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**Superannuation – Integrity of Limited Recourse Borrowing Arrangements**

I am writing in response to the “Treasury Laws Amendment (2017 Measures No 2) Bill 2017: limited recourse borrowing arrangements”.

It is proposed that LRBAs count towards the total superannuation balance. In other words, if a single-member SMSF has properties worth $1 million and LRBAs of $600,000 on these properties, the member’s net assets are $400k, but the member’s total superannuation balance is considered to be $1.6 million. The member is then prevented from making non-concessional contributions.

Why????

People who invest in property outside of super can repay their mortgages using their savings. But people who invest in property inside their SMSFs will now be prohibited from repaying their mortgages from their savings.

Why???

This means effectively that from 1 July 2017 onwards, few people will be able to buy property in their SMSFs. This will of course also affect people who want to transfer an existing business property into their SMSF – and those who want to purchase commercial or residential property from a third party after 1 July 2017.

Again: Why???

There seems to be a theory that people could maybe circumvent the new contribution limits by using related party loans.

In this context, please consider that according to the ATO statistics collected from SMSF tax returns at 30 June 2015, 84.2% of SMSF members had super balances between $0 and $1 million: <https://www.ato.gov.au/Super/Self-managed-super-funds/In-detail/Statistics/Annual-reports/Self-managed-superannuation-funds--A-statistical-overview-2014-2015/?anchor=t14#t14>

Per the government’s “Moneysmart” calculator, a balance of $1 million in super at age 65 means an annual retirement pre-tax income of $46,778 till age 90 (this includes the age pension from age 75 onwards). This means an after-tax income of $39,391 – or $758 per week.- And per the above link, many people have super balances of less than $1 million.

<https://www.moneysmart.gov.au/tools-and-resources/calculators-and-apps/retirement-planner>

In other words, the majority of SMSF members are not super rich. The idea that these people can make huge related party loans to their SMSFs in order to circumvent the new contribution rules is ridiculous.

But if it is a concern, why not amend the proposed legislation so it only includes related party loans but continue to allow loans from institutional lenders. In other words, for those SMSF members that borrow from institutional lenders, their LRBAs will not be counted towards their total superannuation balance.

Institutional lenders will lend up to 65% or 70% of the value of a property that is bought in a SMSF. Most people aim to pay this off with their savings once they are in their 50s, the children have left home, and they can afford to make additional contributions into super from their savings (non-concessional contributions). The proposed legislation will make this impossible for most SMSFs.

On the one hand, the government wants more affordable rental property – but on the other hand it wants to stop investors from buying properties?

I am also concerned that there is no property consultation period for this legislation: The draft legislation was issued in the afternoon on Friday, 26 April. And the consultation period ends today. We have barely three business days to “consult”.

Why? What’s the rush? Where is the emergency?

Very few people will have even seen the draft legislation let alone have had time to consider it and formulate a response.

Why not do some research first to see if there is actually a problem? And why not have a proper consultation period?

I like to see legislation that addresses real problems (not imaginary ones), where proper research into the effects of the proposed legislation has been done, where the draft legislation has been widely published so that all stakeholders have a chance to see it and consider it, and where there is decent consultation period (not just three business days).

Yours sincerely,

**G. Davidson**