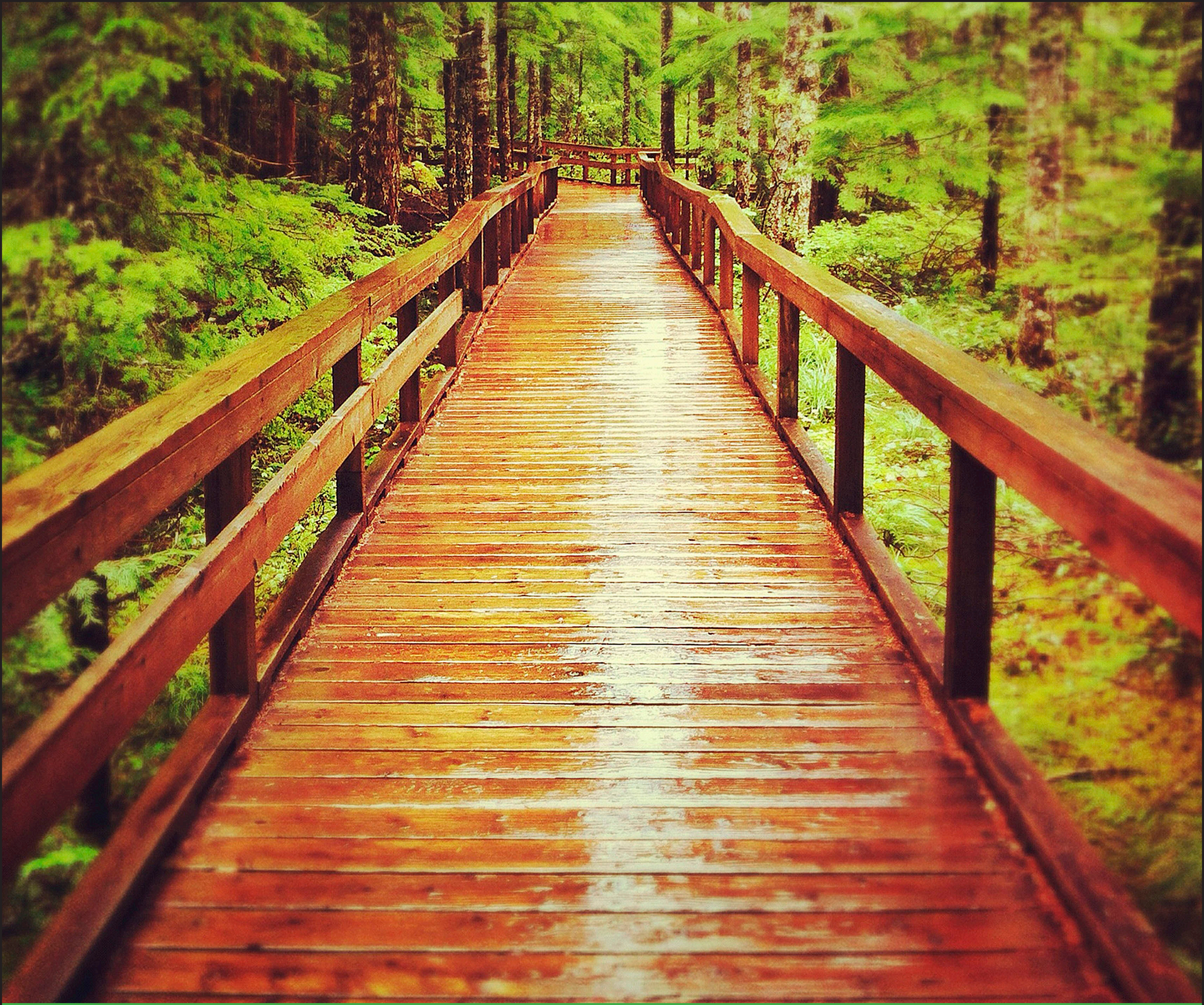

Superannuation

A Financial Planning Technical Guide

Luka Financial Pty Ltd

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Superannuation is one of the best ways to save for retirement. By investing for the long term in a tax effective environment you can build substantial wealth for your retirement years. You can invest in superannuation either personally, through your employer or through your own business.

The following information is current as at June 2014.

Superannuation overview

Why invest in superannuation?

Advantages of investing in assets in the superannuation environment include:

- Concessional tax treatment.
- Ideal form of savings for retirement.
- Insurance benefits can be attached.
- Government co-contributions incentive.

Superannuation exists to help you provide for yourself in retirement rather than relying on social security. As a result, your superannuation savings can not be accessed until a condition of release is met, such as retirement or reaching age 65.

How is your money invested?

When saving for retirement, it is important to recognise that your investment time frame is long term. For this reason many experts suggest it is important to invest in an appropriate level of growth assets within a superannuation fund.
While these types of assets (such as shares and property investments) are generally considered higher risk over the short to medium term, over the long term they will generally outperform other types of assets (such as cash).

Once approaching retirement, your investment timeframe becomes shorter and your tolerance of fluctuations in the value of your investment capital may become lower. Taking this into account, many investors shift some of their assets towards lower risk asset classes such as cash and bonds when nearing retirement.

Super Contributions

Who can contribute?

There are strict rules about who can contribute to superannuation and how much. The following table sets out when a member can make or receive a superannuation contribution.

Age	Contribution Type		
	Non-Concessional	Spouse[2]	Concessional
Less than 65	Yes	Yes	Yes
65 to 69	Yes – if gainfully employed[1]	Yes – if receiving spouse is gainfully employed[1]	Yes – if gainfully employed[1]
70 to 74	Yes – if gainfully employed[1]	No	Yes – if gainfully employed[1] or contributions are mandated (award or SG)
75 and over	No	No	Yes – contributions pursuant to an award or agreement certified under an industrial authority only

[1]. Gainfully employed refers to at least 40 hours in a period of not more than 30 consecutive days, in that financial year.

[2]. Age and work test applies to receiving spouse. The contributing spouse is not subject to age or work test.

Concessional contributions

Concessional contributions (CCs) are contributions made for you or by you for which a tax deduction is claimed and are included in the assessable income of the fund.

Concessional contributions form part of the fund's assessable income and are taxed concessionally at 15%.

Concessional contributions include:

Superannuation guarantee

Employers are legally required to provide a minimum level of superannuation support for their employees each financial year. The current superannuation rate is set at a minimum of 9.25% pa of ordinary time earnings. It is important to determine if your employer includes this 9.25% within your total employment package or if it is paid on top of your cash salary.

Your employer can claim tax-deductions for contributions to superannuation on your behalf.

Salary sacrifice

Salary sacrifice is a voluntary agreement between you and your employer to pay some or all of your pre-tax salary into your super fund. This reduces your assessable income, which may also reduce your marginal tax rate. By contrast investing in superannuation (or other assets) after receiving your salary means you would already have paid tax (at up to the maximum marginal tax rate of 45% plus Medicare levy) depending on your income.

Personal deductible contributions

If your assessable employment income, Reportable Employer Super Contributions (RESC) and Reportable Fringe Benefits (RFB) in the financial year are less than 10% of your total assessable income, RESC and RFB and you are less than 75 years of age, you may be entitled to claim a tax deduction for your personal superannuation contributions.

There are specific requirements (including timing) that must be met in order to a claim a tax deduction for personal contributions to super. It is strongly advised that you consult with your tax agent, accountant or financial planner around these requirements if you intend to claim a tax deduction for any personal contributions to super.

Amounts which are not counted towards the CC cap include:

- the taxable amount of an overseas super transfer that you elect to have taxed within your Australian superannuation fund, and
- any untaxed elements of a rolled over superannuation benefit.

Excess concessional contributions

Whilst there is generally no limit on the level of concessional contributions you can make in a financial year (subject to age requirements), penalty tax can be imposed if your total CCs for the financial year exceed the CC cap. The CC cap for 2013/2014 is currently set at $25,000 for individuals under 60 and $35,000 for individuals age 59 and above on 30 June 2013. Individuals who exceed the concessional contribution cap will have the excess included in their assessable income and taxed at their marginal tax rate. An interest penalty will also apply.

If the member chooses to retain the excess inside their superannuation fund the amount will count toward their non-concessional contribution cap.

Non-concessional contributions

Non-concessional contributions (NCCs) are contributions that are not assessable income to the fund. Your superannuation fund can only accept NCCs if you have quoted your tax file number to the fund/trustee.

Amounts which are counted towards the NCC cap include:

Personal post tax contributions

These are contributions paid into your super fund for which you do not or cannot claim a tax deduction. Any personal post tax contributions made are tax free on entry to, and exit from, your fund.

Spouse contributions

These are contributions made by one spouse on behalf of another. Eligible spouse contributions are treated like personal post tax contributions. However, a tax offset of up to 18% (up to $540) may be claimed by the contributing spouse on contributions up to $3,000. To be eligible for this tax offset, the recipient spouse’s assessable income, RESC and RFB must be below $13,800 per annum. The full offset may be payable where the recipient spouse’s assessable income, RESC and RFB is less than $10,800 per annum.

Excess Non-concessional contributions

Like concessional contributions, there is generally no limit on the amount of NCCs you can make/receive in a financial year (subject to meeting age requirements). However penalty tax may be imposed where the level of your NCC exceeds you NCC cap.

The standard NCC cap is currently set at $150,000 per annum. However, if you are 64 years old or less on 1 July you have NCCS for the year in excess of $150,000, a three year averaging (or bring forward) rule will apply which increases your NCC Cap to $450,000. However that higher limit applies to the total of all NCCs made in that and the next two financial years.

NCCS in excess of your relevant NCC cap are taxed at the rate of 46.5%. The tax is levied on you (the member) and you are required to withdraw the funds from your superannuation to pay the tax.

Amounts which are not counted towards the NCC cap include:

Government co-contributions

You may be eligible for a government superannuation co-contribution if you meet all of the following requirements:

- Your assessable income, RESC and RFB including any reductions for carrying on a business is less than $48,516.
- You make a personal post tax contribution to superannuation.
- 10% or more of your assessable income, RESC and RFB is from eligible employment or carrying on a business or a combination of both.
- You lodge a tax return for the financial year.
- You are under 71 years of age at the end of the financial year.
- You do not hold a temporary visa.

The government will boost your retirement savings by making an additional contribution on your behalf at a rate of 50 cents for every $1 you put in, up to a maximum of $500. The maximum contribution reduces by $0.0333 for every $1 of assessable income, RESC and RFB above $33,516, and will cease when assessable income, RESC and RFB reaches $46,920.

Government low income superannuation contribution

You will be eligible for a government superannuation contribution of up to $500 if:

- Your adjusted taxable income is $37,000 or less.
- You have concessional contributions for the year.
- You do not hold a temporary resident visa.
- 10% or more of your assessable income, RESC and RFB is from eligible employment or carrying on a business or a combination of both.
- The government contribution payable is $20 or more.

Adjusted taxable income is defined as taxable income, adjusted fringe benefits total, certain foreign income, total net investment loss, government tax-free pensions and benefits, reportable superannuation contributions less any deductible child maintenance expenditure for that year.

The intent of this contribution is to return the 15% tax payable (up to a maximum of $500) on concessional contributions made for or by low income earners.

Contributions from the sale of small business assets

Contributions made under the small business capital gains tax concessions (for example on the sale of a small business asset) fall under a separate lifetime limit of $1,315,000 (indexed yearly).

In order to not count against the NCC cap, contributions under these rules must be accompanied by a capital gains tax election notice which is provided on or before making the contribution. Also, the contribution must generally be made before the taxpayer is due to lodge their tax return for the year the relevant asset was sold.

Under the 15 year exemption rules, proceeds from the sale of assets up to that limit can be contributed to superannuation, provided the member meets eligibility criteria (work test if over age 65). No contribution can be made after age 75.

Under the small business retirement exemption rules, a contribution of up to $500,000 (of the amount of capital gain a taxpayer has elected to disregard under the retirement exemption) can be made to super on behalf of the member. Contributions under the retirement exemption also count towards the $1,315,000 lifetime limit above.

Personal injury payments

These are contributions made from personal injury payments arising from a structured settlement, an order for a personal injury payment or lump sum workers' compensation payment which meets certain requirements.

Superannuation rollovers

These are superannuation benefits which are rolled over or transferred from within the superannuation system. Superannuation benefits rolled over from an untaxed fund are subject to a cap of $1,315,000 per fund. The untaxed element of the rolled over amount within the cap is subject to 15% tax within the fund. The amount above the cap is subject to excess rollover tax of 46.5% by the transferring superannuation fund and forms part of the tax free component in the receiving superannuation fund.

By consolidating your superannuation, you may be able to save account fees and be better able to track how your retirement savings are performing. However, caution should be exercised as rolling over may have unintended tax and insurance consequences. It is a good idea to consult your financial planner before requesting a rollover.

Contribution splitting

Since 1 January 2006, superannuation contributions made for the benefit of a member may be split with a spouse (under certain conditions).

The contributions that may be split are either 'taxed splittable contributions' or 'untaxed splittable employer contributions'.

Taxed splittable contributions

Taxed splittable contributions are concessional contributions.

The maximum splittable amount is the lesser of:

- 85% of the concessional contributions for the financial year; and
- The CC cap for the financial year.

Untaxed splittable employer contributions

Untaxed splittable employer contributions are contributions by the Commonwealth, State or Territory governments to a public superannuation scheme that are not included in the assessable income of the fund.

The maximum splittable amount is up to 100% of the CC cap for the financial year.

As a member of a superannuation fund, you can request a contribution split of splittable contributions made in:

- The previous financial year; or
- The financial year in which your entire benefit is to be rolled over in that year.

Where, as a member, you wish to claim a tax deduction for amounts that are to be split with your spouse, you are required to provide your superannuation fund with a notice that the contribution will be claimed as a tax deduction prior to a contribution splitting application. Otherwise, you will only be able to claim a tax deduction in respect of contributions that have not been split with your spouse.

Also, where you wish to rollover your benefit to another superannuation fund and split a contribution with your spouse, you must request the amount to be split prior to rolling over your benefit.

There are also restrictions on the receiving spouse. If your spouse is under their preservation age (see later section), they may be able to receive a splittable contribution. Where your spouse has reached preservation age but is still under 65, your spouse must state that they have not met a retirement condition of release.

A spouse aged 65 or over cannot receive a splittable contribution.

The split contribution received by your spouse is considered a preserved benefit. That is, your spouse cannot access these amounts until they meet a retirement condition of release.

Superannuation taxation

Taxation of complying funds

To encourage Australians to invest in their retirement, the Government applies concessional tax rates to contributions (within allowable limits) and withdrawals from "complying" superannuation funds – ie super funds whose trustees have chosen to be regulated as a complying fund. Most funds are complying funds and the information below is relevant to complying funds only.

Contributions tax

Assessable contributions which include concessional contributions, and untaxed elements from a superannuation rollover are considered to be assessable income of the fund and taxed at the concessional rate of 15%.

Investment income

Whilst a member's savings are in the accumulation phase of a complying superannuation fund, any investment earnings are considered assessable income of the superannuation fund and taxed at 15%. This includes any capital gains the fund has made from underlying investments. A 1/3rd discount applies to capital gains from assets that have been held for more than 12 months and therefore only 2/3rds of the capital gain is assessed and taxed at 15% (resulting in an effective tax rate of 10% on these capital gains).

Taxation of your superannuation member benefit

Your superannuation member benefit may comprise some or all of the following tax components:

- Tax free components
- Taxable components:
  - Taxed element
  - Untaxed element.

Tax free component

This consists of certain crystallised components of your superannuation benefit at 30 June 2007 plus NCCs, government co-contribution and low income contribution, certain proceeds from the sale of small business assets, personal injury payments, the tax free component of rollovers and amounts subject to excess rollover tax.

Tax treatment

The tax free component is not subject to tax on withdrawal.

Taxable component

This is the balance of your superannuation member benefit less the tax free component. The taxable component is comprised of a:

- **An untaxed element**
  - Derived from an untaxed source such as an untaxed superannuation fund (eg government superannuation fund such as ComSuper).
  - May be derived from a superannuation death benefit wholly or partly funded by insurance; and
- **A taxed element** – derived from a taxed source eg a taxed superannuation fund. This is essentially any remaining balance in your fund.

Tax treatment of lump sum benefits

Upon withdrawal, the taxable component of any lump sum benefit paid to you is assessed and taxed in accordance with the following table:

		Amount Assessable*	Tax Rate (including Medicare levy)
Under preservation age	Taxed element	100%	maximum of 21.5%
	Untaxed element		
	• up to untaxed plan cap# $1,315,000	100%	maximum of 31.5%
	• amount above $1,315,000	100%	46.5%
Preservation age to 59	Taxed element		
	• up to low rate cap – $180,000	100%	maximum of 0%
	• amount above $180,0000	100%	maximum of 16.5%
	Untaxed element		
	• up to low rate cap – $180,000	100%	maximum of 16.5%
	• between low rate cap – $180,000 and untaxed fund cap# of $1,315,000	100%	maximum of 31.5%
	• amount above $1,315,000	100%	46.5%
Age 60 and above	Taxed element	0%	0%
	Untaxed element		
	• up to untaxed plan cap# $1,315,000	100%	maximum of 16.5%
	• amount above $1,315,000	100%	46.5%

* The amount is included in your assessable income and may impact your entitlement to other tax offsets etc.

Plan cap means the cap per super fund

Where a rate of tax referred to in this table is described as a maximum rate, if your personal marginal tax rate is higher than this maximum rate, a tax offset will apply to ensure the amount of tax you pay on that component of the benefit payment is capped at the maximum rate. If your personal marginal tax rate is below the maximum rate, you only pay tax at your marginal rate.

Where an untaxed element up to $1,315,000 is rolled over to another fund, it will generally be considered assessable income of that fund and taxed at 15%. At this point, it generally loses its untaxed status and becomes a taxed component. Amounts above $1,315,000 cap will be taxed at 46.5% by the transferring fund and will be included in the tax free component of the receiving fund.

If your total superannuation benefits within a fund are less than $200 it will be tax free if taken as a lump sum.

Tax treatment of income stream benefits

The tax free component of any income stream benefit paid to you from a superannuation fund is 100% tax free.

If you have reached your preservation age, but are under age 60, the taxed element of the taxable component of your benefit is assessable in full, but you are entitled to a tax offset equal to 15% of this amount. The untaxed element is assessable in full.

Once you turn age 60, any income stream benefits (other than the untaxed element) will be tax free. The untaxed element is assessable in full, but qualifies for a 10% tax offset.

Preservation

What does preservation mean?

Superannuation benefits are classified into three different preservation categories according to how accessible they are to a member, namely:

- Preserved benefits;
- Restricted non-preserved benefits; and
- Unrestricted non-preserved benefits.

Preserved benefits

Preserved benefits must remain in the accumulation phase of a superannuation fund until a condition of release has been met (see later).

Note, however, that under the 'transition to retirement' measures, a member who has reached their preservation age may be able to access their preserved benefits through a non-commutable income stream.

Restricted non-preserved benefits

Restricted non-preserved benefits generally include certain contributions made before 1 July 1999. They must remain in a superannuation fund until a condition of release has been met or may be accessed under the 'transition to retirement' measures.

Restricted non-preserved benefits have an additional condition of release. Where a member has left employment with an employer who contributed to the fund on their behalf, all restricted non-preserved benefits in that fund become "unrestricted" and can be accessed immediately.

Unrestricted non-preserved benefit

These consist of some or all of:

- Previously preserved or restricted non-preserved benefits where the member has satisfied a condition of release and no cashing restriction applies;
- Employment Termination Payments (formerly known as Employer Eligible Termination Payments) rolled over to the fund before 1 July 2004;
- Unrestricted non-preserved benefits rolled over to the fund; and
- Any earnings on the above three amounts for the period prior to 1 July 1999.

Generally, a member will have full access to unrestricted non-preserved benefits.

Preservation Age

Date of Birth	Preservation Age
Before 1 July 1960	55
1 July 1960 – 30 June 1961	56
1 July 1961 – 30 June 1962	57
1 July 1962 – 30 June 1963	58
1 July 1963 – 30 June 1964	59
On or after 1 July 1964	60

Beneficiary nomination

How do I nominate a beneficiary?

You can nominate who will receive your superannuation benefit in the event of your death. This can be done through either a binding death benefit nomination or a non-binding death benefit nomination.

Where a binding death benefit nomination is made, the trustee is "bound" to pay the benefits to the nominated dependants or legal personal representative. For non-binding death benefit nominations, the trustee has discretion and is not compelled to follow the nomination. The trustee would exercise its discretion to pay the death benefit having regard to the *Superannuation Industry (Supervision) Act 1993* which requires death benefits to be paid to a member's dependants (as defined for superannuation purposes) or, if there are no dependants, to the member's legal personal representative.

If no nomination is made or a binding death benefit nomination is invalid, the trustee may use its discretionary powers or pay the benefit automatically to the deceased's estate.

Conditions of release

How can superannuation be accessed?

Preserved and restricted non-preserved benefits can be accessed in the following circumstances:

- Attaining the age of 65.
- Retirement – which requires that:
  - Where the member has reached their preservation age:
    - An arrangement under which the member was gainfully employed has come to an end; and
    - The trustee of the superannuation fund is reasonably satisfied that the person intends never again to become gainfully employed; or
  - Where the member has reached age 60, an arrangement of gainful employment has ceased and either of the following circumstances apply:
    - The person turned age 60 on or before the ending of the employment; or
    - The trustee is reasonably satisfied that the person intends never again to become gainfully employed.
- Termination of gainful employment after 1 July 1997 – where the benefit in a standard employers-sponsor fund at the time of termination is less than $200.
- Permanent incapacity – where the trustee is reasonably satisfied that the member is unlikely, because of ill health, to engage in gainful employment for which they are reasonably qualified by education, training or experience.
- Death.
- Terminal illness – where a member suffers an illness, or has incurred an injury, that is likely to result in the death of the member within 12 months. Lump sum benefits paid in the event of terminal illness are tax free.
- Compassionate grounds – a person may apply to the Department of Human Services for the release of benefits on compassionate grounds. Generally compassionate grounds are where money is used to:
  - Pay for medical treatment and transport for the member or a dependant;
  - Modify a member's principal place of residence or vehicle due to severe disability of the member or a dependant;
  - Pay for expenses associated with palliative care in the case of impending death;
  - Pay for expenses associated with a dependant's palliative care, death, funeral or burial; or
  - Prevent foreclosure or mortgagee sale of the member's principal place of residence.
- Severe financial hardship – to meet this condition of release a trustee of a superannuation fund must be satisfied that the member is in severe financial hardship by:
  - Receiving written evidence from a Commonwealth department or agency, such as Centrelink, that the person is receiving and has received Commonwealth income support payments for a continuous period of 26 weeks. Further, the member needs to satisfy the trustee that they are unable to meet reasonable and immediate family living expenses, or
  - The person has reached age 55 or older and based on written evidence from a Commonwealth department or agency that the person has been in receiving Commonwealth income support payments for a cumulative period of 39 weeks after reaching preservation age.
- Temporary incapacity – a superannuation fund may provide an income stream to a member as a temporary incapacity benefit.

- Transition to retirement – when you reach your preservation age you may be able to access your preserved and restricted non-preserved benefits through a variety of non-commutable income streams. This condition of release is commonly known as 'transition to retirement'. A member cannot receive a lump sum under this condition of release until another condition of release with no cashing restrictions has been met (eg generally retirement or turning 65).
- Temporary resident departing Australia permanently. People who have been in Australia on a temporary resident visa that has expired or been cancelled may have access to their preserved benefits after they permanently depart Australia. Where a temporary resident accesses their superannuation benefit under this measure, it known as a Departing Australia Superannuation Payment (DASP), the tax on the payment are:
  - Tax free – nil
  - Taxable – taxed element – 35%
  - Taxable – untaxed element – 45%
  - Australian and New Zealand citizens or permanent residents of Australia are not eligible for a DASP.

Benefits of a lost member (who is subsequently found) where their benefit in the fund at the time of release is less than $200. A member of a superannuation fund will be deemed lost where the fund has not received a contribution or a rollover within the last 5 years.

Insurance within superannuation

How does insurance through superannuation work?

There are three types of insurance generally available through superannuation:

- Life Insurance;
- Total and Permanent Disablement; and
- Salary Continuance Insurance.

Key features of insurance through superannuation include:

- Premiums can be paid from your superannuation benefit.
- The amount of premium is determined as per a normal insurance policy ie by taking into account a person's age, gender, occupation and existing medical conditions.
- The level of cover is selected by the member within limits determined by the insurer.
- Cover will cease on the occurrence of a specific event, such as the member attaining a certain age or if they leave that specific fund. In some cases, however, the insurer will allow the member to take out an individual policy outside the superannuation environment.

Why attach insurance to superannuation?

- Insurance through an employer superannuation fund is often arranged with group insurance rates, which can be less expensive than premium rates offered to individuals.
- Employer superannuation funds often offer automatic acceptance levels of cover, reducing the need to provide medical information.
- If the member is making salary sacrifice contributions into their superannuation fund, they will be paying premiums with pre-tax, rather than post-tax money.
- Self employed people can fund insurance premiums via concessional contributions which are tax deductible.

Contact Luka Financial Pty Ltd for further information on 02 6883 2200 or visit www.lukagroup.com.au