

Mistakes on super can be expensive



Noel Whittaker

Harsh penalties apply for exceeding caps on contributions and don't expect any sympathy if you get it wrong.

IN 2006 the Howard government overhauled the superannuation system and, in doing so, made it fairer and simpler.

Withdrawals became tax free for people aged 60 and above, the requirement to exit your superannuation fund when you stopped work was no more – best of all was the abolition of the odious Reasonable Benefit Limits (RBLs) which put a limit on how much you could accumulate for your retirement.

Instead of limiting the amount you could accumulate in superannuation, the amount of money that could be held in this low tax area was restricted by putting a cap on contributions. Deductible contributions were limited to \$25,000 a year with special concessions for people aged 50 and over who are allowed to contribute \$50,000 a year until June 2012. Currently, there are moves afoot to extend this concession after 2012 for people who have less than \$500,000 in superannuation then.

Non-deductible contributions were limited to \$150,000 a year, although in 2006 there was a special concession that allowed non-deductible contributions of up to \$1 million as a one off.

That's great as far as it goes. But whenever the legal drafting people get their hands on legislation they seem to take great joy in making a relatively simple topic as complex as possible. Obviously, there had to be penalties for exceeding the caps, but the way the legislation has been drafted has led to outcomes that can

only be described as farcical.

Just recently a man received a penalty of \$69,000 for exceeding his concessional cap by just \$10 – this is not a misprint.

The average penalty is often around 93 per cent of the excess contribution but, as the example above shows, could be much larger in certain circumstances.

It's so easy to inadvertently go over your cap. One of the most common traps is when a contribution made by an employer ends up in a different tax year.

I know of many cases where people made salary-sacrificed contributions late in June but because of tardiness, or bad administration on the employer's behalf, the contributions were not received by the fund until after June 30.

When this happens the person has under-contributed in the year prior to June 30 and is now in danger of exceeding their cap in the following year unless they watch all contributions for that year carefully.

People with multiple jobs are also at risk because they may have several employers all making compulsory contributions for them. Other traps are changing from one job to another and not keeping an exact record of the super from the previous employer, or receiving a pay rise or a bonus late in the financial year that attracts a 9 per cent contribution from the employer.

Assistant Treasurer Bill Shorten who is responsible for superannuation should have a special empathy with the victims of this legislation

because he has fallen foul of the system himself. He commented "I am more than sympathetic, I am annoyed."

Unfortunately, even though Mr Shorten is both annoyed and sympathetic, it apparently hasn't had much effect in the Tax Office.

Even though the Commissioner has the power to take a lenient approach in "special circumstances", anecdotal evidence suggests they are still taking a very hard line and are not moved by a taxpayer making a simple error. I also understand that a fund is not allowed to return an excess contribution made in error even if the mistake is picked up quickly.

The lesson is clear, monitor your contributions carefully and don't expect any sympathy if you get it wrong.

Just this week the Gillard government announced a bailout of \$55 million for superannuation fund members who invested in the failed Trio Capital. Members of self-managed superannuation funds were not allowed to participate on the grounds that trustees of SMSFs "have the benefit of direct control over where their money is invested".

In other words, if you choose to do your own thing don't expect any help from the government.

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 I have an investment property and have just inherited some money which is enough to nearly clear the investment loan. Is it better to invest the money in other assets or should debt be paid down first?

(non-concessional) contribution and leave the investment loan on an interest-only basis. I suggest you talk to a financial adviser who can discuss all the options with you.

A While I am a great believer in borrowing for investment I cannot see the point of selling a share portfolio and incurring transaction costs and capital gains tax to buy more of the same. A better plan would be to keep the shares, pay the \$100,000 off the home loan to reduce the non-deductible debt and then take out a home equity loan to borrow for more shares. This would eliminate the possibility of margin calls and also boost her deductible debt while reducing non-deductible debt.

A Your best strategy depends on your situation. For example, if you are a high income earner it would be inappropriate to pay off the loan as you would be losing your negative gearing benefits, but if you are retired with a low income it would make sense to pay out the loan to boost your cash flow. Another option would be to place the money in super as an undeducted

Q My daughter recently talked to an investment adviser who recommended she sell her share portfolio worth \$80,000, combine it with \$100,000 she and her husband had saved to pay off their mortgage, and take out a margin loan to invest in funds and shares. I don't know how much she was advised to borrow. Do you think this is good advice for my daughter to follow?

Send your questions to noel.whittaker@whittakermacnaught.com.au

Hey big spender, our plastic is even more fantastic

By JOHN KAVANAGH

CONSUMERS who spend big dollars on their credit cards now have more choices when it comes to selecting a rewards program following the launch of new Commonwealth Bank and Citibank programs this month.

Commonwealth Bank is the first credit card issuer in Australia to offer MasterCard's top-of-the-range World card, with the launch of Diamond – a step up from Platinum. Citibank is offering a new dining program as an add-on service for all its cardholders. It offers extra points at participating restaurants plus other benefits. Last year Citibank introduced Visa's high-end Signature card into the

Australian market when it launched Citi Select.

Competition at the top end of the market is heating up. The chief executive of Pinpoint Marketing Consultants, David Ojerholm, says credit-card spending overall has been weak in recent years but spending on premium rewards cards has continued to rise.

Card issuers want a share of that segment of the market and they are looking to offer cardholders unique rewards and greater flexibility in the way they redeem points.

Pinpoint, which designs and runs rewards programs, manages the Citibank Dining Program. The package includes four points per dollar spent in the 250 restaurants in the program, a free bottle of wine

when dining at those restaurants and a dining guide – a book made up of recommendations of chefs, sommeliers and other foodies.

There is no joining fee and the package is available to anyone in a Citibank rewards program.

The key feature of Commonwealth Bank Diamond Awards is that cardholders can redeem their points on anything. The program includes a concierge service where the cardholder phones the concierge to ask them to locate a chosen item. Alternatively, cardholders can buy the item themselves (using the Diamond card) and then instruct the bank to use points to pay for it.

For travel, Commonwealth has an arrangement with Flight Centre

and offers cardholders access to a travel agent and booking with any airline or hotel (Diamond cardholders can opt for the Qantas Frequent Flyer program instead).

Commonwealth Bank's executive general manager cards, David Lindberg, says the Diamond program was designed in response to consumer complaints that there were too many restrictions applying to standard rewards and frequent flyer programs. "The theme of this program is customer choice," he says.

It doesn't come cheap. The annual fee is \$425 and the cardholder must sign up for a minimum balance of \$18,000. Lindberg says it would make sense to upgrade from Platinum to

Diamond if you are spending \$55,000 to \$60,000 a year on your card.

Highly flexible, on-demand points-redemption arrangements, such as the Diamond program's concierge service, can require more points for conversion than standard catalogue-based reward programs.

Lindberg says the program's conversion rate compared well in the research the bank did before the launch.

When Citibank launched Citi Select last year, based on Visa Signature, the then Visa Australia and New Zealand general manager Chris Clark said Signature cards were pitched at the top 1 per cent of income earners.

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