

## A novel way to sidestep the superannuation caps

TONY NEGLINE



The annual superannuation contribution caps cause many people problems. What's more, there may be new adjustments to come in the federal budget on May 3. For the moment, there may be a neat solution to this problem, but you must exercise caution.

The maximum personal contributions claimed as a tax deduction and all employer contributions — the tax laws call these concessional contributions — that can be made this year before penalty tax rates apply is limited to \$35,000 for those who were aged at least 49 on 30 June 2015. For everyone younger this threshold is \$30,000 in 2015/16.

If you're happy not to claim a tax deduction — but still wish to make a contribution — then you're limited to \$180,000 in 2015-16 before tax penalties apply. The tax laws call these non-concessional contributions. There are some allowances to make up to three years — or three times — this \$180,000 limit in one year, but care has to be applied when using this rule.

Those over the age of 65 are further restricted from making super contributions. They must satisfy a work test each year before a contribution is made and the three-year bring-forward rule typically isn't available.

Once you hit age 75 then you can't contribute to super.

As I've mentioned, there are rumours the government will further reduce these caps in the budget.

Now suppose that you have money outside super but you don't want to or can't contribute it into your fund. More likely than not this would be due to one of these four reasons:

- You're aged over 65 and the law doesn't allow you to contribute.
  - You don't want to pay penalty taxes for exceeding the contribution caps.
  - You know that money put into super is locked away until retirement and you want the option of getting your hands on it before your finally stop work.
  - You think taxes on super might be increased so you would prefer to leave your options open for the time being.
- One way around these problem involves lending that

money to your super fund. You will need to use a self-managed super fund. In doing so you get to use money in your fund that did not exist previously and you remain "with the caps".

The correct way to structure this arrangement is for your fund trustees to decide they want to borrow money to buy a specific asset. You can't just lend money to the fund because it seems like a good idea. The asset your fund buys might be real estate, listed shares or any other asset your fund can purchase.

You need to make sure that your loan — called a limited recourse borrowing arrangement — has certain features and I only mention some of them below.

The terms must be struck on an arm's length basis. This means you either use the same terms that an independent lender offering loans to super funds currently uses or you copy rules that the ATO released two

weeks ago. If you don't, penalty taxes might be payable by you or your super fund.

These loans must be non-recourse; that is, the only security can be over the asset your super fund has purchased with the loan.

While the loan is outstanding the asset must be held in a bare or holding trust.

If your fund purchases residential real estate with the loan, you and your relatives can't use that property. The lease or rent agreement must always be struck on commercial terms.

If you purchase listed shares with the loan, then you need to be careful. One of the attractions of shares for super funds is the franking credits, so you will need to make sure that you can still access these. This is a complex matter but these credits will only be available if your fund owns the shares for at least 45 days and the risk of loss from the shares, via the limited recourse nature of the loan, is reduced by no more than 30 per cent.

How is the loan repaid? If you follow the tax rules for structuring these loans, it will be repaid over the term of the loan. You also ask a lender to approve an interest-only loan for your fund.

*Tony Negline is author of The Essential SMSF Guide 2015/16 published by Thomson Reuters.*

## Apple's core is worth more



### The growth of its services business is underestimated

JACK HOUGH

Apple stock — worth \$US109 now — could hit \$US150 in a year, for a return of 40 per cent, including dividends.

Two Wall Street reports agreed on that point last week, for different reasons. One argues that a rising portion of profit is coming from services, adding to how big Apple can become. The other says Apple enjoys the long and lucrative customer relationships typical of cable companies, and so shouldn't be priced like a mere gadget hustler.

Before examining those points, consider the starting price of \$US109 and change, down 14 per cent in a year. Apple (AAPL) trades at 11.5 times trailing earnings. That compares with 17.6 times for the S&P 500 index, but the discount is larger than those numbers suggest, and not just because Apple sits on cash and investments worth \$US38 a share.

Apple's pessimistic price is owed to its slowing growth, largely traceable to the iPhone, which in the company's latest fiscal year,

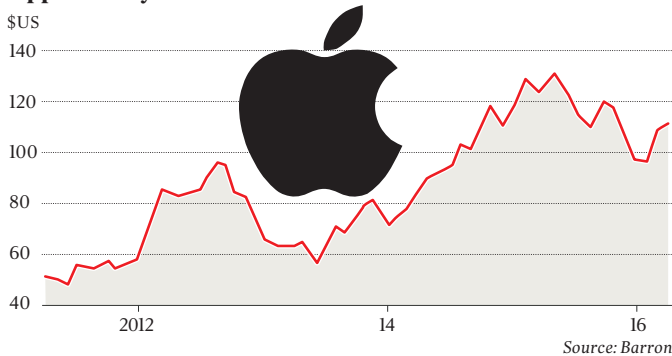
ended in September, brought in two-thirds of revenue. That was a bumper year, when the iPhone 6 met pent-up demand for larger screens. Unit sales jumped 37 per cent. The latest models — the 6s and the smaller SE — are mostly incremental upgrades. Unit sales are expected to decline 6.4 per cent. Some of that could be offset by growth in services and the Apple Watch, which is no block-buster but is adding revenue from a low base.

Total company revenue is projected to decline 2.4 per cent this fiscal year to \$US228.1 billion (\$297bn), pulling profit down 6.3 per cent to \$US50bn. With help from share repurchases, earnings per share are expected to fall 1.8 per cent, to \$US9.06.

Note that Apple has topped earnings estimates each quarter for three years, so there's a chance EPS could come out even or positive for the year. Not all of the slowdown is demand related; last quarter, revenue grew 2 per cent year over year, but absent the effect of a rise in the US dollar, which made overseas sales less valuable, revenue would have grown 8 per cent.

The current lull could give way to better sales once some of those iPhone 6 buyers are ready to trade up. Early forecasts for the next two fiscal years have Apple

### Apple: ready for a breakout?



returning to high single-digit growth in EPS. Meanwhile, earnings for the S&P 500 appear likely to fall for a fourth straight quarter for the first time since the global financial crisis.

In other words, if Apple is having a lousy year for growth, it's not alone. But it's selling for barely half the market's price. Investors don't seem to fully appreciate Apple's ability to scale up profits from services in coming years, according to Credit Suisse analyst Kulbinder Garcha, who has added the stock to his Focus List.

Apple sells apps, music, movies, warranties, online storage, and more. Many companies do, but Apple has an ecosystem advantage. A customer who pays, say, \$US10 a month for a terabyte of online storage is paying top dol-

lar for a commodity product. But with Apple, they can view photos and videos across their devices without clogging up their hard drives, and new iPhone photos are added automatically.

Is it worth it? Perhaps only for those who value ease over savings, but iPhone users have household incomes 45 per cent higher than those using Android-based devices, and they spend seven times as much on mobile commerce.

Garcha estimates that Apple services already bring in 15 per cent of gross profit and could reach 29 per cent by 2020. Add in instalment plans for iPhones, and 55 per cent of gross profit by then could come in the form of steady, annuity-like payments.

He reckons Apple has long-term potential to reach 1.4 billion active devices with stable free cash flow of \$US67bn a year, up from a billion devices now and \$US56bn in free cash projected for this year.

Maybe it's time to start measuring Apple against companies with similar financial attributes, rather than smartphone sellers. Based on a survey, Needham analyst Laura Martin, who initiated coverage with a strong buy rating, calculates a yearly customer churn rate of 12 per cent for the iPhone ecosystem, or an eight-year average stay, on par with cable companies.

Applying a cable-like valuation to Apple would put shares at about \$US180. Martin expects the stock to move towards that level over time, beginning with a rise to \$US150 over the next year.

Assuming Apple doesn't beat earnings estimates over the coming year, a rise to \$US150 will put its shares at about 16 times trailing earnings. In other words, Apple would begin to trade closer to AT&T (T), which goes for 16.5 times, than to HP (HPQ), the computer and printer spin-off of the former Hewlett-Packard, which goes for 10.7 times.

*This is an edited edition of a feature that first appeared in Barron's.com on April 9.*

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## How to protect your SMSF retirement savings if you are declared bankrupt

MONICA RULE



Being declared bankrupt is a devastating blow for most people. Having a self-managed superannuation fund at the same time can also complicate things because, as a bankrupt, you can no longer remain in your SMSF. This is be-

cause a bankrupt is a "disqualified person" under the superannuation law.

A disqualified person cannot act as an individual trustee of an SMSF, or be a director of a company acting as the corporate trustee of an SMSF. A disqualified person also cannot give another person an enduring power of attorney to run the SMSF on their behalf.

So what can an SMSF member do if they become bankrupt?

As a bankrupt member they could consider rolling their superannuation savings into a retail superannuation fund and step

down as an individual trustee or a director of the corporate trustee of their SMSF. Once this is done the remaining members of the SMSF can inform the Australian Taxation Office and ASIC (if relevant) of the change.

On the other hand, if the bankrupt member does nothing and remains in their SMSF, then they are committing an offence under the superannuation law, punishable by imprisonment for a maximum of two years or a maximum fine of \$10,800. Also, if they fail to notify the ATO of their disqualification status, the ATO can impose a maximum penalty of \$9000.

If the bankrupt person has met a "condition of release" under the superannuation law, such as having reached their preservation age and retired, or they are 65 years old or older, then they could consider accessing their entire superannuation savings by receiving a lump sum superannuation benefit. This will remove them as a member of their SMSF once the lump sum is paid out. Their lump sum superannuation benefit is protected by law from the bankruptcy trustee and cannot be divided among creditors.

Even if the bankrupt member decides to invest the lump sum

payout in their own name, outside of superannuation, it will still be protected from creditors.

If the bankrupt person does not want to access their superannuation savings or sell any assets of the SMSF, then they could consider converting their SMSF into a small APRA fund (SAF). An SAF is similar to an SMSF but instead of the bankrupt member continuing to be an individual trustee or a director of a corporate trustee, a professional licensed trustee is responsible for the legal, compliance and administrative duties. This will allow the bankrupt member to remain in the superannuation

fund as a member of an SAF. SAFs can acquire a similarly broad range of assets and use the same strategies available to SMSFs. Capital gains tax is avoided when switching from an SMSF to an SAF, because only the trustee changes. The superannuation fund continues "uninterrupted" and does not dispose of any assets to incur any capital gains tax.

Moving to an SAF may help retain investments such as shareholdings, investment properties or business property. However, the professional licensed trustee will of course charge for their services.

Once a person has finished

their period of bankruptcy (normally three years) they may consider establishing another SMSF or rejoin their SMSF if members have kept the fund going.

Bankruptcy is not easy to go through, but acting in good faith and taking the initiative with SMSF obligations can protect retirement savings.

*Monica Rule is the author of The Self Managed Super Handbook — Superannuation Law for Self Managed Superannuation Funds in plain English.*

### FLOAT WATCH

## Private equity unchains MotorCycle

### MotorCycle Holdings Limited

ASX code: MTO  
Shares on offer: 23.1 million  
Listing price: \$2  
Market capitalisation: \$75.9m  
Listing date: April 29

SIMON HERMANN

The motorcycle dealership industry in Australia is characterised by privately owned individual dealership operators, often operated by motorcycle enthusiasts.

This highly fragmented landscape has created a competitive environment but also the opportunity for consolidation.

Only a few dealers operate in multiple locations, with one of the exceptions being MotorCycle Holdings Limited.

MotorCycle Holdings Limited was founded in 1989 and currently operates 34 franchises in 24 locations across Australia.

The company is focused on motorcycle dealerships and is engaged in the sale of new motorcycles and accessories as well as finance, insurance and warranty solutions.

MotorCycle Holdings has relationships with some of the most well-known brands in the industry such as BMW, Harley-Davidson and Yamaha.

MotorCycle hopes to raise \$46.3 million through the issuance of 23.1 million shares at \$2 each.

The initial public offering is a private equity sale, with the Archer Growth Fund selling down stock worth \$26m to realise part of its investment. The remaining proceeds will be used to strengthen the balance sheet by paying back debt.

MotorCycle Holdings is cashflow positive and revenue has increased at a compound annual rate of 8 per cent since the 2013 financial year.

Three years ago sales totalled \$158.7m and for FY16 management has targeted \$212.8m in sales and \$7m in net profit.

The company has a strong market position in a highly fragmented industry and management plans to grow organically and via acquisitions.

Subject to performance, investors should expect fully-franked dividend distributions from 2017 onwards.

The existing income portfolio of its franchises, MotorCycle's revenue growth trajectory and strong market position are attractive qualities.

Principal hurdles include integration and supply chain risks.

Organic growth as well as expansion of its franchise network is the near-term catalyst and with management targeting the distribution of dividends, the float offers an attractive mix of income and capital growth.

*Simon Hermann is an analyst at wise-owl.com.*

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