

Technical News October 2012

Recent legislation and regulatory developments.

Superannuation

ECT refund legislation passed

Legislation that provides individuals with the option to have certain excess concessional contributions refunded has been passed with some minor amendments.

[Click here](#) to read an article on the excess contributions tax changes.

Administrative consequences and penalties for SMSF trustees

The Government has released for public consultation an exposure draft of legislation introducing [administrative consequences and penalties](#) for trustees of self-managed superannuation funds (SMSFs) and the accompanying explanatory material. The provisions are proposed to apply to contraventions that occur on or after 1 July 2013.

Penalties for promoters of illegal early release schemes

The Government has released for public consultation an exposure draft of legislation introducing penalties for promoters of illegal early release schemes and the accompanying explanatory material.

Roll-overs to SMSFs

The Government has released for public consultation an exposure draft of legislation relating to [roll-overs to SMSFs](#) and the accompanying explanatory material.

Stronger Super measures impacting SMSFs

As part of the Stronger Super reforms, the Government has amended [Superannuation Industry \(Supervision\) Regulations 1994 \(SISR\)](#) to require:

- trustees of self managed superannuation funds (SMSFs) to consider insurance for their members as part of the fund's investment strategy
- money and other assets of an SMSF be kept separate from those held by a trustee personally and by a standard employer-sponsor or an associate of a standard employer-sponsor, and
- SMSF assets to be valued at market value for reporting purposes.

The Australian Taxation Office (ATO) has also released [valuation guidelines](#) in relation to SMSFs, in addition to the tax guide on market valuation for tax purposes. These measures are effective 7 August 2012.

Foreign super funds and managed investment trust withholding tax

On 20 August 2012, the Australian Taxation Office (ATO) released [ATO ID 2012/71](#) in which it states that managed investment trust (MIT) withholding tax will not apply if a foreign fund is set up for the benefit of non-residents of Australia, meets the definition of a superannuation fund and holds an indirect interest in an MIT.

Taxation

Employee share schemes: Unlisted options interpretive decision

In [ATO ID 2012/68](#), the Australian Taxation Office (ATO) stated that the provision of options to an employee under an employee share scheme is not excluded from being a 'fringe benefit' where the market value of the options is nil.

Exposure draft legislation for tax relief for merging super funds

Treasury has released exposure draft legislation in relation to [income tax relief](#) for mergers of super funds. Some changes include:

- backdating relief to apply from 1 October 2011
- extending relief to all revenue assets regardless of the net position of the entity, and
- removing the 12 month integrity rule which prevents certain losses from being transferred.

Any questions?

As always, we are very happy to meet or talk with you over the phone regarding any aspect of these changes and your capital protection and wealth needs.

Please call us on **(03) 9459 2966** or via email on advice@warringal.com.au

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