ATO draft ruling overturned

Death benefits

Sally Patten

Lawyers, accountants and financial planners have welcomed new pension rules that could save spouses and children thousands of dollars in taxes.

Overturning a draft ruling made by the Australian Tax Office last year, the government has determined that the pension of a person who dies will only cease to be a pension when all the death benefits are paid to beneficiaries.

This means that the savings of a person who passes away will remain in the pension phase until all the assets have been transferred or sold – without being subject to capital gains or income tax.

Assets are tax-free in the pension phase, but otherwise they attract 15 per cent income tax and capital gains tax of 10 per cent in the case of investments that have been held for longer than 12 months.

Adult beneficiaries are already subject to a 16.5 per cent tax on super death benefits

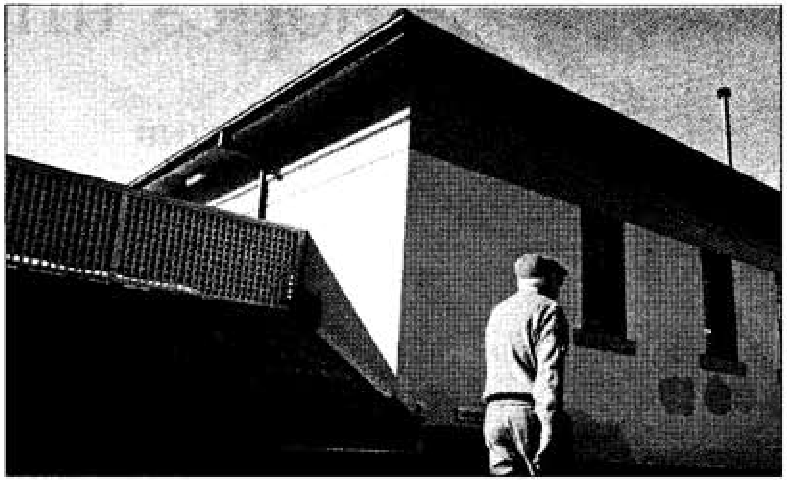
"It is good news. We applaud the government for doing that. It benefits everyone on a pension," said SMSF Professionals Association of Australia technical director Peter Burgess. Melbourne-based legal firm DBA Lawyers said the rule was "excellent news for SMSFs".

Mr Burgess argued that although the impact would be universal, the announcement would particularly help self-managed super funds with large holdings of shares or properties carrying significant amounts of unrealised gains.

The changes will take effect from July 1, 2012, with the measure expected to have a "small but unquantifiable" cost to revenue.

Mr Burgess said it was uncertain whether the families of people who have died and who have already paid income and capital gains tax on the benefits would be eligible for a refund.

During the period in which the ATO draft ruling was in place, some self-managed super fund administrators were making their clients pay the additional taxes, while others recommended against paying the higher taxes until a final ruling had been issued.



It's good news for SFSFs sitting on property gains. Photo: ANDREW QUILTY

DIY levy rises just after a fall

Retirement savings

Sally Patten

Levies for self-managed superannuation funds are to increase by more than one-third from 2013-14 and be collected earlier, under changes that should raise an extra $319 million for the federal government's coffers over the next four years.

The revenue measure will be partly offset by a $38 million reduction in a special levy the Australian Taxation Office will collect from pooled super funds over the next six years.

The federal government said on Monday the annual levy on self-managed funds would rise to $259 from 2013-14, compared with $191 this year.

The tax office will collect the levy during the course of the financial year rather than waiting until trustees submit their tax returns, which is often up to 11 months after the end of the financial year.

The SMSF Professionals Association of Australia said the levy rise was "a bit bizarre" because the levy recently declined from $200.

"We will be looking for some justification from the ATO about the size of the increase," said SPAA technical director Peter Burgess.

The Association of Superannuation Funds of Australia said greater transparency was still needed about the ATO's special levy relating to the introduction of a series of back office improvements.

In May it announced it would collect $470 million from the industry to pay for systems upgrades associated with the back office reforms.

"The regulation of SMSFs is essential to secure the retirement savings of an increasing percentage of the Australian population," said Tax Institute tax counsel Deepti Paton.

"However, the increase by a third in the SMSF levy is another example in the disappointing trend towards 'user-pays' for government regulation."