

Housing affordability measures now law

Legislation has been passed to implement the 2017–2018 Federal Budget housing affordability measures. The following will start on 1 July 2018:

- the First Home Super Saver (FHSS) Scheme, which allows individuals to use specific amounts from their super to buy or construct a first home; and
- the option for individuals aged 65+ to make “downsizing” contributions of up to \$300,000 to their super from selling a home they have owned for at least 10 years.

Tax consequences of trust vesting

The ATO has issued a long-awaited ruling on trust vesting, including changing a trust's vesting date and the CGT and income tax consequences of vesting.

TIP: A trust's “vesting date” is the day when the beneficiaries' interests in the trust property become fixed. The trust deed will specify the vesting date and the consequences of that date being reached. Vesting does not, of itself, ordinarily cause the trust to come to an end or cause a new trust to arise. In particular, the underlying trust relationship continues after vesting while the trustee still holds property for the takers.

The key points in the draft ruling are that:

- before vesting, it may be possible to extend the vesting date (by applying to a court or by the trustee exercising a power to nominate a new vesting date);
- it is too late to change the vesting date once it has passed (and the ATO says it is unlikely that a court would agree to do so); and
- continuing to administer a trust in a way that is inconsistent with the vesting terms can have significant CGT and income tax consequences.