— audit —

Key risk areas for the new financial year

The 2017/18 financial year was a hectic period for SMSF professionals, with many of the 2016 budget reforms being implemented. What compliance traps should they watch out for this financial year?

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2017/18 is a hectic year for SMSF professionals. The super reforms from 1 July 2017 have had a profound impact on our super and tax systems. New terminologies were introduced, new scenarios were created, and new questions were raised for further legislative amendments. In the 2017/18 financial year, we calculated transfer balances, lodged TBAR, dealt with CGT relief, advised contributions under the new rules, and reconsidered death benefit implications.

In the 2018/19 financial year, we will mainly continue with the implementation of the 2016 budget measures. This article discusses the compliance focal points in the new financial year and highlights possible risk areas.

1. TBAR timeframe

By 1 July 2018, transfer balances for retirement phase pensions in place at 30 June 2017 should have been reported. From 1 July 2018, we will report current year events and 2017/18 events.

Basically, reportable events are those that affect a member's pension capital amount. Common events include pre-existing retirement phase pensions at 30 June 2017, new retirement phase pensions starting from 1 July 2017, and TRISs entering retirement phase and commutations. However, the reporting due dates will require multi-colour highlighters in the calendar.

For 2017/18 events:

Where all members have a total superannuation balance (TSB) of less than $1 million, the fund can report in its annual return. Where at least one member has a TSB of $1 million or more, all events for all members are reported before 28 October 2018. $1 million is measured at 30 June 2017 where there is a pre-existing retirement phase pension or when the first member starts the first retirement phase pension during 2017/18.

For 2018/19 events:

Where all members have a TSB of less than $1 million, the fund can report in its annual return. Where at least one member has a TSB of $1 million or more, all events for all members are reported within 28 days after the end of the quarter in which the event occurs. $1 million is measured at 30 June 2018.

Once the reporting frame is set, it continues throughout the whole year.

Events that must be reported sooner:

For excess transfer balance determination issued to the member, commutation must be reported within 10 business days after the end of the month in which the commutation occurs.

When a member with excess transfer balance does not respond to the determination, commutation authority will be issued to the trustees. When a commutation authority is issued to the trustees, responses must be reported within 60 days of the date the commutation authority was issued.

Events that are encouraged to be reported sooner:

It's better to report rollovers at the time they occur to avoid a double-counting.

2. Non-arm's length expenditure would result in NALI

Draft legislation has been released to close the gap in all possible non-arm's length dealings. Non-arm's length income in section 295.550 ITAA 1997 is extended to capture any scheme where "the entity incurs a loss, outgoing or expenditure" less than arm's length dealings, whether it is of a capital nature or not. If enacted, the new NALI provisions would apply to income derived from 2018/19 regardless of when the scheme was entered into.

This is consistent with the ATO's safe harbour guidelines for LRBAs, but broader. If a fund acquires a commercial property from a related party for less than the market value, the net rental income would be NALI and the net capital gain when the super fund disposes the asset would be NALI.

NALI is one of the worst things that could happen to a super fund; a fund should steer clear of anything that smells like NALI. Once NALI is established, it is taxed at 45 per cent. NALI is the whole amount of income under the scheme, not just the extra bit of