Super cap is still devilish in its details

Noel Whittaker

A family trust crackdown has hit parents and grandparents who want to start a fund for children's education.

THIS week's budget had been so well leaked there were hardly any surprises on the night.

But, as usual, the devil is in the detail.

As predicted, there was a crackdown on family trusts.

However, it was mild and has had the unintended consequence of hitting parents and grandparents who want to start a fund for their children's education.

Until now, thanks to the Low Income Tax Offset (LITO), the unearned income of a minor could reach $3333 a year tax-free.

The budget removed LITO for minors' unearned income and it will now be taxed at full marginal rates once it exceeds $416 a year.

The change doesn't materially affect the affairs of wealthy people who use trusts because it has merely removed $2917 a year from the amount of distributions that can be made tax-free.

Even at the full marginal rate, the tax lost is just $1356 a year – hardly the stuff that big crackdowns are made of.

Thanks to these amendments there is now an effective ceiling of about $8000 that can be invested for a minor in their own name, or as trustee.

It makes investment bonds even better as savings vehicles for children's education as the maximum tax paid by the bond fund is just 30 per cent.

There is no tax to pay each year on the accruing earnings, and the bond can be transferred tax-free to the child when appropriate.

While we are on the subject of LITO, much has been made of the change in the rules to enable recipients to access a larger proportion of the offset in their pay packet instead of receiving all the money as a lump sum at the end of the year.

It has been touted as a tax cut of $6 a week, but is nothing of the sort.

If you sign up for receiving it on the drip feed method you are merely giving yourself a few extra dollars a week to fritter away instead of waiting for a decent lump sum that could be used for something worthwhile.

Remember the basic financial principle: a bicycle in the future is more valuable than an ice-cream today.

The budget relaxes the penalties for those who exceed their superannuation contribution cap, but the changes are way short of what is necessary.

They are applicable only for contributions made after July 1, 2011, and are limited to excess concessional contributions of up to $10,000.

First-time offenders will be allowed to withdraw excess contributions up to $10,000 without penalty – such refunded contributions will be assessable personally to the fund member and taxed at the marginal tax rate.

This does nothing to help the 80,000 people who are presently subject to punitive penalties, but in any event the $10,000 limit is unrealistic.

A case in point is the 76-year-old man who used internet banking to withdraw $100,000 from his self-managed super fund and as a result of hitting the wrong button, banked the money back into the super fund's account instead of his own.

The penalty for this honest and simple mistake was $46,500.

There is still uncertainty about the operation of the higher cap on concessional contributions to super from July 1, 2012, for those aged 50 and over.

It was supposed to reduce to $25,000 from that date, but the May 2010 budget included a provision that the $50,000 cap would be retained for people who had less than $500,000 in super.

In typical government fashion a year has gone by and nothing has been legislated.

One of the reasons for the delay has been the difficulty in defining $500,000 and whether the figure is to include prior withdrawals.

The original $50,000 figure was not indexed, but the standard cap of $25,000 for those under 50 is indexed.

In the interests of "simplicity" the indexation increases were to be only in $5000 increments.

The government is now proposing that the higher concessional cap will be $25,000 more than the standard cap.

If this gets up, a person over 50 with less than $500,000 in super may be able to contribute $55,000 as a concessional contribution after June 2012. It does go some way to maintaining the real value of the concession.

Noel Whittaker is a director of Whittaker Macnaught Pty Ltd. His advice is general in nature and readers should seek their own professional advice before making any financial decisions. His email is noelwhit@gmail.com.

Q My husband and I are joint owners of an investment property bought in 2003 for $195,000. We have spent about $30,000 in repairs and maintenance. We are thinking about selling and investing the money for our retirement. However, as we have never lived in the house we would incur full capital gains tax (CGT) if we sell. We believe that there is a way of putting this property or money from its sale into our super funds to minimise the CGT payable. Do we sell the house and put the money into super, or is it better to put the house into super and leave it rented out? We are aware that we can only put $450,000 in super and then we are unable to pay any more in for the next three years. We are not retiring just yet so this option may not be possible.

A The only way to use super to minimise CGT is to make a tax deductible contribution with the aim of reducing your taxable income in the year of sale. Remember, CGT is calculated by adding the gain to your taxable income. To do this you must be eligible to contribute to super and also be eligible to claim a tax deduction. Such deduction is limited to $50,000 a person, if you are aged 50 or more. Make sure you take advice as you can't afford to get it wrong.

Q I am 36 and my husband is 50 and we have two children aged four and one. We own our $700,000 home outright and have $100,000 saved. We are interested in renovating ($200,000) and want to know if we should use our savings for this or take out a loan and invest our savings into property or geared shares? We have a combined income of about $350,000 per annum.

A You should be trying to maximise your deductible debt and minimise your non-deductible debt. Therefore you should use your savings to reduce your home loan and then take out a home equity loan to borrow the entire purchase price of the assets you buy for investment. This will ensure you are structured properly for tax.

Funds must seek protection against climate change

By **JOHN COLLETT**

SUPERANNUATION funds that do not respond adequately to the challenges of climate change risk making less money for their members.

Investment consultancy Mercer estimates the typical fund would need to direct up to 40 per cent of its portfolio towards investments that would benefit from climate change.

These include investments in clean technology and "green" commercial property.

It's estimated 30 per cent of global greenhouse gas emissions come from property and most big super funds have high exposure to commercial property.

In a report released in February, Mercer says technology designed to achieve a low-carbon transformation is creating a big investment opportunity for super funds.

As much as $5 trillion could be invested in such technology worldwide by 2030.

The technology includes energy efficiency, renewable energy, biofuels, nuclear and carbon capture and storage.

At the same time, the move to these sunrise industries will undermine and diminish the value of some existing investments that fail to adapt to a carbon-constrained world.

There's no meaningful global comparison of how the green credentials of Australian super funds stack up.

But researcher SuperRatings says only a few funds invest more than 5 per cent of their total net assets in responsible investments.

With the likely introduction of a carbon tax next year, whether to invest sustainably is no longer a choice, SuperRatings says.

"Those funds with the most sustainable practices . . . will be rewarded by the market, while those who further delay addressing climate change will be punished."

SuperRatings recently assessed the super funds' commitment to sustainable investing. Just more than half of the funds that responded to the survey said responsible investment decisions were made at the investment-committee level.

It's not just about investing sustainably but also about the way super funds reduce their carbon footprints. For example, the survey found nearly three-quarters of super-fund members, or 6 million people, still receive printed communication from their funds rather than electronic communication.

The business director at the Climate Institute, Julian Poulter, says super funds need to hedge or protect their portfolios against long-term climate-change risk in the same way they protect their investment portfolios against rising inflation or interest rates.

While the funds' "default" investment options, in which most members have their money, have been relatively slow to embrace environmental, social and governance factors in the way the money is invested, most big funds offer "sustainable" investment options. These options have performed as well as, or better than, their "vanilla" counterparts during the past five years.

For example, during the five years to February 28, SuperRatings's Sustainable Australian Shares Index produced an average annual return of 5.5 per cent compared with the median average annual return of the largest-50 Australian shares options on SuperRatings's database of 4.42 per cent. SMH