

# GMS Flash Alert

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## Australia – Proposals for Early Release of Superannuation Benefits in Hardship Situations

Late last year, a “[Further consultation and draft proposals paper](#)” (“the paper”) on widening access to early release of superannuation was released by Australia’s Treasury for public comment and submissions will be received until 15 February 2019.<sup>1</sup> Proposals being considered concern:

- a widening of the circumstances in which superannuation can be accessed; and
- a tightening of some existing conditions for release.

This *GMS Flash Alert* focusses on the “access to superannuation” proposal. (All dollar figures expressed are Australian dollars.)

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### WHY THIS MATTERS

The rules have remained largely unchanged since the late 1990s, so this is an important development for individuals who, if the proposals are implemented, will have greater access to their superannuation benefits in exceptional circumstances. This could help relieve the financial burdens that individuals face in a variety of “hardship” circumstances.

In terms of the proposals related to improved administration, the process for consumers would be simplified, as they would be dealing with the Australia Taxation Office (ATO), in effect having a “one stop shop” for their severe financial hardship applications.

What is unclear at this stage is whether the proposed early access rights would disqualify Australian superannuation for any foreign country tax concessions available for foreign pension funds.

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## Background

First announced by the federal government in December 2017, Treasury's review of the framework for the early release of superannuation benefits on compassionate and severe financial hardship grounds continues to make slow but steady headway.

## Allowing Access to Superannuation on Compassionate and Severe Financial Hardship Grounds

The paper's proposals concern:

- Expanding "compassionate ground" conditions of release to:
  - include a new ground that would allow victims of family and domestic violence to gain access to their superannuation (capped at \$10,000 over a 24-month period in line with proposed financial hardship minimum and maximum amounts – see below);
  - include explicit reference to dental treatment being permissible for treatment of a life threatening condition, or acute or chronic pain – this was arguably already included under the current rules (e.g., alleviation of pain category) although it is not clear; and
  - explicitly permit access for the purchase of disability aids and modified vehicles to accommodate special needs arising from severe disability (the current provisions only allow access to modify a principal place of residence or vehicle).
- Permitting multiple releases on severe financial hardship and the proposed domestic violence grounds so that between \$1,000 and \$10,000 can be withdrawn up to a cap of \$10,000 in a 24-month period (currently, only one withdrawal can be made between \$1,000 and \$10,000 in each 12-month period). (Not surprisingly, many claims are for the full amount. The change seeks to deter this behavior.); and
- Relaxing a definition of financial hardship so that individuals would be eligible to access if they have been receiving qualifying Commonwealth income support payments for 26 cumulative weeks out of 40 weeks (instead of the current 26 consecutive weeks) and meet the living expenses test.

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## KPMG NOTE

The proposals build on the current compassionate ground conditions of release that include medical treatments/medical transport, accommodating disabilities, palliative care, expenses relating to the passing of a dependant, and preventing foreclosure or forced sale of a home.

There was also a suggestion to expand access to early release of superannuation to include rental arrears; however, following a lack of support, this ground has been omitted from the final proposals.

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## Improving Administration

To improve administration relating to early release on compassionate and severe financial hardship grounds, it is also proposed that:

- the ATO take responsibility for assessing applications on severe financial hardship grounds. This would simplify the process for consumers as the ATO also assesses applications for release on compassionate grounds; so it should function as a one stop shop for applications.
- a post-implementation review should be conducted after five years.

## FOOTNOTE:

1 See the 21 November 2018 [announcement](#) from Australia's Assistant Treasurer, the Hon Stuart Robert.

Also see "[Review of the early release of superannuation benefits](#)," on the Treasury website.

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## New "Migration Newsflash: January 2019 Update"!

In this [edition](#) we provide details on changes to the immigration landscape for 2019. Australia's government is currently piloting a visa initiative in South Australia – Supporting Innovation in South Australia (SISA). Our update provides details on how to participate in SISA, the cost as well the benefits of the initiative. Our January update also looks at:

- International Trade Obligations (ITO)
- Comprehensive and Progressive Agreement for Trans-Pacific Partnership 11 (TPP 11) and
- Alternative LMT evidence.

## Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in Australia:



**Hayley Lock (in Brisbane)**

Tel. +61 7 3434 9176

[hlock@kpmg.com.au](mailto:hlock@kpmg.com.au)



**Dan Hodgson (in Perth)**

Tel. +61 8 9278 2053

[dghodgson@kpmg.com.au](mailto:dghodgson@kpmg.com.au)



**Ablean Saoud (in Sydney)**

Tel. +61 2 9335 8550

[asaoud@kpmg.com.au](mailto:asaoud@kpmg.com.au)

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