL SUPERANUATION BALANCE (TSB)

- Policy intent: 5 types of contributions now limited by both amount contributed and how much accumulated
- Cannot contribute (5 types) if \$1.6m already accumulated
- Prior 30th June value of superannuation interest used
- That is: current values used not commencing values
- ATO holder of record on information from trustees

# TRIS EXEMPTION ABOLISHED

- Pension payable on reaching preservation age: Transition to Retirement (TRIS)
- Policy: reduce work hours and replace lost remuneration with a pension
- Before reforms fund exempt from tax on income from assets supporting TRIS
- Didn't have to reduce remuneration: Heaven on a stick if >60 y.o.
- Fund exemption abolished from 1 July 2017 so fund now taxable
- Didn't prohibit TRIS just reduced tax concessions: assumes TRIS will still be used

# MEASURING EFFICIENCY

- Board of Taxation post implementation efficiency metrics:
  - consistent with policy intent
  - commensurate with forecast administration costs
  - clear, simple and comprehensible
  - avoid unintended consequences
  - takes taxpayers circumstance into account
  - consistent with other tax legislation
  - provides certainty



# SO, WHAT HAPPENED?

## ATO RESPONSES

- Extensive consultation on reforms in draft: 156 submissions in late 2016
- 7 Law Companion rulings: 5 on TBC, 1 on TSB
- 16 Guidance notes 9 on TBC and TSB
- TRIS : legislation change clarifying when TRIS ceases and pension exemption commences on death and clarification when TRIS ceases at age 65
- Overall: ATO activity focussed on achieving certainty and resolving conflicts with existing rules

# SO, WHAT HAPPENED?

## TRUSTEE RESPONSES

- APRA funds managing well (?)
- SMSF struggling with event based reporting (28 days after quarter end c.f reporting in following year) but accommodated
- Overall: trustees bifurcated around business model: access to member information for reporting to ATO as holder of record

# SO, WHAT HAPPENED?

## ADVISER RESPONSES

- TRIS pensions converting to retirement pensions
- TRIS pensions reverting to survivor
- Overall: anecdotally from Tech Service Managers in Fin Instos and Super managers in Professional Orgs.: “stay tuned, still a work in progress” anticipating more “fishhooks”?

# EFFICIENT?

## **BOT measure of efficiency**

- Implementation difficulties have been around:
    - TRIS pensions converting to retirement pensions and TRIS pensions reverting to survivor
    - information flows (SMSFs)
  - Using BOT metrics by exception (if it hasn't been an issue then it hasn't been a problem)
    - accounting for taxpayers' circumstances
    - other tax legislation consistency
- only negatives- but being resolved

# CONCLUSION

- Largest super tax reforms in a decade
- Most around contribution limits but two new accumulation measures and TRIS exemption abolished
- Regulator response: largely in providing certainty, clarity and resolving legislation conflict
- Trustee response: SMSF needed accommodating in information flows
- Adviser response: active around TRIS pensions (death, reaching age 65) but anticipating more “issues”
- Efficient?

Surprisingly (given magnitude of these three aspects) **yes?**