BUSINESS

Each week, financial adviser and international bestselling author Noel Whittaker answers your questions.
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Ask Noel

Noel Whittaker

WE are looking at downsizing to extract some surplus from our existing home to add to super. If we draw on existing super to pay the deposit for our new (smaller) home, are we able to replace that money into our super on the sale of the old home or will we be subject to the current limit issues? Our existing super is well under the current $1.6 million cap.

Under the existing rules, if you sell after June 30, you will be subject to the new contribution caps, which are $100,000 a year for non-concessional contributions then. But if you are under 65 you may be able to take advantage of the bring-forward rules and contribute $300,000 each in one lump sum. If you are over 65 you would need to satisfy the work test, but cannot use the bring-forward rule.

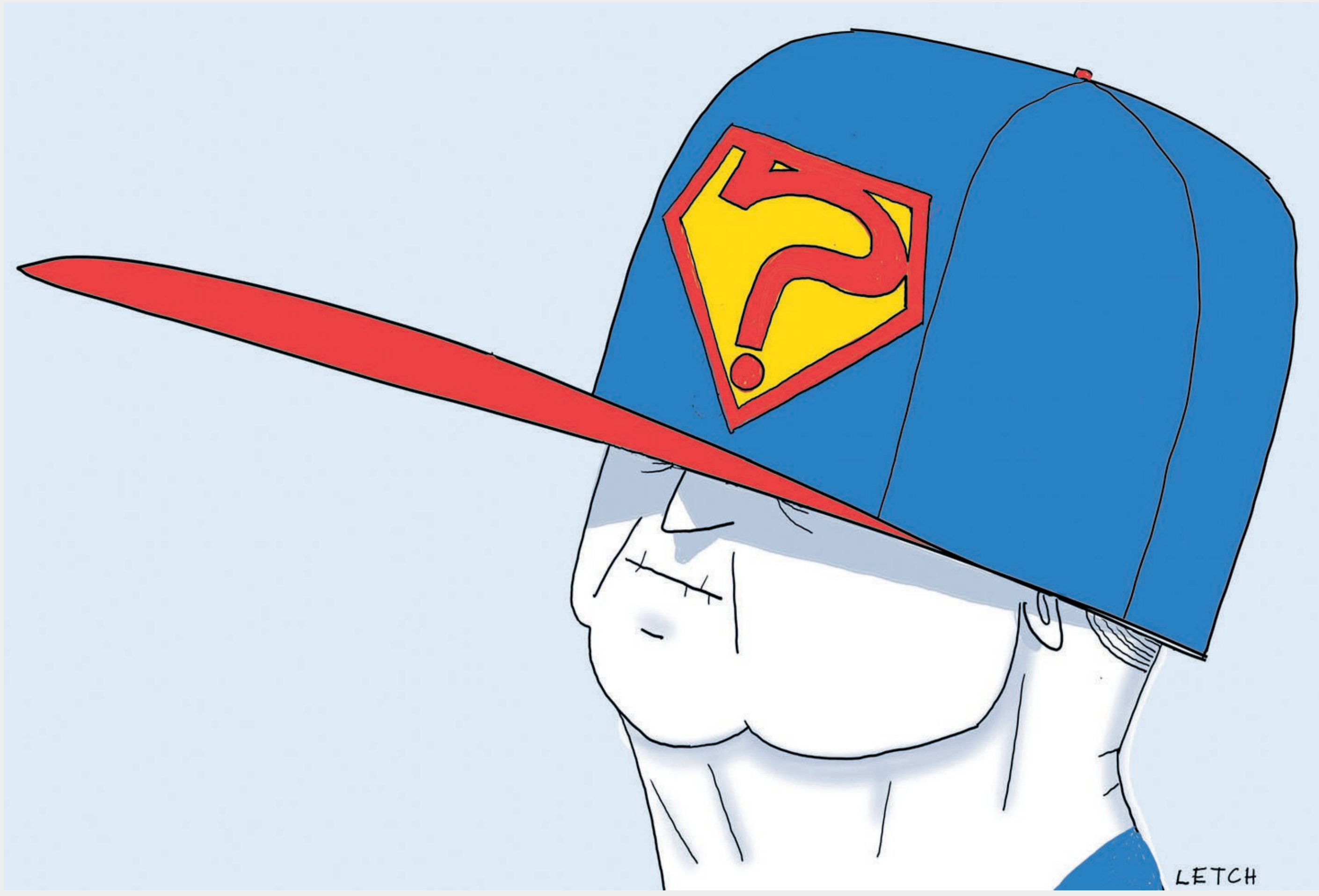
There may be some good news. Provided the 2017 budget proposals regarding downsizing become law, you would also be able to take advantage of the new rules. These would enable you to put $300,000 each into super from the sale of your home, irrespective of what your ages were at the time of the contribution.

My wife and I are in our late 70s. We have an allocated pension and an accumulation super fund. We will need to reduce our assets in the pension account to less than $1.6 million each. I read that one way is to move assets from the pension account to the accumulation account. However, I understood that persons over 75 cannot add to their accumulation account. Please advise.

This is a rollback not a contribution. Therefore, the age limits do not apply.

My wife and I are both on a full age pension and we own our home. We intend to move into a home my daughter owns rent free. If we sell our house for $600,000 and use the money for travel etc, will this affect our pensions?

Your home is now an exempt asset which is why you are receiving the full pension. However, once the home is sold it ceases to be exempt and the funds will be fully assessable and you may cease to receive the full pension. The good news is that you will become a non-homeowner and therefore subject to a more generous assets test. I suggest you canvass all options with your financial adviser before selling the home.



Complex situation for defined benefit members

The Explainer

RECENTLY you answered a question and advised that someone making additional contributions to a PSS defined benefit scheme would be able to claim a tax deduction for additional personal contributions up to the cap. I was interested in this as I am in the same position.

I checked the Tax Office website and it stated "you are able to claim a deduction for personal contributions for contributions made on or after July 1, 2017, provided the contributions were to a fund that was not a Commonwealth public sector superannuation scheme in which you have a defined benefit interest".

From this I would not think I could claim a deduction for my contributions post July 1, 2017. Could you please confirm if I am correct?

It is somewhat complicated. From July 1, 2017, the government will allow all Australians aged under 75 who make personal contributions, (including those aged 65 to 74 who meet the work test) to claim an income tax deduction for any personal superannuation contribution into an eligible superannuation fund. These amounts will count towards the individual's concessional contributions cap, and be subject to 15 per cent contributions tax.

However, members of many defined benefit funds, including PSS, will not be allowed to claim a tax deduction for any additional contributions to that fund. But they will still be able to make a personal contribution to a separate accumulation fund and claim a tax deduction provided they stay under the $25,000 cap.

The complex bit is working out if they have any unused cap available – this information can come only from their defined benefit fund. Obviously defined members considering making extra superannuation contributions after June 30 will need to ascertain their cap position before making the contribution.

I am told that many defined benefits funds will be making a cap calculator available on their websites.

The nation's unpaid super bill is $5.6b a year and rising

Super & Funds

John Collett

Unpaid superannuation is a huge and growing problem. Industry Super Australia estimates that for 2013-14, employers failed to pay or underpaid $5.6 billion in super guarantee contributions to almost 2.8 million employees.

That's based on a Tax Office sample file and is much higher than previous estimates.

Employers are legally required to pay 9.5 per cent in superannuation to every employee over the age of 18 earning more than $450, gross, a month.

It is likely to be a growing problem because of the growth in part-time, casual and the "gig" economy.

A Senate inquiry looking into unpaid super recently released its report with recommendations of reforms to ensure employees receive their correct super entitlements. Employers have to report superannuation payments to the Tax Office, which has responsibility for enforcement action over the payment of super.

A theme of the Senate inquiry's report is that the Tax Office needs to do much more to help reduce the problem.

Last week's federal budget missed the opportunity to put in place specific measures related to super guarantee non-compliance.

The budget did include measures related to the "black economy", including more money for the Tax Office to increase audits and other compliance measures to target the cash economy, for example. While these measures could help target employers not paying super, they are mainly about collecting income tax and company tax.

Furthermore, the black economy is only a small part of the unpaid super problem.

Matt Linden, Industry Super Australia's public affairs director, says research done on behalf of the organisation suggests it is less than 10 per cent of all unpaid and underpaid super.

The Senate inquiry recommends the Tax Office provide accurate and reliable data on the extent of unpaid super, noting it is over-reliant on employee complaints of underpayment and employer self-reporting.

The problem with relying on employee complaints is many employees are reluctant to involve the Tax Office to investigate their employer because they don't want to jeopardise their jobs. "Unpaid super should no longer be a second or third order priority for the Tax Office – we need an urgent and concerted effort to detect non-compliance and enforce the law," Linden says.

Another recommendation of the inquiry is that it be mandatory for payment of super to align with regular pay cycles.

That would help as many people don't know how much super they're entitled to or even which fund it is paid into.

The Senate inquiry also recommends the removal of the $450 threshold on super guarantee eligibility.

With the automation of payroll systems through technology, it just doesn't seem to be the "red-tape" issue it used to be.

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