



# Owen Hodge Financial Planning



## Transition to Retirement



# Owen Hodge Financial Planning

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### Key message:

Did you know you can now access an income from your superannuation before you retire permanently?

### Action:

Ask your adviser if this suits your individual needs.

## Ease yourself into retirement

### Transition to retirement

Since 1 July 2005, superannuation law has allowed you to access an income from your superannuation while still in the workforce through a transition to retirement pension.

A transition to retirement pension allows you to nominate how much of your superannuation balance you would like to transfer to a pension. This decision is usually based on how much income you would like the pension to generate.\*

### Who is eligible?

A transition to retirement pension is ideal for people who would like to ease into retirement by reducing their working hours, while maintaining a higher level of income than part-time work allows.

\* If you are a defined benefit member the amount you can transfer will be limited.

There are no restrictions on the number of hours you may work or the amount of income you may earn to qualify for a transition to retirement pension. You may even work full-time while receiving an income from super.

However, you need to have reached your preservation age (see table) in order to take advantage of the transition to retirement provisions.

| Date of Birth               | Preservation Age |
|-----------------------------|------------------|
| Before 1 July 1960          | 55               |
| 1 July 1960 to 30 June 1961 | 56               |
| 1 July 1961 to 30 June 1962 | 57               |
| 1 July 1962 to 30 June 1963 | 58               |
| 1 July 1963 to 30 June 1964 | 59               |
| 1 July 1964 and after       | 60               |

### How does it work?

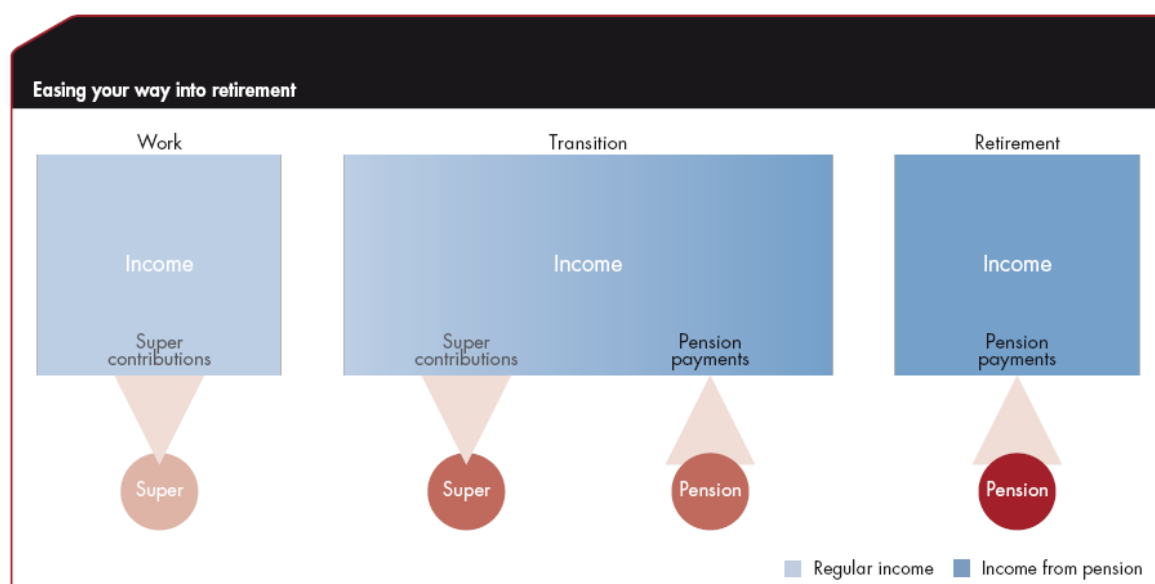
Generally, there are three stages on the path to retirement:

**1. Work** – this is the period where you are working and your employer is contributing to your super fund (if you are an employee). At this stage, retirement seems a long way away, so you are not looking to access your savings any time soon.

**2. Transition** – you have now been working for a number of years and you are aware that your retirement date is looming. You are probably aged in

your late 50s or early 60s and you plan to continue working for a few more years.

**3. Retirement** – this is the stage when you enter retirement, that is, you are no longer working. Whether or not you choose to return to the workforce in the future is your choice but for now you're taking a break.



While the traditional approach to retirement has involved two steps – that is, going directly from the working phase to the retirement phase, the new approach involves the transition phase which is designed to help you ease your way into retirement and ensure that you maximise the amount of savings you have in the process.

The transition phase involves you both contributing to super and drawing down on a pension while you are still in the workforce. There are some potential tax-saving benefits in this transition phase.

### Example:

Alex is 60 and has a taxable income of \$75,000 p.a. As you can see in the table below, by taking advantage of the new transition rules, Alex can increase his super savings without a significant impact on his net income.

In both scenarios, Alex receives the same amount in net income. However, he has saved over \$8,000 in tax in the first year. Assuming Alex's salary remains at \$75,000pa for the next five years, his total tax saving would be over \$40,000\*.

| Item                    | Scenario 1 |           | Scenario 2                       |           |           |
|-------------------------|------------|-----------|----------------------------------|-----------|-----------|
|                         | Salary     | Salary    | Transition to retirement pension | Total     | Total tax |
| Gross income            | \$75,000   | \$75,000  | \$34,250 **                      | \$109,250 |           |
| Tax free component      | \$0        | \$0       | \$34,250                         | \$34,250  |           |
| Sacrifice to super      | \$0        | -\$50,000 | \$0                              | -\$50,000 |           |
| Taxable income          | \$75,000   | \$25,000  | \$0                              | \$25,000  |           |
| Income tax & Medicare   | -\$18,225  | -\$2,475  | \$0                              | -\$2,475  | -\$2,475  |
| 15% tax offset          | \$0        | \$0       | \$0                              | \$0       |           |
| Net income              | \$56,775   | \$22,525  | \$34,250                         | \$56,775  |           |
| <b>Super effect</b>     |            |           |                                  |           |           |
| Gross contribution      | \$0        | \$50,000  | -\$34,250                        | \$15,750  |           |
| 15% tax on contribution | \$0        | -\$7,500  | \$0                              | -\$7,500  | -\$7,500  |
| Net contribution        | \$0        | \$42,500  | -\$34,250                        | \$8,250   |           |
| Total tax               | \$18,225   |           |                                  |           | \$18,225  |
| Tax saving              | \$0        |           |                                  |           | \$8,250   |

\* This assumes the tax rates and salary sacrifice contributions remain unchanged, and there are no further changes to superannuation legislation.

\*\* This assumes current superannuation balance of \$450,000

### Things to consider

#### General considerations:

- Transition to retirement pensions are not “commutable”. This means you won’t be able to take a lump sum amount out of the pension until you retire or reach age 65. You can, however, stop the pension and transfer your benefits back into your original account.
- The income you receive from the pension can affect your taxation status and eligibility for Centrelink benefits.
- The effects of accessing your super early.
- Does your employer offer salary sacrifice and will they make SG contributions on your pre-salary sacrifice amount?

#### Tax and strategic considerations:

- There is no tax on investment growth in a pension.
- If you are between 55 and 60 you will be liable for tax using normal marginal tax rates, less a 15% tax offset available on pension income. Remember to take into account any income you receive from other sources (such as employment) as this will affect your marginal tax rate.

- From 1 July 2007 those aged 60 and over will be able to withdraw their super tax-free.
- Additional net income may allow you to make personal contributions to super and access benefits such as the government co-contribution.
- Before-tax super contributions (salary sacrifice) may still be made to your original account. These contributions incur a contributions tax of only 15% (compared to an income tax of up to 46.5%) and can help you to build more retirement savings.
- Your spouse may transfer some of the contributions they have made since 1 January 2006 to your account using superannuation contribution splitting. This can be done before you commence a pension to top up the amount you have available, and may allow access to those contributions earlier than would otherwise be the case i.e. if your spouse has not yet reached their preservation age, but you have.

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# Owen Hodge Lawyers

## WILLS

### *Contesting a will*

This expression is becoming more common place as people consider themselves aggrieved by the outcome of someone else's testamentary wishes.

There are certain legal grounds on which a Will can be contested. These include; duress of undue influence. These factors can make a Will invalid but are difficult to prove and require clear evidence of behaviour that left the Will maker with no alternative but to make a Will a certain way.

A Will can also be set aside if the person who made it lacked testamentary capacity at the time the Will was made. If this is the case the court can refuse to admit the Will to probate. If this occurs the person's previous Will, made before the last Will, is admitted to probate. This is why it is often important not to destroy former Wills.

There are many cases dealing with testamentary capacity and ultimately if a Will is challenged on that basis the court will make a determination based on the evidence presented to it. If a person's capacity is questionable perhaps due to frailty or illness, a medical report should be obtained prior to making the Will so that this issue will not be raised at the time the Will comes into action.

Finally, Wills can be contested on the basis of provision. The law permits certain categories of people to contest the provision that has or has not been made for them ie a child is left out of the Will. That child can bring an application to the court and the court has the power to make an award for that child if certain criteria are met. If you intend to omit somebody from your Will please get advice about what to do to safeguard your intentions. If you have been omitted from a Will of a relative you should get advice about your rights and if a claim is to be lodged in the court it must be done so within 18 months of the date of death of the will maker.

## *Enduring Guardianship*

*You can appoint an enduring guardian to make decision on your behalf about your personal and lifestyle affairs*

### ***Enduring Guardianship***

The Guardianship Act allows people who are capable of making decisions for themselves to appoint an enduring guardian to make personal and lifestyle decisions. Whereas property or financial issues are covered by an enduring power of attorney. The appointment of the enduring guardian can only be made where you have the capacity to make such a decision. The appointment only becomes operative if you lose the capacity to make such a decision.

Your appointment of enduring guardian terminates on your death or if you marry or remarry after making the appointment.

### ***What can an enduring guardian do?***

You are able to nominate what your enduring guardian may make decisions about in the document. These decisions are called "functions". The number or types of functions are nominated by you. If you wish to appoint more than 1 guardian and give different functions to each guardian you may do so but in separate forms.

### ***Who should you appoint?***

Your enduring guardian needs to be at least 18 years old and a person you trust to make decisions about your lifestyle and welfare. You will need to discuss the appointment with your guardian. Your guardian will need to sign the form confirming that they consent to the appointment.

### ***How do you make the appointment?***

A form signed by you, your guardian and a lawyer will put the appointment into place.

### ***What happens if I don't have an enduring guardian?***

The Guardianship Tribunal is a legal tribunal that makes, amongst other things, appointments of people to look after the interests of those with disabilities aged 16 years and over and those incapable of making their own decisions. If the Tribunal finds no-one is appropriate to be appointed, it may appoint the Public Guardian who will then manage your affairs. The Guardianship Tribunal is also able to consent to medical and dental treatment in certain circumstances for people who are unable to consent for themselves.

If you lose capacity to make your own decisions and do not have an Enduring Guardian somebody will need to apply to the Guardianship Tribunal to be appointed your manager.

These notes are of a general nature and are not a substitute for proper legal advice. If you have any questions please contact the Estates and Property team of Owen Hodge Lawyers on 9570 7844.



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