How a super fund retirement planning seminar went wrong

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The Inspector General of Taxation has cited personal investment advice provided during a superannuation fund seminar as underscoring the complexity of the superannuation taxation regime and the misunderstandings which arise.

The Inspector General cited the experience of one superannuation fund member and taxpayer as a case study about one of the recurring themes which have evolved even when advice has been sought.
The Inspector General cited the following case study:

> The taxpayer had attended a seminar organised by his superannuation fund in relation to planning for retirement. At the seminar, he received personal investment advice to the effect that he was entitled to continue making superannuation contributions to his accumulation account. Based on the advice he had received, he made a series of contributions and engaged further with the fund about any limits on his contributions to which he was advised that there were no limits.
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> Some time later, he received correspondence from his superannuation fund to inform him that he could no longer make any more non-concessional contributions as his balance had exceeded the relevant cap of $1.6 million.
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> The taxpayer contacted the ATO to seek advice concerning his superannuation affairs and whether they were compliant with relevant rules concerning excess superannuation contributions. The taxpayer spoke with an officer in the ATO's contact centre at length, during which a number of issues were discussed including the financial consequences of excess non-concessional contributions (ENCC) and action that can be taken to address the situation. Whilst the officer had advised the taxpayer to wait for an ENCC determination to issue before seeking release of the excess funds, as the conversation progressed, the taxpayer determined to contact his superannuation fund to withdraw the excess amounts as quickly as possible. Although this was communicated to the officer, counter advice to reiterate to the taxpayer that he needed to await the issue of the ENCC determination was not provided.
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> Following the discussion with the ATO officer, the taxpayer took action to withdraw the excess amounts to address the excess contributions issue. However, this was ultimately insufficient, and required the taxpayer to withdraw further amounts from his superannuation fund which were unable to be recontributed resulting in an overall reduction in his superannuation balance.

The Inspector General's submission to the Senate Economics said the case study highlighted both the complexities of the superannuation system and "how, notwithstanding advice from multiple authoritative sources, the taxpayer is ultimately adversely impacted".

“In this instance, notwithstanding the IGTO’s investigation and findings about the inconsistent advice that was provided by the ATO, no remedial action was taken to restore the taxpayer to the position he would have been in if the advice provided had been clear an unequivocal,” the Inspector General’s submission said.

The submission went on to say that retirement choices and options were not readily understandable by many taxpayers without the need for further professional financial advice and added “this is particularly so for taxpayers from culturally and linguistically diverse backgrounds”.

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