Not so super deal for mums

Superannuation laws are strongly skewed against anyone who takes a career break, write **Alex Tilbury** and **Anthony Keane**

TOUGHER restrictions on superannuation contributions are punishing mums, pre-retirees and small-business owners, super experts warn.

They say the Federal Government needs to soften its stance on contribution caps and the harsh penalties handed out to those who accidentally breach them.

Intrust Super chief executive Brendan O'Farrell says that the current $25,000 cap on "concessional" super contributions – which include employer super payments, salary sacrifice and tax-deductible contributions by self-employed people – is too low and disadvantages women.

"Kids are the biggest reason women don't have enough super, and it's worse since the Government (introduced) contribution caps," O'Farrell says.

"There is no real ability for these people to catch up via salary-sacrifice contributions.

"I have seen this happen numerous times where people come back from lengthy periods off work and one partner dumps all their salary – especially those re-entering around age 45 – into super for the exact reason of building their balances and catching up for lost time to provide a reasonable standard of living in retirement.

"But the contribution caps don't allow that now."

Rice Warner Actuaries research shows that retirement benefits for women are still lower than for men, and the adequacy gap for a woman because of lower wages and a career break could be as much as $251,000.

The cap in 2010-11 is $25,000 for all people under 50. For those aged 50-74, it's $50,000.

From July 1, 2012, the concessional contribution cap for the 50-74 age group will fall to $25,000 too, although the Government announced plans last year to keep it at $50,000 for people with super balances below $500,000.

Marinis Financial Group financial strategist Theo Marinis says the super rules need to allow for human error.

"The penalty for getting your super contributions wrong is not for the faint-hearted," he says.

"It results in the excess contribution being taxed at 46.5 per cent, possibly even as much as 93 per cent. Under current law, the penalty is final, there is no way to recoup or appeal the penalty tax."

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Marinis says the scope for error can be high, particularly for family-owned "mum and dad" businesses, where there can be a range of super contributions processed by inexperienced staff.

"The treatment for excess contributions to super is at odds with the far more reasonable approach used for tax returns containing errors or omissions. These can be amended within three years of lodgement.

"I believe that the current excess contribution rules are patently unfair."

Fiona Reynolds, chief executive of the Australian Institute of Superannuation Trustees, says that people should beware of putting too much money into their super.

"A common mistake is for people to forget that their compulsory super guarantee payment – typically 9 per cent but some employers pay a higher amount – is included in their concessional cap limit," Reynolds says.

"In other words, if you are under 50 and your yearly SG amount is $8000, you could be hit by excess contribution tax on any voluntary contributions above $17,000.

"Moreover, around this time of year, if you get a pay rise in line with inflation it's possible you could inadvertently breach your concessional cap before the end of the financial year."

Reynolds says the full impact of the Government halving the contribution caps last financial year has yet to be felt in terms of tax penalties, as the Australian Taxation Office is still only assessing earlier financial years.

"While the tax office does have discretion when it comes to applying the excess contributions tax, current indications are that most people who breach their limit are being penalised," she says.

"Pleading ignorance doesn't seem to hold much sway."

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Financial Strategies (SA) Pty Ltd trading as Marinis Financial Group
67 Kensington Road, Norwood SA 5067 T 08 8130 5130 F 08 8331 9161 E admin@marinisgroup.com.au
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