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# Self-managed super funds

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/>).
- Last modified: 30 May 2018
- QC 23300

Self-managed super funds (SMSFs) are a way of saving for your retirement.

Changes to the super system announced by the Government in the May 2016 Budget are now proceeding.

The difference between an SMSF and other types of funds is that the members of an SMSF are usually also the trustees. This means the members of the SMSF run it for their benefit and are responsible for complying with the super and tax laws.

Recent changes to super may affect SMSFs. Visit [ATO Community](https://community.ato.gov.au/?utm_source=ato.gov.au&utm_medium=external%20link&utm_campaign=smsf) ([https://community.ato.gov.au/?utm\\_source=ato.gov.au&utm\\_medium=external%20link&utm\\_campaign=smsf](https://community.ato.gov.au/?utm_source=ato.gov.au&utm_medium=external%20link&utm_campaign=smsf)) to see what the community is talking about or read on to find out more.

- [News and alerts](/Super/Self-managed-super-funds/News-and-alerts/) (</Super/Self-managed-super-funds/News-and-alerts/>).
- [Thinking about self-managed super](/Super/Self-managed-super-funds/Thinking-about-self-managed-super/) (</Super/Self-managed-super-funds/Thinking-about-self-managed-super/>).
- [Setting up](/super/self-managed-super-funds/setting-up) (</super/self-managed-super-funds/setting-up>).

- [Contributions and rollovers \(/super/self-managed-super-funds/contributions-and-rollovers\)](/super/self-managed-super-funds/contributions-and-rollovers).
- [Investing \(/super/self-managed-super-funds/investing\)](/super/self-managed-super-funds/investing).
- [Paying benefits \(/super/self-managed-super-funds/paying-benefits\)](/super/self-managed-super-funds/paying-benefits).
- [Winding up \(/super/self-managed-super-funds/winding-up\)](/super/self-managed-super-funds/winding-up).
- [Administering and reporting \(/super/self-managed-super-funds/administering-and-reporting\)](/super/self-managed-super-funds/administering-and-reporting).
- [SMSF auditors \(/super/self-managed-super-funds/smsf-auditors\)](/super/self-managed-super-funds/smsf-auditors).

**Watch:**

## News and alerts

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/News-and-alerts/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/News-and-alerts/>).
- Last modified: 30 May 2018
- QC 55778

Keep up to date with the latest news for self-managed super fund (SMSF) trustees and professionals. We have a range of news and alert services available to keep you informed.

## SMSF News and alerts

Visit our [SMSF News and alerts \(/Super/Self-managed-super-funds/In-detail/News-and-alerts/\)](/Super/Self-managed-super-funds/In-detail/News-and-alerts/) area where new articles are added regularly and generally remain published for three months.

To make sure you get the latest news as soon as it is published, and to be alerted about new or changed super information on our website, [subscribe \(/General/Gen/Subscriptions/\)](/General/Gen/Subscriptions/) to our Super email updates and RSS news feeds.

## SMSF News Alert and monthly newsletter

[Subscribe \(https://eci.ato.gov.au/eciscripts/smsf\\_subscription.asp\)](https://eci.ato.gov.au/eciscripts/smsf_subscription.asp) to our email news products to receive our:

- monthly SMSF newsletter that provides a wrap-up of our latest published news along with useful resources, links and reminders
- news alerts for SMSFs that provide information about current, important topics for SMSFs.

## Thinking about self-managed super

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Thinking-about-self-managed-super/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Thinking-about-self-managed-super/>)
- Last modified: 08 Nov 2018
- QC 23301

If you set up a self-managed super fund (SMSF), you're in charge – you make the investment decisions for the fund and you're held responsible for complying with the super and tax laws. It's a major financial decision and you need to have the time and skills to do it. There may be better options for your super savings.

An SMSF must be run for the sole purpose of providing retirement benefits for the members or their dependants. Don't set up an SMSF to try to get early access to your super, or to buy a holiday home or artworks to decorate your house. These things are illegal.

It's best to see a qualified, licensed professional to help you decide. The Australian Securities and Investments Commission website has information about [choosing a financial adviser](https://www.moneysmart.gov.au/investing/financial-advice/choosing-a-financial-adviser) (<https://www.moneysmart.gov.au/investing/financial-advice/choosing-a-financial-adviser>). .

## Watch

Duration 2:18. A [transcript of Why do I want an SMSF?](/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/) (</Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/>), is also available.

## Find out about:

- [Compare SMSFs with other super funds](/Super/Self-managed-super-funds/Thinking-about-self-managed-super/Compare-SMSFs-with-other-super-funds/) (</Super/Self-managed-super-funds/Thinking-about-self-managed-super/Compare-SMSFs-with-other-super-funds/>).
- [Consider the costs, time and skills](/Super/Self-managed-super-funds/Thinking-about-self-managed-super/Consider-the-cost,-time-and-skills/) (</Super/Self-managed-super-funds/Thinking-about-self-managed-super/Consider-the-cost,-time-and-skills/>).

## Next steps:

- [Setting up](/super/self-managed-super-funds/setting-up/) (</super/self-managed-super-funds/setting-up/>).

*Authorised by the Australian Government, Canberra*

# Compare SMSFs with other super funds

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Thinking-about-self-managed-super/Compare-SMSFs-with-other-super-funds/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Thinking-about-self-managed-super/Compare-SMSFs-with-other-super-funds/>).
- Last modified: 20 May 2019
- QC 47220

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## Members and trustees

SMSF	Other super funds
Can have a maximum of four members. All members are either individual trustees or directors of a corporate trustee of the fund. This means all members are involved in managing the SMSF.	Usually no limit on the number of members. Professional, licensed trustees are responsible for managing the fund.

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## Responsibility

SMSF	Other super funds
Trustees are expected to have knowledge of tax and super laws and must make sure their fund complies with those laws. Compliance risk is borne by the SMSF trustees, who can be personally fined if their fund breaches the law.	Compliance risk is borne by the professional licensed trustee.

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## Investments

<b>SMSF</b>	<b>Other super funds</b>
Trustees develop and implement the fund's investment strategy, and make all investment decisions.	Most allow you some control over the mix and risk level of your super investments but you generally can't choose the specific assets your super will be invested in.

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## Insurance

<b>SMSF</b>	<b>Other super funds</b>
Trustees must consider whether to purchase insurance for their members. Insurance premiums may be higher than in other super funds.	Most offer insurance cover to members. Member insurance usually costs less as large funds can get discounted premiums.

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## Regulation

<b>SMSF</b>	<b>Other super funds</b>
Regulated by the ATO. Trustees are required to engage with us to manage their fund.	Regulated by the Australian Prudential Regulation Authority (APRA). Generally members don't have to engage with APRA.

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## Complaints/disputes

SMSF	Other super funds
We are not involved in resolving disputes among members. Disagreements can be resolved through alternative dispute resolution techniques or in court, at the members' own expense. There is no government compensation scheme.	Members have access to the Australian Financial Complaints Authority (AFCA) and may be eligible for statutory compensation.

## Fraudulent conduct or theft

SMSF	Other super funds
No government financial assistance is available to SMSFs. Members may have legal options under Corporations Law but there is no guarantee that compensation will be awarded.	Members may be eligible for government financial assistance in the event of fraud or theft.

## Consider the costs, time and skills

- <https://www.ato.gov.au/Super/Self-managed-super-funds/Thinking-about-self-managed-super/Consider-the-cost,-time-and-skills/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Thinking-about-self-managed-super/Consider-the-cost,-time-and-skills/>).
- Last modified: 29 Oct 2015
- QC 47221

You need to have the time and skills to manage your SMSF, and there are ongoing running costs.

As a trustee of an SMSF you'll be responsible for operating your fund within the law. If you don't, you may face severe penalties and your fund may suffer tax consequences.

You'll also need to make investment decisions for the SMSF, including formulating an investment strategy that you review regularly. You'll need to understand the restrictions on the investments an SMSF can make.

It costs money to set up and run an SMSF. You might find that the fees you pay for an SMSF are more than you would pay in another type of super fund. Every year that you have an SMSF you'll need to pay for an independent audit and the supervisory levy. Most SMSFs also pay for additional help, such as:

- preparing the SMSF annual return
- valuations of the SMSF's assets
- actuarial certificates for SMSFs paying income streams (pensions)
- financial advice
- legal fees, for example if the trust deed needs to be amended
- assistance with fund administration
- insurance for members.

## Watch

Duration 3:06. A transcript of [SMSF - You can't do it all yourself \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/\)](/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/) is also available.



# Setting up

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/>).
- Last modified: 16 Feb 2018
- QC 23305

Your self-managed super fund (SMSF) needs to be set up correctly so that it's eligible for tax concessions, can receive contributions and is as easy as possible to administer.

To set up an SMSF you need to:

- [Consider appointing professionals to help you](/super/self-managed-super-funds/setting-up/consider-appointing-professionals-to-help-you/) (/super/self-managed-super-funds/setting-up/consider-appointing-professionals-to-help-you/).
- [Choose individual trustees or a corporate trustee](/super/self-managed-super-funds/setting-up/choose-individual-trustees-or-a-corporate-trustee/) (/super/self-managed-super-funds/setting-up/choose-individual-trustees-or-a-corporate-trustee/).
- [Appoint your trustees](/super/self-managed-super-funds/setting-up/appoint-your-trustees/) (/super/self-managed-super-funds/setting-up/appoint-your-trustees/).
- [Create the trust and trust deed](/super/self-managed-super-funds/setting-up/create-the-trust-and-trust-deed/) (/super/self-managed-super-funds/setting-up/create-the-trust-and-trust-deed/).
- [Check your fund is an Australian super fund](/super/self-managed-super-funds/setting-up/check-your-fund-is-an-australian-super-fund/) (/super/self-managed-super-funds/setting-up/check-your-fund-is-an-australian-super-fund/).
- [Register your fund and get an ABN](/super/self-managed-super-funds/setting-up/register-your-fund/) (/super/self-managed-super-funds/setting-up/register-your-fund/).
- [Set up a bank account](/super/self-managed-super-funds/setting-up/set-up-a-bank-account/) (/super/self-managed-super-funds/setting-up/set-up-a-bank-account/).
- [Get an electronic service address](/super/self-managed-super-funds/setting-up/get-an-electronic-service-address/) (/super/self-managed-super-funds/setting-up/get-an-electronic-service-address/).
- [Prepare an exit strategy](/super/self-managed-super-funds/setting-up/prepare-an-exit-strategy/) (/super/self-managed-super-funds/setting-up/prepare-an-exit-strategy/).

Duration 2:20 mins. A [transcript of Setting up your SMSF \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/?\)](#) is also available.

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## Consider appointing professionals to help you

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Consider-appointing-professionals-to-help-you/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Consider-appointing-professionals-to-help-you/>).
- Last modified: 08 Mar 2018
- QC 23309

You can engage self-managed super fund (SMSF) professionals to help you set up and run your fund. You may want to get them involved right from the start since the decisions you make at start-up can affect their ability to help you later on.

If you use an SMSF professional to help you set up your fund, you're still responsible for making sure it's done correctly:

- An accountant can help set up your fund's financial systems and, once you are operating, they can prepare your fund's accounts and operating statements.
- A fund administrator can assist with administrative tasks during start-up and, afterwards, help you manage the day-to-day running of your fund and meet your reporting and administrative obligations.
- A legal practitioner can prepare and update your fund's trust deed.

- A financial adviser can help you prepare an investment strategy and advise you about different types of investment and insurance products. The Australian Securities & Investment Commission (ASIC) has information about [choosing a financial adviser](https://www.moneysmart.gov.au/investing/financial-advice/choosing-a-financial-adviser) (<https://www.moneysmart.gov.au/investing/financial-advice/choosing-a-financial-adviser>), and things to consider before getting [robo-advice](https://www.moneysmart.gov.au/investing/financial-advice/robo-advice) (<https://www.moneysmart.gov.au/investing/financial-advice/robo-advice>).
  - You'll need an [approved SMSF auditor](/super/self-managed-super-funds/administering-and-reporting/appoint-an-smsf-auditor) (</super/self-managed-super-funds/administering-and-reporting/appoint-an-smsf-auditor>) to audit your fund.
  - A tax agent can complete and lodge your SMSF annual return, provide tax advice and represent you in your dealings with us. You can [check if your tax agent is registered](http://www.tpb.gov.au/#&panel1-2) (<http://www.tpb.gov.au/#&panel1-2>) at the Tax Practitioners Board.
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Duration 3:05. A transcript of [SMSF – You can't do it all yourself](/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/) (</Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/>), is also available.

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Many SMSF professionals offer packages or kits. If you buy a package or kit, make sure the trust deed complies with the current law and meets the needs of your fund, its objectives and the members' circumstances.

### Next step:

- [Choose individual trustees or a corporate trustee](/super/self-managed-super-funds/setting-up/choose-individual-trustees-or-a-corporate-trustee/) (</super/self-managed-super-funds/setting-up/choose-individual-trustees-or-a-corporate-trustee/>).

## Choose individual trustees or a corporate trustee

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Choose-individual-trustees-or-a-corporate-trustee/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Choose-individual-trustees-or-a-corporate-trustee/>).
- Last modified: 16 Feb 2018
- QC 23310

You can choose one of the following structures for your fund:

- up to four individual trustees
- a corporate trustee (essentially, a company acting as trustee for the fund).

You should discuss this decision with an SMSF professional. The two structures differ in terms of:

- [Member and trustee requirements](#)
- [Cost](#)
- [Ownership of fund assets](#)
- [Separation of assets](#)
- [Penalties](#)
- [Succession](#)

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Duration 2:27. A transcript of [SMSF trustees – individual or corporate \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/\)](#) is also available.

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## Differences between SMSF trustee structures

Note: Single member funds have different trustee features to funds with two to four members. Refer to table 2 for information

### **Member and trustee requirements**

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**Table 1: Comparison of member and trustee requirements for individual and corporate trustees**

Structure	Features
Individual trustees	<ul style="list-style-type: none"> <li>• Two to four members.</li> <li>• Each member of the fund must be a trustee, and each trustee must be a member of the fund.</li> <li>• A member cannot be an employee of another member – unless they are relatives.</li> </ul>
Corporate trustee	<ul style="list-style-type: none"> <li>• One to four members.</li> <li>• Each member of the fund must be a director of the corporate trustee, and each director of the corporate trustee must be a member of the fund.</li> <li>• A member cannot be an employee of another member – unless they are relatives.</li> </ul>

**Table 2: Single-member funds – Comparison of member and trustee requirements for individual and corporate trustees**

Structure	Features
Individual trustees	<ul style="list-style-type: none"> <li>• There must be two trustees.</li> <li>• One trustee must be a fund member.</li> <li>• If the fund member is an employee of the other trustee, the fund member and the other trustee must be relatives.</li> </ul>

Corporate trustee	<ul style="list-style-type: none"> <li>• The corporate trustee company can have one or two directors, but no more.</li> <li>• The fund member must be the sole director or one of the two directors.</li> <li>• If there are two directors and the fund member is an employee of the other director, the fund member and the other director must be relatives.</li> </ul>
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## Cost

**Table 3: Comparison of the costs associated with individual and corporate trustees**

Structure	Features
Individual trustees	<ul style="list-style-type: none"> <li>• There are no <u>Australian Securities &amp; Investments Commission</u> (<a href="http://www.asic.gov.au/">http://www.asic.gov.au/</a>). (ASIC) fees, so establishment costs and ongoing administrative requirements are less.</li> <li>• A trustee cannot be paid for their duties or services as a trustee.</li> </ul>
Corporate trustee	<ul style="list-style-type: none"> <li>• ASIC charges a fee to register a corporate trustee for the first time.</li> <li>• There is an annual review fee, which is lower if the corporate trustee acts solely as a super fund trustee, but higher if the corporate trustee also performs another function, such as running a business.</li> <li>• A corporate trustee cannot be paid for its services as a trustee, and directors of the corporate trustee cannot be paid for their duties or services as directors in relation to the fund.</li> </ul>

## Ownership of fund assets

The title of fund assets must be in the name of the current trustees 'as trustees for' the fund.

**Table 4: Comparison of ownership of fund assets for individual and corporate trustees**

Structure	Features
Individual trustees	<ul style="list-style-type: none"> <li>• If an individual trustee is removed or another added, you must change the titles of the SMSF's assets. This can be costly and time-consuming.</li> <li>• State government authorities may charge a fee for title changes.</li> <li>• Most financial institutions also charge a fee for title changes.</li> </ul>
Corporate trustee	<ul style="list-style-type: none"> <li>• Recording and registering assets can be simpler, particularly for changes in membership.</li> <li>• When a person starts or stops being a member of the SMSF, they become, or cease to be, a director of the corporate trustee.</li> <li>• You must notify us, and ASIC of any change in director.</li> <li>• The corporate trustee doesn't change, so the titles of the SMSF's assets are unchanged.</li> </ul>

## Separation of assets

The fund's assets must be kept separate from any assets members hold personally.

**Table 5: Comparison of the separation of assets for individual and corporate trustees**

Structure	Features
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Individual trustees	<ul style="list-style-type: none"> <li>• Fund assets must be in the fund's name</li> <li>• Fund assets must not be combined with personal assets.</li> </ul>
Corporate trustee	<ul style="list-style-type: none"> <li>• Fund assets must be in the fund's name.</li> <li>• Fund assets must not be combined with director's personal assets.</li> <li>• Companies have limited liability, so a corporate trustee offers greater protection if the trustee is sued for damages.</li> </ul>

## Penalties

**Table 6: Comparison of penalties for individual and corporate trustees**

Structure	Features
Individual trustees	<ul style="list-style-type: none"> <li>• If super laws are breached, administrative penalties are levied on each trustee.</li> <li>• For example, for failing to prepare financial accounts and statements, each trustee is liable for a \$2,100 penalty (10 penalty units). This would amount to \$8,400 if there were four trustees.</li> <li>• The value of a penalty unit is \$210.</li> </ul>
Corporate trustee	<ul style="list-style-type: none"> <li>• If super laws are breached, administrative penalties are levied on the corporate trustee.</li> <li>• For example, for failing to prepare financial accounts and statements, a corporate trustee would be liable for a \$2,100 penalty (10 penalty units).</li> <li>• The value of a penalty unit is \$210.</li> </ul>



## Succession

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**Table 7: Comparison of succession for individual and corporate trustees**

Structure	Features
Individual trustees	<ul style="list-style-type: none"><li>• Where changes in trustees occur, the fund is not likely to continue to operate as usual unless an appropriate succession plan has been prepared.</li></ul>
Corporate trustee	<ul style="list-style-type: none"><li>• A corporate trustee continues in the event of a member's death.</li><li>• In the event of the death or incapacity of a member, control of an SMSF and its assets by a corporate trustee is more certain.</li></ul>

**Next step:**

- [Appoint your trustees \(/super/self-managed-super-funds/setting-up/appoint-your-trustees/\)](/super/self-managed-super-funds/setting-up/appoint-your-trustees/).

**See also:**

- [Penalties \(/General/Interest-and-penalties/penalties/\)](/General/Interest-and-penalties/penalties/).

## Appoint your trustees or directors

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Appoint-your-trustees/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Appoint-your-trustees/>).
- Last modified: 16 May 2019
- QC 23314

All members of the fund must be individual trustees or directors of the corporate trustee.

New funds usually appoint trustees or directors under the fund's trust deed.

You need to ensure that the people who become trustees or directors of the SMSF:

- are eligible to be a trustee or director
- understand what it means to be a trustee or director.

All trustees and directors must:

- consent in writing to their appointment
- sign the Trustee declaration stating they understand their responsibilities (this must be done within 21 days of becoming a trustee or director).

You must keep these documents on file for the life of the SMSF and for 10 years after the SMSF winds up.

We may impose penalties if you don't comply. All trustees and directors are bound by the trust deed and are equally responsible if its rules aren't followed.

### **On this page:**

- [Ensure members are eligible to be trustees or directors](#)
- [What it means to be a trustee or director](#)
- [Legal personal representatives](#)
- [Trustee declaration](#)

**Media:** Trustee declaration

<http://tv.ato.gov.au/ato-tv/media?v=bd1bdiubfi93w5> (<http://tv.ato.gov.au/ato-tv/media?v=bd1bdiubfi93w5>). (**Duration:** 02:23)

## Ensure members are eligible to be trustees or directors

All members of the fund must be individual trustees or directors of the corporate trustee, so make sure they're eligible.

Anyone 18 years old or over can be a trustee or director of a super fund as long as they're not under a legal disability (such as mental incapacity) or a disqualified person.

A person is disqualified if they:

- have been convicted of an offence involving dishonesty
- have been subject to a civil penalty order under the super laws
- are insolvent under administration (including being an undischarged bankrupt)
- have been disqualified by a court or regulator (for example, by us or APRA).

You can check our [Disqualified trustees register \(XLXS, 249KB\)](#).

[\(./uploadedFiles/Content/SPR/downloads/disqualified\\_trustees\\_register.xlsx\)](#) to see if an individual has previously been disqualified by us. The register:

- provides information already publicly available in the [Government Notices Gazette](#) (<https://www.legislation.gov.au/Browse/ByPublicationDate/Gazettes/InForce/1/>), with some added search functionality to help you search easily and determine if a potential trustee has been disqualified
- is updated quarterly and includes all individual's who have been disqualified by us since 2012 when this information was first published electronically.

A company can't be a corporate trustee if:

- a director or other responsible officer of the company (such as a secretary or executive officer) is a disqualified person
- the company has been deregistered by ASIC
- a receiver, official manager or provisional liquidator has been appointed to the company
- action has started to wind up the company.

Members under 18 years old can't be a trustee or director but a parent, guardian or legal personal representative can be a trustee or director on their behalf.

## What it means to be a trustee or director

Whether you're a trustee or director of a corporate trustee, you're responsible for running the fund and making decisions that affect the retirement interests of each fund member, including yourself. As a trustee or director, you must:

- act honestly in all matters concerning the fund
- act in the best interests of all fund members when you make decisions
- manage the fund separately from your own affairs
- know, understand and meet your responsibilities and obligations
- ensure that the SMSF complies with the laws that apply to it.

All trustees and directors are equally responsible for managing the fund and making decisions – you're responsible for decisions made by other trustees even if you're not actively involved in making the decision.

You can appoint other people to help you or provide services to your fund (for example, an accountant, administrator, tax agent or financial planner). However, the ultimate responsibility and accountability for the SMSF's actions lie with you, as trustee or director.

As an individual trustee or director of a corporate trustee, you may be personally liable to pay an administrative penalty if certain laws relating to SMSFs are not followed.

Other members of the fund can take action against you if you don't follow the terms of the trust deed. Any fund member who suffers loss or damage because of a breach of any trustee duties may sue any person involved in the breach.

**See also:**

- [Self-managed super funds \(/Super/Self-managed-super-funds/\)](/Super/Self-managed-super-funds/).
- [Approved education courses \(/super/self-managed-super-funds/administering-and-reporting/how-we-help-and-regulate-smsfs/approved-education-courses/\)](/super/self-managed-super-funds/administering-and-reporting/how-we-help-and-regulate-smsfs/approved-education-courses/), for SMSFs

## Legal personal representatives

A legal personal representative can be:

- the executor of the will or the administrator of the estate of a deceased person
- the trustee of the estate of a person under a legal disability or a minor
- a person who holds enduring power of attorney to act on behalf of another person (see also [SMSF ruling 2010/2 \(/law/view/document?docid=SFR/SMSFR20102/NAT/ATO/00001&PiT=99991231235958\)](/law/view/document?docid=SFR/SMSFR20102/NAT/ATO/00001&PiT=99991231235958)).

A legal personal representative can act as a trustee or director of a corporate trustee, on behalf of:

- a deceased member, until the death benefit becomes payable
- a member under a legal disability
- a minor (a parent or guardian can also act as a trustee on behalf of a minor).

A legal personal representative can't act as a trustee on behalf of a disqualified person, such as an undischarged bankrupt.

A legal personal representative does not include a registered tax agent or an accountant unless they meet the definition above.

## Trustee declaration

The *Trustee declaration* is signed by trustees and directors of a corporate trustee of an SMSF to declare they understand their obligations and responsibilities.

Read the *Trustee declaration* carefully. If you don't understand any of the responsibilities then you should find out about them before signing the declaration.

To find out more, speak to a professional adviser or contact us on **13 10 20**.

### See also:

- [Self-managed super funds \(/Super/Self-managed-super-funds/\)](/Super/Self-managed-super-funds/).
- [Approved education courses \(/super/self-managed-super-funds/administering-and-reporting/how-we-help-and-regulate-smsfs/approved-education-courses/\)](/super/self-managed-super-funds/administering-and-reporting/how-we-help-and-regulate-smsfs/approved-education-courses/).
- [Subscribe to SMSF News \(/Super/Self-managed-super-funds/In-detail/News-and-alerts/\)](/Super/Self-managed-super-funds/In-detail/News-and-alerts/).

**Note:** you must keep your completed declaration for the life of the SMSF and for at least 10 years after your SMSF winds up. Do **not** send your completed declaration to us unless we ask for it.

### How to obtain this form

The form [Trustee declaration \(NAT 71089, PDF, 228 KB\)](#).

[\(/uploadedFiles/Content/SPR/Forms/Trustee%20declaration\\_SPR\\_n71089\\_19272.pdf\)](/uploadedFiles/Content/SPR/Forms/Trustee%20declaration_SPR_n71089_19272.pdf) can be downloaded in Portable Document Format (PDF).

### Who should complete this declaration

You must complete this declaration if you become a trustee or the director of a corporate trustee of a new SMSF or of an existing SMSF.

This declaration must be signed within 21 days of becoming a trustee or director.

A separate declaration is required to be completed and signed by each and every trustee or director.

You must also complete this declaration if you:

- have undertaken an ATO approved course of education to comply with an education direction
- are a legal personal representative who has been appointed as a trustee or director on behalf of a
  - member who is under a legal disability (usually a member under 18 years old)
  - member for whom you hold an enduring power of attorney
  - deceased member.

**Next step:**

- [Create the trust and trust deed \(/super/self-managed-super-funds/setting-up/create-the-trust-and-trust-deed/\)](/super/self-managed-super-funds/setting-up/create-the-trust-and-trust-deed/).

## Create the trust and trust deed

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Create-the-trust-and-trust-deed/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Create-the-trust-and-trust-deed/>).
- Last modified: 16 Feb 2018
- QC 23313

A trust is an arrangement where a person or company (the trustee) holds assets (trust property) in trust for the benefit of others (the beneficiaries). A super fund is a special type of trust, set up and maintained for the sole purpose of providing retirement benefits to its members (the beneficiaries).

To create a trust, you need:

- trustees or directors of a corporate trustee

- governing rules (a trust deed)
- assets (an initial nominal consideration to give legal effect to the trust can be used, for example, \$10 attached to the trust deed)
- identifiable beneficiaries (members).

## Trust deed

A trust deed is a legal document that sets out the rules for establishing and operating your fund. It includes such things as the fund's objectives, who can be a member and whether benefits can be paid as a lump sum or income stream. The trust deed and super laws together form the fund's governing rules.

The trust deed must be:

- prepared by someone competent to do so as it's a legal document
- signed and dated by all trustees
- properly executed according to state or territory laws
- regularly reviewed, and updated as necessary.

## Assets

To establish your fund, assets must be set aside for the benefit of members.

If a rollover, transfer or contribution is expected in the near future, a nominal amount (for example, \$10) can be held with the trust deed. This amount is regarded as a contribution and must be allocated to a member.

If a member can't contribute to the SMSF (for example, they are over 65 or don't meet the work test), an administrative discretion is automatically applied to allow a nominal contribution for the member. The amount must be allocated to the member, solely for the purpose of registering the SMSF.

### **Next step:**



- [Check your fund is an Australian super fund \(/super/self-managed-super-funds/setting-up/check-your-fund-is-an-australian-super-fund/\)](https://www.ato.gov.au/Super/self-managed-super-funds/setting-up/check-your-fund-is-an-australian-super-fund/).

## Check your fund is an Australian super fund

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Check-your-fund-is-an-Australian-super-fund/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Check-your-fund-is-an-Australian-super-fund/>).
- Last modified: 16 Feb 2018
- QC 23312

To be a complying super fund and receive tax concessions, your SMSF needs to be an Australian super fund at all times during the financial year.

If your fund stops being an Australian super fund because it does not satisfy the residency rules, it may become non-complying, and its assets (less certain contributions) and its income are taxed at the highest marginal tax rate.

### On this page:

- [Fund residency conditions](#)
- [What to do if members go overseas](#)

## Fund residency conditions

An SMSF is an Australian super fund if it meets all three of these residency conditions:

1. The fund was established in Australia, or at least one of its assets is located in Australia.
  - The fund was 'established in Australia' if the initial contribution to establish the fund was paid and accepted in Australia.
2. The central management and control of the fund is ordinarily in Australia.
  - This means the SMSF's strategic decisions are regularly made, and high-level duties and activities are performed, in Australia. It includes formulating the investment strategy of the fund; reviewing the performance of the fund's investments; formulating a strategy for the prudential management of any reserves; and determining how assets are to be used for member benefits.
  - In general, your fund will still meet this requirement even if its central management and control is temporarily outside Australia for up to two years. If central management and control of the fund is permanently outside Australia for any period, it will not meet this requirement.
3. The fund either has no active members or it has active members who are Australian residents and who hold at least 50% of
  - the total market value of the fund's assets attributable to super interests, or
  - the sum of the amounts that would be payable to active members if they decided to leave the fund.

**Note:** For the purposes of condition three, a member is an 'active member' if they are a contributor to the fund or contributions to the fund have been made on their behalf.

## What to do if members go overseas

If members are planning to go overseas for an extended period, get professional advice about maintaining the residency status of your SMSF.

If a member of your fund becomes a non-resident but still wishes to make or receive contributions, they should do this outside their SMSF, for example through a retail or industry super fund. They can then rollover the contributions to their SMSF when they return as an Australian resident.

If your SMSF fails the residency test, you should roll over your funds to a resident regulated super fund and wind up the SMSF. Otherwise the fund will become non-complying.

**Next step:**

- [Register your fund and get an ABN \(/super/self-managed-super-funds/setting-up/register-your-fund/\)](/super/self-managed-super-funds/setting-up/register-your-fund/).

**See also:**

- [Income tax: meaning of 'Australian superannuation fund' in subsection 295-95\(2\) \(/law/view/document?DocID=TXR/TR20089/NAT/ATO/00001&PiT=99991231235958\)](/law/view/document?DocID=TXR/TR20089/NAT/ATO/00001&PiT=99991231235958). of the *Income Tax Assessment Act 1997*

## Register your fund and get an ABN

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Register-your-fund/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Register-your-fund/>).
- Last modified: 12 Mar 2019
- QC 23317

Once your fund is established and all trustees have been appointed (including signing the *Trustee declaration*), you have 60 days to register the SMSF with us by applying for an Australian business number (ABN).

**Next steps:**

- Check if your SMSF is [eligible to register and get an ABN](#)

- Use the ABN application form to register your SMSF and get an ABN

**Register your SMSF and apply for an ABN (<https://abr.gov.au/For-Business,-Super-funds---Charities/Applying-for-an-ABN/>)**

When completing the ABN application you should:

- ask for a tax file number (TFN) for your fund
- elect for your fund to be an ATO-regulated SMSF. If you don't, your fund will not receive tax concessions and the members' employers can't claim deductions for contributions
- register for GST (if necessary).

Two common errors in applications to register an SMSF and get an ABN are:

- the SMSF trust is not set up correctly before applying for an ABN, including setting aside an asset as the SMSF's property
- the details of the members, trustees or directors of the corporate trustee are incorrect or incomplete.

To avoid common mistakes, read:

- [Create the trust and trust deed \(/super/self-managed-super-funds/setting-up/create-the-trust-and-trust-deed/\)](/super/self-managed-super-funds/setting-up/create-the-trust-and-trust-deed/) – offers information about setting up a fund
- [Associate details](#) – outlines the information you'll be asked for
- [Eligibility to register and get an ABN](#)
- [What you need for your registration and ABN application](#)

**On this page:**

- [Registrations by tax professionals](#)

- [Eligibility to register and get an ABN](#)
- [What you need for your registration and ABN application](#)
- [Registering for GST](#)
- [Check your registration status](#)
- [Registration application delays](#)

**See also:**

- [Notify us of changes \(/Super/Self-managed-super-funds/Administering-and-reporting/Notify-us-of-changes/\)](#) to update your SMSF details if your registration details change.

## Registrations by tax professionals

Tax professionals can use the Australian Business Register's 'Tax Professionals Services' to register SMSFs and apply for an ABN on behalf of their clients.

**See also:**

- [Applying for an ABN \(https://abr.gov.au/For-Tax-professionals/Applying-for-an-ABN/\)](https://abr.gov.au/For-Tax-professionals/Applying-for-an-ABN/)

## Eligibility to register and get an ABN

Registering your SMSF isn't the first step in setting up an SMSF.

Before you register, you must already have:

- considered appointing professionals to help you
- chosen individual trustees or a corporate trustee (and created the corporate trustee if needed)
- appointed trustees or directors of the corporate trustee
- created a trust (including transferring an asset to the trust)

- checked that your fund is an Australian super fund.

Once you have completed these steps then you are ready to register. Obtaining an ABN is part of the registration process.

### See also:

- [Setting up an SMSF \(/super/self-managed-super-funds/setting-up/\)](/super/self-managed-super-funds/setting-up/).
- [Create the trust and the deed trust \(/super/self-managed-super-funds/setting-up/create-the-trust-and-trust-deed/\)](/super/self-managed-super-funds/setting-up/create-the-trust-and-trust-deed/).

## What you need for your registration and ABN application

The SMSF registration and ABN application form is easier to complete if you have the right information at hand when you apply.

### Previous ABN or TFN

You will be asked if the entity you are registering:

- currently has or previously held an ABN
- wants to apply for an ABN
- has a TFN
- wants to apply for a TFN.

New SMSF applicants will not have an existing ABN or TFN and must apply for both to be registered as an SMSF.

If the SMSF previously held an ABN and it was cancelled in error, call us on **13 10 20** if you want it to be reinstated.

### Type of fund

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#### Questions that relate to the type of fund being registered

Question	SMSFs must answer
For taxation purposes which type of entity is the applicant?	Superannuation entity
What type of organisation is the applicant?	An ATO Regulated Self-Managed Superannuation Fund
What type of fund is the applicant?	Do not answer (leave blank)
If the fund is a trust or government organisation, what tier of government does it belong to?	Do not answer (leave blank)
What is the structure of the superannuation entity?	Accumulation fund ( <b>Note:</b> New SMSFs must be accumulation funds. If you are applying for an ABN for a fund that was established before 2006 then it may be a defined benefit fund).

## Resident status

An entity must be an 'Australian super fund' in order to be an SMSF.

### See also:

- [Check your fund is an Australian super fund \(/super/self-managed-super-funds/setting-up/check-your-fund-is-an-australian-super-fund/\).](/super/self-managed-super-funds/setting-up/check-your-fund-is-an-australian-super-fund/)

## Tax agent's details

If you are using the services of a tax agent, you can provide their registration number. You can get their registration number:

- by asking them
- from a tax return that they have prepared for you
- on an invoice they have given you.

Recording your tax agent's number against your ABN will enable them to undertake work on your behalf.

## **Name of SMSF**

The name of the SMSF that you put on the registration form must be the name that you used when you created the fund's trust deed.

We will check that you are able to use that name; if the name that you choose has already been used for an SMSF it may delay processing your registration and ABN application. You can check whether your SMSF's name has been used previously at [Super Fund Lookup \(http://superfundlookup.gov.au/\)](http://superfundlookup.gov.au/).

## **Date SMSF came into existence**

The SMSF came into existence on the date that you created the trust.

### **See also:**

- [Create the trust and the trust deed \(/super/self-managed-super-funds/setting-up/create-the-trust-and-trust-deed/\)](/super/self-managed-super-funds/setting-up/create-the-trust-and-trust-deed/).

## **SMSF business details**

You'll need to provide at least one business address for your SMSF. For each address you'll be asked for the:

- street address
- phone and email contacts
- business activity details.



The business location that you provide could be the home address of one of the trustees or the office of a professional that assists with the administration of the SMSF on an ongoing basis.

## Electronic fund transfer details

If you have already set up an account with a bank or other financial institution, provide the SMSF's financial institution details. We will use this account when we make payments to your SMSF.

If you have not set up an account with a financial institution, this information can be provided later, see [Notify us of changes \(/Super/Self-managed-super-funds/Administering-and-reporting/Notify-us-of-changes/\)](#).

The account details provided must be held by the SMSF, and in the name of the SMSF. Do **not** provide a tax agent's financial institution account details.

## Authorised contact details

You must nominate at least one authorised contact.

### See also:

- [Primary contact and authorised contacts \(/tax-professionals/your-practice/tax-and-bas-agents/primary-contact-and-authorised-contacts/\)](#).

## Associate details

The associates of an SMSF are the:

- individual trustees
- corporate trustee
- members

- directors of a corporate trustee.

For all your associates, you'll need to provide:

- for individuals – their name, date of birth, position held and either their tax file number (TFN) or residential address
- for organisations – their legal name, ACN/ARBN/ABN if applicable, and either their TFN or address and date of formation.

We'll use these details to identify your associates in our existing records. If we can't identify or exactly match details of an associate, your registration and ABN application will be delayed or refused.

## Election to be regulated

In order to be registered as an SMSF, you need to formally elect for the fund to be regulated by us.

## Registering for GST

Most SMSFs don't need to register for GST because SMSFs mainly make input-taxed sales, and these don't count towards GST turnover.

SMSFs with an annual GST turnover of more than \$75,000 must register for GST. Annual GST turnover doesn't include:

- contributions
- interest and dividends
- residential rent or income generated outside Australia.

However, it does include gross income from the lease of equipment or commercial property.

### See also:

- [SMSFs – GST and financial supplies \(/business/gst/in-detail/your-industry/financial-services-and-insurance/smsfs---gst-and-financial-supplies/\)](#).

# Check your registration status

Your fund's details will be included in [ABN lookup \(http://abr.business.gov.au/\)](http://abr.business.gov.au/) and [Super Fund Lookup \(http://superfundlookup.gov.au/\)](http://superfundlookup.gov.au/).

## ABN lookup

ABN lookup shows the status of your ABN. Your SMSF will appear on ABN lookup once it has an ABN after your application has been processed and your SMSF is registered.

## Super Fund Lookup

Super Fund Lookup shows the status of the SMSF's registration with the regulator (us).

Initially, your SMSF's Super Fund Lookup status may be displayed as 'Pending'.

Employers and other super funds will not transfer benefits to your fund until its status in Super Fund Lookup is displayed as 'Registered'. This usually takes two to seven days. An SMSF with this status is treated as complying and is eligible to receive rollovers and employer contributions. Within seven days of the SMSF being displayed on SFLU as 'Registered', a Notice of compliance will issue to the SMSF and their SFLU status will then be displayed as 'Complying'.

If we have any concerns about your SMSF's eligibility then your Super Fund Lookup status may be displayed as 'Regulation details withheld' while we take a closer look at your application.

## Registration application delays

We do not automatically accept every registration application we receive. We will not accept your registration if we decide that:

- you have not completed the set up steps listed in [Eligibility to register and get an ABN](#)
- we cannot confirm the identity of all of the SMSF's [associates](#) (trustees or directors of the corporate trustee)

- you or another trustee (or director) of the SMSF are not able to run an SMSF within the rules.

In many cases, the online registration and ABN application tool will check your answers as you enter them and will let you know that the SMSF cannot be registered (and an ABN cannot be provided) even before you submit the application.

In other cases where we cannot be sure of your eligibility based on your answers alone, we will withhold your registration while we investigate. You will be unable to transfer money from another super fund into your SMSF until we complete our investigation and register your SMSF.

For every SMSF applicant we consider all the trustees and other entities that they have controlled. We consider factors, including but not limited to:

- history of insolvency
- crimes related to dishonesty
- previous SMSF history
- personal lodgment and payment history
- super balance and income
- information about identities that have been used fraudulently.

If we have any concerns about your application we will withhold your registration and contact you to let you know that we are investigating your application. Most of these cases are resolved in under two months but it can take longer where a more extensive investigation is needed or the applicant trustees do not assist us fully.

### **Next step:**

- [Set up a bank account \(/super/self-managed-super-funds/setting-up/set-up-a-bank-account/\)](/super/self-managed-super-funds/setting-up/set-up-a-bank-account/).

### **See also:**

- [SMSFs – GST and financial supplies \(/Business/GST/In-detail/Your-industry/Financial-services-and-insurance/SMSFs---GST-and-financial-supplies/\)](/Business/GST/In-detail/Your-industry/Financial-services-and-insurance/SMSFs---GST-and-financial-supplies/).

# Set up a bank account

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Set-up-a-bank-account/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Set-up-a-bank-account/>).
- Last modified: 16 Feb 2018
- QC 23316

You need to open a bank account in your fund's name to manage the fund's operations and accept contributions, rollovers of super and income from investments. This account is used to pay the fund's expenses and liabilities.

If you did not provide your financial institution details when you [registered your fund](#) (</super/self-managed-super-funds/setting-up/register-your-fund/>), you must provide this information to us now.

## See also:

- [Notify us of changes](/Super/Self-managed-super-funds/Administering-and-reporting/Notify-us-of-changes/) (</Super/Self-managed-super-funds/Administering-and-reporting/Notify-us-of-changes/>).

The fund's bank account must be kept separate from the trustees' individual bank accounts and any related employers' bank accounts.

You don't have to open a separate bank account for each member but you must keep a separate record of their entitlement, which is called a 'member account'. Each member account shows:

- contributions made by or on behalf of the member
- fund investment earnings allocated to them
- payments of any super benefits (lump sums or income streams).

## Next step:

- [Get an electronic service address](/Super/Self-managed-super-funds/Setting-up/Get-an-electronic-service-address/) (</Super/Self-managed-super-funds/Setting-up/Get-an-electronic-service-address/>).

# Get an electronic service address

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- [https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Get-an-electronic-service-address/\(https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Get-an-electronic-service-address/\)](https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Get-an-electronic-service-address/(https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Get-an-electronic-service-address/)).
- Last modified: 16 Feb 2018
- QC 45556

If your SMSF will receive contributions from employers (other than related-party employers), it needs to be able to receive the contributions and associated SuperStream data electronically.

SuperStream is a data and payment standard that applies to super contributions made by employers to any super fund, including SMSFs.

To receive SuperStream data you need an electronic service address, which is a special internet address. It's different to an email address.

Your administrator may provide you with an electronic service address or you can use a [SuperStream message solution provider \(/Super/Superstream/Self-managed-super-funds/electronic-service-address/register-of-SMSF-messaging-providers/\)](/Super/Superstream/Self-managed-super-funds/electronic-service-address/register-of-SMSF-messaging-providers/).

An employer will need the following information about your SMSF:

- ABN
- bank account details (BSB and account number)
- electronic service address.

## Next step:

- [Prepare an exit strategy \(/super/self-managed-super-funds/setting-up/prepare-an-exit-strategy/\)](/super/self-managed-super-funds/setting-up/prepare-an-exit-strategy/).

## See also:

- [SuperStream \(/Super/SuperStream/\)](#).

## Prepare an exit strategy

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Prepare-an-exit-strategy/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Prepare-an-exit-strategy/>).
- Last modified: 20 Jun 2018
- QC 42459

Even when you're setting up your SMSF you need to consider what happens when your SMSF ends, or 'winds up'.

Sometimes SMSFs become difficult to manage because of an unexpected event such as:

- [a relationship breakdown \(/Individuals/Super/In-detail/Withdrawing-and-using-your-super/Super-and-relationship-breakdowns/?anchor=Membersofselfmanagedsuperfunds#Membersofselfmanagedsuperfunds\)](#), between the trustees
- an illness or accident that leaves a trustee incapacitated (and unable to perform their role as a trustee)
- [a trustee dies \(/Super/Self-managed-super-funds/Paying-benefits/Death-of-a-member/\)](#).

Having an exit strategy may reduce the impact of 'unexpected' events. As part of your exit strategy, some of the things you should consider are:

- ensure all trustees can access the SMSF's records and electronic transaction accounts
- include specific rules in your fund's trust deed that are triggered by events that could otherwise lead to the fund becoming unmanageable
- members to make binding death benefit nominations (and renew them every three years)

- encourage members to appoint an enduring power of attorney
- the likely costs involved in winding up an SMSF.

**Media:** [SMSF planning for the unexpected]

<http://tv.ato.gov.au/ato-tv/media?v=bd1bdiubfi6z97> (<http://tv.ato.gov.au/ato-tv/media?v=bd1bdiubfi6z97>). (**Duration:** 2:13)

### See also:

- [Winding up \(/super/self-managed-super-funds/winding-up\)](/super/self-managed-super-funds/winding-up).
- [Death of a member \(/super/self-managed-super-funds/paying-benefits/death-of-a-member/\)](/super/self-managed-super-funds/paying-benefits/death-of-a-member/).
- [Superannuation and relationship breakdowns \(/Individuals/Super/In-detail/Withdrawing-and-using-your-super/Super-and-relationship-breakdowns/\)](/Individuals/Super/In-detail/Withdrawing-and-using-your-super/Super-and-relationship-breakdowns/).
- [Estate planning \(/Business/Private-owned-and-wealthy-groups/Tax-governance/Tax-governance-guide-for-private-owned-groups/Estate-planning/#Superannuationfundassets\)](/Business/Private-owned-and-wealthy-groups/Tax-governance/Tax-governance-guide-for-private-owned-groups/Estate-planning/#Superannuationfundassets).

## Contributions and rollovers

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Contributions-and-rollovers/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Contributions-and-rollovers/>).
- Last modified: 16 Jun 2015
- QC 23325

As an SMSF trustee, you can accept contributions and rollovers for your members from various sources but there are some restrictions, mostly depending on the member's age and the contribution caps.



You need to properly document contributions and rollovers, including the amount, type and breakdown of components, and allocate them to the members' accounts within 28 days of the end of the month in which you received them.

**Find out about:**

- [Contributions you can accept \(/Super/Self-managed-super-funds/Contributions-and-rollovers/Contributions-you-can-accept/\)](/Super/Self-managed-super-funds/Contributions-and-rollovers/Contributions-you-can-accept/).
- [Contribution caps \(/super/self-managed-super-funds/contributions-and-rollovers/contribution-caps\)](/super/self-managed-super-funds/contributions-and-rollovers/contribution-caps).
- [Rollovers \(/super/self-managed-super-funds/contributions-and-rollovers/rollovers\)](/super/self-managed-super-funds/contributions-and-rollovers/rollovers).
- [Personal contributions – deductions \(/super/self-managed-super-funds/contributions-and-rollovers/personal-contributions---deductions\)](/super/self-managed-super-funds/contributions-and-rollovers/personal-contributions---deductions).

**See also:**

- [Tax on income - assessable contributions \(/super/self-managed-super-funds/investing/tax-on-income/assessable-contributions\)](/super/self-managed-super-funds/investing/tax-on-income/assessable-contributions).

## Rollovers

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Contributions-and-rollovers/Rollovers/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Contributions-and-rollovers/Rollovers/>).
- Last modified: 20 Jul 2018
- QC 23328

A rollover is when a member transfers some or all of their existing super between funds.

**On this page:**

- [Receiving a rollover](#)
- [Making and reporting a rollover](#)

## Receiving a rollover

Before rolling over benefits to your SMSF, APRA-regulated super funds check with our systems to confirm that the person requesting the rollover is a member of your fund. So make sure your fund membership details are up to date in our systems and notify us of any changes.

A rollover from another fund is not included in the assessable income of your fund, unless the rollover amount includes an element untaxed in the fund.

If it does contain an untaxed element, you include the amount of that element in the assessable income of your fund – up to the [untaxed plan cap amount \(/Rates/Key-superannuation-rates-and-thresholds/?page=8#Untaxed\\_plan\\_cap\\_amount\)](#) – in the financial year the rollover occurs.

If the untaxed element exceeds the untaxed plan cap, the originating fund should withhold tax – at the top marginal rate plus Medicare levy – from the amount over the cap before releasing the rollover to your fund. You add this now-taxed amount to the tax-free component of the rolled-over amount.

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### Example: Rollover with an untaxed element

On 5 September 2014, Tom asks his fund to roll over his super interest of \$1.5 million. This is an untaxed element. The untaxed plan cap amount for 2014–15 is \$1.355 million, meaning that Tom's rollover amount exceeds the cap by \$145,000. The originating fund must withhold tax of \$71,050 (49% of \$145,000).

The amounts reported by the originating fund on the rollover benefits statement will be \$73,950 (\$145,000 – \$71,050) at the 'tax-free component' label and \$1.355 million at the 'element untaxed in the fund' label. Tom's SMSF will report the \$1.355 million as income at the 'personal contributions' label in the SMSF annual return.

## Making and reporting a rollover

When rolling over your members' benefits to another super fund, you need to:

- confirm that the receiving fund is complying – you can check using [Super Fund Lookup](http://www.superfundlookup.gov.au/) (<http://www.superfundlookup.gov.au/>).
  - complete a [Rollover benefits statement](#) ([/Forms/Rollover-benefits-statement-and-instructions-for-transactions-1-July-2017/](#)), or a [Death benefit rollover statement](#) ([/Forms/Rollover-benefits-statement-and-instructions-for-transactions-1-July-2017/?page=8](#)).
- and
- give the completed statement to the receiving fund, either with the payment or within seven days
  - give a copy to the member within 30 days
  - keep a copy for your records for five years.

Ensure you report all member contributions in your *SMSF annual return*, even if they were rolled out to another fund later. (This is different to the process that applied before 1 July 2013.)

### Transfer balance cap reporting and rollovers

We strongly encourage you to report the rollover as a commutation via the TBAR where the member rolls the amount into an APRA-regulated fund and starts an income stream there as soon as the rollover occurs.

If the rollover is not reported to us at the time it happens double-counting of the member's income streams may occur.

#### See also:

- [How to report contributions that you roll over – self-managed superannuation funds](#) ([/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/How-to-report-contributions-that-you-roll-over---self-managed-super-funds/](#)).

- [Tax treatment of transfers from foreign super funds \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Tax-treatment-of-transfers-from-foreign-super-funds/\)](/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Tax-treatment-of-transfers-from-foreign-super-funds/).
- [Rollover benefits statement and Death benefit rollover statement information and instructions for transactions from 1 July 2017 \(/forms/rollover-benefits-statement-and-instructions-for-transactions-1-july-2017/\)](/forms/rollover-benefits-statement-and-instructions-for-transactions-1-july-2017/).
- [Event-based reporting for SMSFs \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/?=redirected\\_SMSF\\_commutation\\_authority&anchor=commutationauthorities#Whenyouneedtoreportsooner\)](/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/?=redirected_SMSF_commutation_authority&anchor=commutationauthorities#Whenyouneedtoreportsooner).

## Personal contributions – deductions

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Contributions-and-rollovers/Personal-contributions---deductions/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Contributions-and-rollovers/Personal-contributions---deductions/>).
- Last modified: 30 Jun 2016
- QC 42470

If a member is eligible (/Individuals/Super/In-detail/Growing-your-super/Claiming-deductions-for-personal-super-contributions/), they can claim an income tax deduction for super contributions they make for their own benefit. A member who intends to claim a deduction must notify you of this intent.

The member must give you the notice by the earlier of:

- the time they lodge their personal income tax return for the financial year during which the contribution was made
- the end of the financial year following the year the contribution was made.

The notice is invalid if:

- the person is no longer a member of your SMSF
- you no longer hold the contribution because of a partial rollover that included the contribution
- you have paid a lump sum or have started to pay a super income stream that includes the contribution.

In these circumstances, the member will not be able to claim a deduction for the personal contribution made.

## Acknowledging valid notices

You must acknowledge your member's valid notice. Your acknowledgment should include:

- the date your fund received the notice
- any subsequent variations that your fund received
- member account and fund details
- the total amount of personal contributions that the notice covers
  - the amount the member has notified you they intend to claim as a deduction
  - the dates the contributions were made or the financial year they were made in.

This ensures that your members are able to claim the deductions they're entitled to and that super co-contributions and excess contributions tax are correctly applied.

You don't have to acknowledge the notice if the value of the relevant super interest on the day you received the notice is less than the tax that would be payable by you for the contribution.

## Deadline for varying notices

If the member claiming the deduction has made an error with their notice of intent to claim a deduction, the notice can be varied (including varied to nil). Generally they need to do this by the same deadline as the original notice. After this, the notice can't be varied unless:

- a deduction for the contributions is not allowable (that is, the member was ineligible to claim a deduction)
- the variation reduces the amount shown on the original notice by the amount that is not allowable as a deduction.

**See also:**

- [Claiming deductions for personal super contributions \(/Individuals/Super/In-detail/Growing-your-super/Claiming-deductions-for-personal-super-contributions/\)](#) – information for your member.

## Contributions you can accept

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Contributions-and-rollovers/Contributions-you-can-accept/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Contributions-and-rollovers/Contributions-you-can-accept/>).
- Last modified: 22 Mar 2019
- QC 23326

There are minimum standards for accepting contributions into your self-managed super fund (SMSF), and the trust deed of your fund may have more rules. Whether a contribution is allowable depends on:

- whether you have the [member's tax file number \(TFN\)](#) – if not, you can't accept member contributions
- the type of contribution – for example, you can accept [mandated employer contributions](#), such as super guarantee contributions from a member's employer, at any time
- the age of the member – for example, you generally can't accept [non-mandated contributions](#) for members 75 years old or older
- whether the contribution exceeds the member's [fund-capped contributions limit \(/super/self-managed-super-funds/contributions-and-rollovers/contribution-caps#Fundcappedcontributionslimit\)](#) – if the contribution was received prior to 1 July 2017.

Generally you can't accept an asset as a contribution from a member, but there are some exceptions.

If your SMSF will receive contributions from employers (other than related-party employers), you'll need an electronic service address (</super/self-managed-super-funds/setting-up/get-an-electronic-service-address>) to receive the associated SuperStream data.

### On this page:

- [Member's tax file number](#)
- [Mandated employer contributions](#)
- [Non-mandated contributions](#)
- [In specie \(asset\) contributions](#)

## Member's tax file number

When a member joins your fund, you need to ask for their TFN and provide it to us. You can do this when you register the fund or when a new member joins.

A member is not required by law to provide their TFN, however if they don't:

- your fund can't accept member contributions for them, such as personal and eligible spouse contributions
- your fund has to pay extra tax on some contributions made to that member's account
- the member may not be able to receive super co-contributions
- there may be administrative delays if we can't identify the member from the other information you've provided.

## Mandated employer contributions

Mandated employer contributions are contributions made by an employer under a law or industrial agreement for the benefit of a fund member. They include super guarantee contributions.

You can accept mandated employer contributions for members at any time, regardless of their age or the number of hours they're working.

## Non-mandated contributions

Non-mandated contributions include:

- contributions made by employers over and above their super guarantee or award obligations (such as salary sacrifice contributions)
- member contributions. These are contributions made by or on behalf of a member, such as
  - personal contributions
  - eligible proceeds from primary residence disposal (downsizer contribution)
  - super co-contributions
  - eligible spouse contributions
  - contributions made by a third party, such as an insurer.

Non-mandated member contributions can only be accepted if you have their tax file number (TFN). If you receive a member contribution and you don't have the member's TFN, you need to return the contribution within 30 days unless the member's gives you their TFN within that period.

You can accept non-mandated contributions in the following circumstances:

- **Members aged under 65 years old**

You may accept all types of non-mandated contributions except downsizer contributions. The member must be 65 years or older to make a downsizer contribution.

- **Members aged 65 years old or over but under 70 years old**

You may accept all types of non-mandated contributions if the member is gainfully employed on at least a part-time basis. You may accept downsizer contributions regardless of the member's employment status.



- **Members aged 70 years old or over but under 75 years old**

You may only accept non-mandated employer contributions and personal contributions if the member is gainfully employed on at least a part-time basis. For a member turning 75 years old, contributions must be received no later than 28 days after the end of the month that the member turns 75 years old. You may accept downsizer contributions regardless of the member's employment status.

- **Members aged 75 years old or over**

You may accept downsizer contributions (there is no maximum age limit) as long as you have their TFN, but you generally can't accept other non-mandated contributions.

Super co-contributions and employer contributions that relate to a valid contribution period for the member can be accepted at any time.

**Note:** 'Gainfully employed on at least a part-time basis' means the member is gainfully employed for at least 40 hours in a period of 30 consecutive days in each financial year in which the contributions are made. Unpaid work does not meet the definition of 'gainfully employed'.

## In specie (asset) contributions

*In specie* contributions are contributions to your fund in the form of a non-monetary asset.

Generally you must not intentionally acquire assets (including *in specie* contributions) from related parties of your fund. However, there are some significant exceptions to this rule, including:

- listed shares and other securities
- business real property (land and buildings used wholly and exclusively in a business).

### See also:

- [Acquiring assets from related parties \(/super/self-managed-super-funds/investing/restrictions-on-investments/acquiring-assets-from-related-parties\)](#).

# Contribution caps

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Contributions-and-rollovers/Contribution-caps/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Contributions-and-rollovers/Contribution-caps/>).
- Last modified: 14 Feb 2019
- QC 42460

The contribution caps limit the amount that can be contributed for a member each financial year. The caps are indexed annually. A member whose total contributions in a year exceed the contribution caps may be liable for additional tax on the excess contributions.

## On this page:

- [Fund-capped contributions limit](#)
- [Concessional contributions](#)
- [Non-concessional contributions](#)

## Fund-capped contributions limit

**Note:** The information in this section is for fund-capped contributions received by your SMSF prior to 1 July 2017. Any contributions received after this date are not required under law to be returned, due to subregulation 7.04(3) of the *Superannuation Industry (Supervision) Regulations 1994* being repealed.

Your SMSF can't accept single contributions that exceed a member's fund-capped contribution limit. This limit depends on the member's age at the start of the financial year:

- **Member aged 65 or over but under 75 on 1 July**

The fund-capped contribution limit is the non-concessional contributions cap for that financial year.

- **Member aged 64 or under on 1 July**

The fund-capped contribution limit is three times the non-concessional contributions cap for that financial year.

Fund-capped contributions do not include:

- personal contributions that your member advises they intend to claim as an income tax deduction
- contributions from a structured settlement or personal injury payment (the member or a legal personal representative should have notified you that they would make this contribution)
- any amount that your member gives you a valid election to exclude from their non-concessional contributions because it qualifies for their super capital gains tax (CGT) cap
- any amount that relates to a directed termination payment
- super co-contributions.

Your fund must return the excess amount within 30 days.

## Concessional contributions

Concessional contributions are contributions made into your SMSF that are included in the SMSF's assessable income. These contributions are taxed in your SMSF at a 'concessional' rate of 15%, which is often referred to as 'contributions tax'.

The most common types of concessional contributions are employer contributions, such as super guarantee and salary sacrifice contributions. Concessional contributions also include personal contributions made by the member for which the member claims an income tax deduction.

Concessional contributions are subject to a yearly cap.

From 1 July 2017, the general concessional contributions cap is \$25,000 for all individuals regardless of age.

For the 2014–15, 2015–16 and 2016–17 financial years, the concessional contributions cap is \$30,000 per financial year and is increased to \$35,000 for members aged 49 or over.

For the 2013–14 financial year onwards, excess concessional contributions are no longer subject to excess contributions tax. If a member's contributions exceed the cap, the amount will be included in the member's assessable income and taxed at their marginal tax rate.

From 1 July 2018, members can make 'carry-forward' concessional super contributions if they have a total superannuation balance of less than \$500,000. Members can access their unused concessional contributions caps on a rolling basis for five years. Amounts carried forward that have not been used after five years will expire.

The first year in which you can access unused concessional contributions is the 2019–20 financial year.

## Non-concessional contributions

Generally, non-concessional contributions are contributions made into your SMSF that are not included in the SMSF's assessable income. The most common type is personal contributions made by the member for which no income tax deduction is claimed.

For the 2014–15, 2015–16 and 2016–17 financial years non-concessional contributions are subject to a yearly cap of \$180,000 for members 65 or over but under 75 or \$540,000 over a three-year period for members under 65. If a member's non-concessional contributions exceed the cap, from 1 July 2017 a tax of 47% is levied on the excess contributions. Individual members are personally liable for this tax and must have their super fund release an amount of money equal to the tax.

From 1 July 2018, there are changes that affect amounts released from super. A fund may receive a release authority statement to release amounts from super, for example when a member has exceeded their non-concessional contributions cap.

When a fund receives a valid release authority, it is authorised to release an amount from the member's super account according to the instructions in the release authority. The fund will send the released money to us. Before we send the balance of the released amount to the member we will offset any ATO or Commonwealth debts.

Non-concessional contributions also include excess concessional contributions for the financial year. They do not include super co-contributions, structured settlements and orders for personal injury or capital gains tax (CGT) related payments that the member has validly elected to exclude from their non-concessional contributions.

From 1 July 2017, the non-concessional contributions cap is reduced to \$100,000 for members 65 or over but under 75. Members under 65 years of age will have the option of contributing up to \$300,000 over a three-year period for members depending on their total superannuation balance.

The contribution and bring forward available to members under 65 is outlined in the following table.

**Table: Contribution and bring forward available to members under 65**

Total superannuation balance	Contribution and bring forward available
Less than \$1.4 million	Access to \$300,000 cap (over three years)
Greater than or equal to \$1.4 million and less than \$1.5 million	Access to \$200,000 cap (over two years)
Greater than or equal to \$1.5 million and less than \$1.6 million	Access to \$100,000 cap (no bring-forward period, general non-concessional contributions cap applies)
Greater than or equal to \$1.6 million	Nil

The total superannuation balance is determined on 30 June of the previous financial year.

[Transitional arrangements \(/individuals/super/in-detail/growing-your-super/super-contributions---too-much-can-mean-extra-tax/?page=3#Bring\\_forward\\_transitional\\_period\)](#) apply to individuals who brought forward their non-concessional contributions cap in the 2015–16 or 2016–17 financial years.

**See also:**

- [Key superannuation rates and thresholds \(/Rates/Key-superannuation-rates-and-thresholds/\)](#).
- [Super contributions – too much super can mean extra tax \(/Individuals/Super/In-detail/Growing-your-super/Super-contributions---too-much-can-mean-extra-tax/\)](#).

## Investing

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/>).
- Last modified: 08 Jan 2018
- QC 23319

You need to manage your fund's investments in the best interests of fund members and in accordance with the law. And you need to separate your fund's investments from the personal and business affairs of fund members, including your own.

Visit our [ATO Community \(https://community.ato.gov.au/?utm\\_source=ato.gov.au&utm\\_medium=external%20link&utm\\_campaign=investment\)](https://community.ato.gov.au/?utm_source=ato.gov.au&utm_medium=external%20link&utm_campaign=investment) to ask a question and read moderated answers about investing.

### Find out about:

- [Your investment strategy \(/super/self-managed-super-funds/investing/your-investment-strategy\)](#).
- [Sole purpose test \(/super/self-managed-super-funds/investing/sole-purpose-test\)](#).
- [Ownership and protection of assets \(/super/self-managed-super-funds/investing/ownership-and-protection-of-assets\)](#).
- [Restrictions on investments \(/super/self-managed-super-funds/investing/restrictions-on-investments\)](#).

- [Carrying on a business in an SMSF \(/super/self-managed-super-funds/investing/carrying-on-a-business-in-an-smsf/\)](/super/self-managed-super-funds/investing/carrying-on-a-business-in-an-smsf/).
- [Tax on income \(/super/self-managed-super-funds/investing/tax-on-income/\)](/super/self-managed-super-funds/investing/tax-on-income/).

## Your investment strategy

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Your-investment-strategy/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Your-investment-strategy/>).
- Last modified: 16 Jun 2015
- QC 23320

Before you start making investments you must have an investment strategy. This sets out your fund's investment objectives and specifies the types of investments your fund can make. Your investment strategy should be in writing and must:

- be reviewed regularly to ensure it continues to reflect the purpose and circumstances of your fund and its members (your review and any decisions made should be documented)
- consider whether to hold [insurance \(/super/self-managed-super-funds/investing/your-investment-strategy/insurance-for-members/\)](/super/self-managed-super-funds/investing/your-investment-strategy/insurance-for-members/) cover (such as life insurance) for each member of your SMSF.



**Watch**

Duration 2:30. A [transcript of SMSF investment strategy](#) ([/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/#SMSFinvestmentstrategy](#)) is also available.

When preparing and reviewing your investment strategy, take into account the personal circumstances of all the fund members, including their age and risk tolerance. You need to consider:

- diversification (investing in a range of assets and asset classes)
- the liquidity of the fund's assets (how easily they can be converted to cash to meet fund expenses)
- the fund's ability to pay benefits (when members retire) and other costs it incurs
- the members' needs and circumstances (for example, their age and retirement needs).

**See also:**

- [moneysmart.gov.au](https://www.moneysmart.gov.au/) (<https://www.moneysmart.gov.au/>) (the ASIC consumer and investor website) – for investment options and helpful tips on investing
- [insurance for members](#) ([/super/self-managed-super-funds/investing/your-investment-strategy/insurance-for-members](#)).

## Insurance for members

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Your-investment-strategy/Insurance-for-members/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Your-investment-strategy/Insurance-for-members/>)
- Last modified: 16 Jun 2015
- QC 42469



When preparing your investment strategy you're required to consider whether to hold insurance cover for each member of your SMSF.

Your SMSF can generally provide insurance for a member for an event that is consistent with one of these conditions of release of the member's super:

- death
- terminal medical condition
- permanent incapacity (causing the member to permanently cease working)
- temporary incapacity (causing the member to temporarily cease working).

## Trauma insurance

Trauma insurance typically pays a lump sum if the insured person is diagnosed with a critical illness or injury as specified in the policy, such as cancer, stroke, coronary bypass or heart attack. The lump sum is paid regardless of whether the insured person ceases work or becomes permanently disabled. This is not consistent with one of the conditions of release of the member's super, so SMSFs generally cannot provide trauma insurance for their members.

However, SMSFs can continue to provide trauma insurance benefits to a member if it is a continuation of insurance benefits for that member that existed before 1 July 2014. In this situation the member can vary the level of the cover, and any associated premiums, after 1 July 2014.

To meet the sole purpose test, the following conditions must be met:

- any benefits payable under the policy must be paid to a trustee of the SMSF
- those benefits will become part of the assets of the SMSF at least until such time as the relevant member satisfies a condition of release
- the policy was not acquired to secure some other benefit for another person, such as a member or member's relative.

# Tax on income

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/>).
- Last modified: 16 Jun 2015
- QC 23341

The income of your SMSF is generally taxed at a concessional rate of 15%. To be entitled to this rate, your fund has to be a 'complying fund' that follows the laws and rules for SMSFs. For a non-complying fund the rate is the highest marginal tax rate.

See also:

- [Individual income tax rates \(/rates/individual-income-tax-rates/\)](/rates/individual-income-tax-rates/).

The most common types of assessable income for complying SMSFs are assessable contributions, net capital gains, interest, dividends and rent.

- [Assessable contributions \(/super/self-managed-super-funds/investing/tax-on-income/assessable-contributions\)](/super/self-managed-super-funds/investing/tax-on-income/assessable-contributions).
- [Exempt current pension income \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Exempt-current-pension-income/\)](/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Exempt-current-pension-income/).
- [Capital gains \(/super/self-managed-super-funds/investing/tax-on-income/capital-gains\)](/super/self-managed-super-funds/investing/tax-on-income/capital-gains).
- [Deductions \(/super/self-managed-super-funds/investing/tax-on-income/deductions\)](/super/self-managed-super-funds/investing/tax-on-income/deductions).
- [Non-arm's length income \(/super/self-managed-super-funds/investing/tax-on-income/non-arm-s-length-income\)](/super/self-managed-super-funds/investing/tax-on-income/non-arm-s-length-income).

# Assessable contributions

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- [https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Assessable-contributions/](https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Assessable-contributions/(https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Assessable-contributions/))  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Assessable-contributions/>).
- Last modified: 16 Jun 2015
- QC 23342

Certain contributions received by a complying SMSF are included in its assessable income and are usually taxed as part of the SMSF's income at 15% (or 47% for non-complying SMSFs). These 'assessable contributions' include:

- employer contributions (including contributions made under a salary sacrifice arrangement)
- personal contributions that the member has notified you they intend to claim as a tax deduction
- generally any contribution made by anybody other than the member, with limited exceptions such as spouse contributions and government co-contributions.

## No-TFN-quoted contributions

If the member has not quoted their TFN, you will have to pay additional tax on their mandated employer contributions and you cannot accept other types of contributions. The additional tax rate is 34% for complying SMSFs and 2% for non-complying SMSFs.

If you pay the additional tax and, at a later stage, your member gives you their TFN, you may be able to claim back the additional tax as a no-TFN tax offset in your SMSF annual return. You can only claim this offset within three years from the end of the financial year that the contributions subject to the additional tax were made.

If you have debited the amount of additional tax from your member's account and you claim the tax offset in a later year, you need to re-credit this money to their account.

# Capital gains

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Capital-gains/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Capital-gains/>).
- Last modified: 25 Jan 2019
- QC 23344

Your SMSF's assessable income includes any net capital gains, unless the asset is a segregated current pension asset. Complying SMSFs are entitled to a capital gains tax (CGT) discount of one-third if the relevant asset had been owned for at least 12 months.

A net capital gain is:

- the total capital gain for the year  
less
- total capital losses for that year and any unapplied capital losses from earlier years  
less
- the CGT discount and any other concessions.

A capital loss (for example, losses on the sale of commercial premises) is not an allowable deduction and is only able to be offset against capital gains. If capital losses are greater than capital gains in a financial year, they must be carried forward to be offset against future capital gains.

## Transitional CGT relief

Transitional CGT relief is temporary relief available to trustees of superannuation funds – including SMSFs – that adjust their asset allocations to comply with the transfer balance cap, and transition-to-retirement income stream (TRIS) reforms that commenced on 1 July 2017.

To prepare for the transfer balance cap reforms, individuals may have needed to reduce amounts currently supporting superannuation income streams. They might have done this by transferring value from the retirement phase to the accumulation phase. Additionally, where individuals have a TRIS that is not in retirement phase, earnings on assets supporting these superannuation income streams became taxable from 1 July 2017.

The relief ensures that for certain assets that were supporting superannuation income streams in retirement phase prior to 1 July 2017, a trustee can still receive a tax exemption on capital gains accrued but not realised.

Applying CGT relief will reset the cost base of an asset to its market value. The market value would be determined under the [Valuation guidelines for self-managed super funds \(/super/self-managed-super-funds/in-detail/smsf-resources/valuation-guidelines-for-self-managed-super-funds/\)](#), on the date the relief applies.

Applying CGT relief will also allow you to defer a capital gain that arises when resetting the cost base for assets where you use the proportionate method.

### **Find out about:**

- [Transitional CGT relief in detail \(/Super/Self-managed-super-funds/In-detail/SMSF-investing/Transitional-CGT-relief/\)](#).

### **See also:**

- [Capital gains tax \(/General/Capital-gains-tax/\)](#).

# Deductions

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- [https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Deductions/\(https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Deductions/\)](https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Deductions/(https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Deductions/)).
- Last modified: 30 Jul 2015
- QC 23346

A complying SMSF is entitled to deduct – from its assessable income – any losses or outgoings that are:

- incurred in gaining or producing assessable income
- necessarily incurred in carrying on a business for the purpose of gaining or producing such income.

Losses and outgoings relating to exempt current pension income are generally not deductible because they are incurred in earning exempt income. If the fund has both accumulation and pension members, the expense may need to be apportioned to determine the amount that the fund can deduct.

## See also:

- [How are expenses treated when an SMSF has ECPI? \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Exempt-current-pension-income/?page=9\)](#).

## Non-arm's length income

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- [https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Non-arm-s-length-income/\(https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Non-arm-s-length-income/\)](https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Non-arm-s-length-income/(https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Non-arm-s-length-income/))
- Last modified: 16 Jun 2015
- QC 23345

SMSF must transact on an arm's length basis. The purchase and sale price of fund assets should always reflect the true market value for the asset, and the income from assets held by your fund should always reflect the true market rate of return.

Any non-arm's length income is taxed at the highest marginal rate.

Broadly, income is non-arm's length income for a complying SMSF if it is:

- derived from a scheme in which the parties were not dealing with each other at arm's length, and
- more than the SMSF might have been expected to derive if the parties had been dealing with each other at arm's length.

Income derived by an SMSF as a beneficiary of a discretionary trust is also non-arm's length income, as are dividends paid to an SMSF by a private company (unless the dividend is consistent with arm's length dealing).

In addition, income from investments that have non-commercial conditions – for example, limited recourse borrowing arrangements with zero interest loans – may also be considered non-arm's length income.

### See also:

- [TR2006/7 Special income \(/law/view/document?DocID=TXR/TR20067/NAT/ATO/00001&PiT=99991231235958\)](#). (special income was the predecessor to non-arm's length income)

# Tax exemptions in the retirement phase

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- [https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Tax-exemptions-in-the-retirement-phase/\(https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Tax-exemptions-in-the-retirement-phase/\)](https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Tax-exemptions-in-the-retirement-phase/(https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Tax-on-income/Tax-exemptions-in-the-retirement-phase/))
- Last modified: 15 Aug 2018
- QC 23343

A complying self-managed super fund (SMSF) normally pays tax at the concessional rate of 15%.

An SMSF can receive further tax concessions once it begins paying superannuation income streams (commonly known as pensions) that are in the retirement phase.

Investment income a SMSF receives from its assets is tax exempt to the extent that those assets are supporting retirement phase income streams. This income is called exempt current pension income (ECPI).

You can claim ECPI in your SMSF annual return once your SMSF begins paying one or more retirement phase income streams. However, your SMSF is not automatically entitled to ECPI – there are steps that you must take to be able to claim it.

## Next step:

- Visit – [Exempt current pension income \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Exempt-current-pension-income/\)](https://www.ato.gov.au/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Exempt-current-pension-income/) – for detailed information about how to claim ECPI and what is required.

# Restrictions on investments

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/>).
- Last modified: 30 Sep 2016
- QC 23321

All investments by your SMSF must be made on a commercial 'arm's length' basis. The purchase and sale price of fund assets should always reflect true market value, and the income from fund assets should always reflect a true market rate of return.

Generally:

- you can't buy assets from, or lend money to, fund members or other related parties (there are some exceptions to this rule)
- your fund can't borrow money.

If you don't comply with the investment restrictions we may impose significant penalties, including disqualifying you as a trustee and even prosecution. It's a good idea to speak to an SMSF professional to make sure your investments comply with the law.

### Find out about:

- [Related parties and relatives](/super/self-managed-super-funds/investing/restrictions-on-investments/related-parties-and-relatives) (/super/self-managed-super-funds/investing/restrictions-on-investments/related-parties-and-relatives).
- [Loans and early access](/super/self-managed-super-funds/investing/restrictions-on-investments/loans-and-early-access) (/super/self-managed-super-funds/investing/restrictions-on-investments/loans-and-early-access).
- [Acquiring assets from related parties](/super/self-managed-super-funds/investing/restrictions-on-investments/acquiring-assets-from-related-parties) (/super/self-managed-super-funds/investing/restrictions-on-investments/acquiring-assets-from-related-parties).
- [In-house assets](/super/self-managed-super-funds/investing/restrictions-on-investments/in-house-assets) (/super/self-managed-super-funds/investing/restrictions-on-investments/in-house-assets).
- [Business real property](/super/self-managed-super-funds/investing/restrictions-on-investments/business-real-property) (/super/self-managed-super-funds/investing/restrictions-on-investments/business-real-property).
- [Collectables and personal use assets](/super/self-managed-super-funds/investing/restrictions-on-investments/collectables-and-personal-use-assets) (/super/self-managed-super-funds/investing/restrictions-on-investments/collectables-and-personal-use-assets).
- [Borrowing](/super/self-managed-super-funds/investing/restrictions-on-investments/borrowing) (/super/self-managed-super-funds/investing/restrictions-on-investments/borrowing).

# Related parties and relatives

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- [https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Related-parties-and-relatives/\(https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Related-parties-and-relatives/\)](https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Related-parties-and-relatives/(https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Related-parties-and-relatives/))
- Last modified: 14 Oct 2016
- QC 42467

Several investment restrictions apply to transactions involving 'related parties' of your fund and 'relatives of members'. No one associated with your fund should get a present-day benefit from its investments.

Your fund needs to be maintained for the sole purpose of providing death or retirement benefits to your members or their dependants.

## **A 'related party' of your fund includes:**

- all members of your fund
- associates of fund members, which include
  - the relatives of each member
  - the business partners of each member
  - any spouse or child of those business partners
  - any company the member or their associates control or influence
  - any trust the member or their associates control.
- standard employer–sponsors, which are employers who contribute to your super fund for the benefit of a member, under an arrangement between the employer and a trustee of your fund
- associates of standard employer–sponsors, which include
  - business partners and companies or trusts the employer controls (either alone or with their other associates)
  - companies and trusts that control the employer.

**A relative of a member means any of the following:**

- a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the member or their spouse
- a spouse of any individual specified above.

## Loans and early access

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Loans-and-early-access/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Loans-and-early-access/>).
- Last modified: 09 Feb 2016
- QC 42466

You can't lend money or provide direct or indirect financial assistance from your fund to a member, or a member's relative. For example, you can't use fund assets to guarantee a personal loan for a member.

Loans made by your SMSF must be in the best interests of members and comply with your investment strategy. If a loan arrangement is not in your members' best interests, your SMSF could be made non-complying and ineligible for concessional tax rates.

Get advice before entering into loan arrangements. If you still decide to lend money from your SMSF, make sure the loan is conducted on a commercial, arm's length basis.

Remember, you are ultimately responsible for running your SMSF.

**See also:**

- [Taxpayer Alert 2010/5: The use of an unrelated trust to circumvent superannuation lending restrictions \(/law/view/document?DocID=TPA/TA20105/NAT/ATO/00001&PiT=99991231235958\).](#)

## Acquiring assets from related parties

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Acquiring-assets-from-related-parties/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Acquiring-assets-from-related-parties/>).
- Last modified: 11 Feb 2016
- QC 42465

Your fund can't acquire an asset from a related party unless it is acquired at market value and is:

- a listed security (for example, shares, units or bonds listed on an approved stock exchange)
- [business real property \(/super/self-managed-super-funds/investing/restrictions-on-investments/business-real-property\).](#)
- an [in-house asset \(/super/self-managed-super-funds/investing/restrictions-on-investments/in-house-assets\).](#), provided the market value of your fund's in-house assets does not exceed 5% of the total market value of your fund's assets
- an asset specifically excluded from being an in-house asset.

If the asset is acquired at less than market value (including no cost, such as an *in specie* contribution), the difference between the market value and the amount actually paid should be recorded as a contribution.

The [Valuation guidelines for self-managed super funds \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/Valuation-guidelines-for-self-managed-super-funds/\)](#) will help you comply with these requirements.

**See also:**

- [Employee share scheme \(ESS\) \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Employee-share-scheme-options-and-acquisition-of-shares-by-self-managed-super-funds/\)](#).

## Business real property

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- [https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Business-real-property/\(https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Business-real-property/\)](https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Business-real-property/(https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Business-real-property/))
- Last modified: 16 Jun 2015
- QC 42463

Business real property is an exception to the in-house asset and related party acquisition rules.

Business real property generally means land and buildings used wholly and exclusively in a business.

If business real property is used in a primary production business such as a farm, it can still meet the test of being used wholly and exclusively in a business even if it contains a dwelling that is used for private or domestic purposes. The dwelling must be in an area of land no more than two hectares and the main use of the whole property can't be for domestic or private purposes.

You need to ensure the level of investment in business real property still meets the investment strategy of your fund, including diversification of assets, liquidity and maximisation of member returns in your fund.

As with other super fund assets, there can't be a loan or covenant (charge) over an asset (unless the asset was acquired under a limited recourse borrowing arrangement).

**See also:**

- Self-managed superannuation funds ruling [SMSFR 2009/1 \(/law/view/document?DocID=&PiT=99991231235958\)](#): business real property

## Borrowing

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Borrowing/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Borrowing/>).
- Last modified: 16 Jun 2015
- QC 42461

Your fund can borrow money only in very limited circumstances. These circumstances include:

- borrowing money for a maximum of 90 days to meet benefit payments due to members or to meet an outstanding surcharge liability (the borrowings can't exceed 10% of your fund's total assets)
- borrowing money for a maximum of seven days to cover the settlement of security transactions if the borrowing does not exceed 10% of your fund's total assets (you can only borrow to settle security transactions if, at the time the transaction was entered into, it was likely that the borrowing would not be needed)
- borrowing using instalment warrants or limited recourse borrowing arrangements that meet certain conditions.

A trustee can use a limited recourse borrowing arrangement to fund the purchase of a single asset (or collection of identical assets that have the same market value) to be held in a separate trust.

Any investment returns earned from the asset go to the SMSF trustee. If the loan defaults, the lender's rights are limited to the asset held in the separate trust. This means there is no recourse to the other assets held in the SMSF.

### See also:

- [Limited recourse borrowing arrangements by SMSFs – questions and answers \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Limited-recourse-borrowing-arrangements---questions-and-answers/?page=2#What\\_is\\_limited\\_recourse\\_borrowing\\_\)](#).

## Collectables and personal use assets

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- [<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Collectables-and-personal-use-assets/> \(<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Collectables-and->](#)

personal-use-assets/).

- Last modified: 03 Dec 2016
- QC 42462

Collectables and personal use assets are things like:

- artworks
- jewellery
- vehicles
- boats
- wine.

Investments in such items must be made for genuine retirement purposes, not to provide any present-day benefit.

Collectables and personal use assets can't be:

- leased to, or part of a lease arrangement with, a related party
- used by a related party
- stored or displayed in a private residence of a related party.

In addition:

- your investment must comply with all other relevant investment restrictions, including the sole purpose test
- the decision on where the item is stored must be documented (for example, in the minutes of a meeting of trustees) and the written record kept
- the item must be insured in the fund's name within seven days of the fund acquiring it
- if the item is transferred to a related party, this must be at market price as determined by a qualified, independent valuer.

For collectables and personal use assets you held before 1 July 2011 you had until 30 June 2016 to comply with these rules.

**On this page:**



- Definition of collectables and personal use assets
- Definition of private residence
- Usage
- Display or storage
- Insurance
- Leasing
- Selling

## Definition of collectables and personal use assets

Collectables and personal use assets are:

- artwork – including
  - paintings
  - sculptures
  - drawings
  - engravings
  - photographs
- jewellery
- antiques
- artefacts
- coins, medallions or bank notes
  - coins and banknotes are collectables if their value exceeds their face value
  - bullion coins are collectables if their value exceeds their face value and they are traded at a price above the spot price of their metal content
- postage stamps or first-day covers
- rare folios, manuscripts or books

- memorabilia
- wine or spirits
- motor vehicles and motorcycles
- recreational boats
- memberships of sporting or social clubs.

## Definition of private residence

A private residence includes all parts of a private dwelling (above or below ground), the land on which the private residence is situated and all other buildings on that land, such as garages or sheds.

## Usage

Collectables and personal use assets can't provide a present day benefit, so they can't be used by members or related parties.

For example, if your SMSF owns a vintage car, related parties can't drive it for any reason – not even for maintenance purposes or to have restoration work done – because this constitutes use of the asset. However, a person who is not a related party can drive the vehicle for such a purpose.

## Display or storage

Collectables and personal use assets must not be stored in the private residence of any related party. If they were acquired before 1 July 2011 you had until 1 July 2016 to meet this requirement.

You can store (but not display) collectables and personal use assets in premises owned by a related party, provided it is not their private residence. They can't be displayed because this means they are being used by the related party.

For example, if your SMSF invests in artwork, it can't be hung in the business premises of a related party where it is visible to clients and employees.

Remember to keep a record of the reasons for deciding where to store the assets.

## Insurance

Collectables and personal use assets purchased by the fund must be insured in the name of the fund within seven days of the purchase.

As part of the decision to invest in collectables and personal use assets, you need to consider the availability and cost of insurance. If your fund made the investment and you find you can't obtain insurance, contact both your fund's SMSF auditor and the ATO to try to rectify the situation.

Your fund's collectables and personal use assets may be insured under separate policies or collectively under the one policy, but it must be in the name of the fund. You can't, for example, insure the assets as part of a trustee's home and contents insurance.

If you acquired a collectable or personal use asset prior to 1 July 2011, you must have insured it in the name of the fund prior to 1 July 2016 to comply with the rules.

## Leasing

You can only lease collectables and personal use assets to an unrelated party and the lease must be on arm's length terms.

For example, your SMSF can lease artwork to an art gallery provided the gallery is not owned by a related party and the lease is on arm's length terms.

## Selling

Collectables and personal use assets can be sold to a related party provided the sale is at market price as determined by a qualified, independent valuer.

- A valuer is qualified either through holding formal valuation qualifications or by being considered to have specific knowledge, experience and judgment by their particular professional community.
- A valuer is independent if they are independent of the interests of the fund. This means the valuer should not be a member of the fund or a related party of the fund (for example, an investment partner).

If your fund acquired the collectable or personal use asset before 1 July 2011 and sold it before 1 July 2016, the transaction does not need to be supported by a valuation determined by a qualified independent valuer. However, the transaction must still have taken place on arm's length terms.

**See also:**

- Valuation guidelines for self-managed super funds ([/Super/Self-managed-super-funds/In-detail/SMSF-resources/Valuation-guidelines-for-self-managed-super-funds/](#)).
- Personal Property Securities Register (<https://www.ppsr.gov.au/>). – search to find out if the collectable is subject to a security interest that may see it repossessed

## In-house assets

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/In-house-assets/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/In-house-assets/>).
- Last modified: 03 May 2019
- QC 42464

An in-house asset is any of the following:

- a loan to, or an investment in, a related party of your fund
- an investment in a related trust of your fund
- an asset of your fund that is leased to a related party.

There are some exceptions, including:

- [business real property \(/super/self-managed-super-funds/investing/restrictions-on-investments/business-real-property/\)](/super/self-managed-super-funds/investing/restrictions-on-investments/business-real-property/) that is leased between your fund and a related party of your fund
- some investments in related non-g geared trusts or companies
- most investments and loans entered into [before 11 August 1999 \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Transitional-rules-and-in-house-assets/\)](/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Transitional-rules-and-in-house-assets/).

In-house assets can't be more than 5% of your fund's total assets.

### See also:

- Self-managed super fund ruling [SMSFR 2009/4 \(/law/view/document?DocID=SFR/SMSFR20094/NAT/ATO/00001&PiT=99991231235958\)](/law/view/document?DocID=SFR/SMSFR20094/NAT/ATO/00001&PiT=99991231235958): in-house assets.
- [Related parties and relatives \(/super/self-managed-super-funds/investing/restrictions-on-investments/related-parties-and-relatives/\)](/super/self-managed-super-funds/investing/restrictions-on-investments/related-parties-and-relatives/).
- [Acquiring assets from related parties \(/super/self-managed-super-funds/investing/restrictions-on-investments/acquiring-assets-from-related-parties/\)](/super/self-managed-super-funds/investing/restrictions-on-investments/acquiring-assets-from-related-parties/).
- [Valuation guidelines for self-managed super funds \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/Valuation-guidelines-for-self-managed-super-funds/\)](/Super/Self-managed-super-funds/In-detail/SMSF-resources/Valuation-guidelines-for-self-managed-super-funds/).

## Unpaid trust distributions

If your SMSF is entitled to a distribution from a related trust, but you allow it to remain unpaid, you may contravene:

- the in-house-asset rules

- the arm's length rule
- the sole purpose test.

**See also:**

- Self-managed superannuation funds ruling [SMSFR 2009/3 \(/law/view/document?Docid=SFR/SMSFR20093/NAT/ATO/00001&PiT=99991231235958\)](#): unpaid trust distributions.

## Ownership and protection of assets

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Ownership-and-protection-of-assets/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Ownership-and-protection-of-assets/>).
- Last modified: 26 Sep 2016
- QC 23322

You need to manage your fund's investments separately from the personal or business investments of members, including your own. This includes ensuring the fund has clear ownership of its investment assets.

Duration 2.20. A [transcript of Separation of assets \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/?\)](#) is also available.

To protect fund assets in the event of a creditor dispute, and prevent costly legal action to prove who owns them, assets should be recorded in a way that:

- distinguishes them from your personal or business assets
- clearly shows legal ownership by the fund.

Fund assets (other than money) should be held in the name of either:

- the individual trustees 'as trustees for' the fund
- the corporate trustee 'as trustee for' the fund.

The assets can't be held in the name of a trustee or a member as an individual. Nor can they be held by a standard employer-sponsor or their associate.

In some circumstances, assets of the fund can be leased to a related party of your fund, such as [business real property \(/super/self-managed-super-funds/investing/restrictions-on-investments/business-real-property/\)](/super/self-managed-super-funds/investing/restrictions-on-investments/business-real-property/). and [in-house assets \(/super/self-managed-super-funds/investing/restrictions-on-investments/in-house-assets/\)](/super/self-managed-super-funds/investing/restrictions-on-investments/in-house-assets/). There are restrictions on the types of assets your fund can invest in. It's a good idea to speak to an SMSF professionals to make sure your investments comply with the law.

### On this page:

- [Corporate trustees](#)
- [Trustees joining or leaving](#)
- [Assets unable to be held in fund's name](#)
- [Limited recourse borrowing arrangements](#)

## Corporate trustees

The easiest way to comply with the ownership rules is for your fund to have a company set up solely for the purposes of being the corporate trustee of the fund.

If there is a change in directors of the company, you don't have to change the name on the ownership documents for each fund asset as the trustee of the fund has not changed. A separate corporate trustee reduces the chance of personal assets becoming intermingled with fund assets.

## Trustees joining or leaving

If an individual trustee joins or leaves your SMSF you must change the names on the ownership documents (such as a title deed) for each fund asset. Document this change in your records, along with clear evidence to support the fund's ownership of the asset.

Some systems, such as some share trading accounts, will not allow more than three names to be recorded on the online share application form as trustees of a super account. If there are four trustees, document the names of all individual trustees in your fund's records as owners of the shares.

## Assets unable to be held in fund's name

An unavoidable restriction (such as state law) may prevent your SMSF from holding assets using the fund's name.

If assets cannot be held in the fund's name, ownership by the fund must be clearly established. You can do this by executing a caveat, or creating an instrument or declaration of trust to enable the fund to assert its ownership.

If possible, documents such as sale agreements should be executed in the name of the trustees 'as trustees for' the fund.

## Limited recourse borrowing arrangements

If you enter into a limited recourse borrowing arrangement, ensure correct asset ownership before and after transfer of the trust asset.



# Sole purpose test

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Sole-purpose-test/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Sole-purpose-test/>).
- Last modified: 03 Jul 2017
- QC 23323

Your SMSF needs to meet the sole purpose test to be eligible for the tax concessions normally available to super funds. This means your fund needs to be maintained for the sole purpose of providing retirement benefits to your members, or to their dependants if a member dies before retirement.

Contravening the sole purpose test is very serious. In addition to the fund losing its concessional tax treatment, trustees could face civil and criminal penalties.

It's likely your fund will not meet the sole purpose test if you or anyone else, directly or indirectly, obtains a financial benefit when making investment decisions and arrangements (other than increasing the return to your fund).

When investing in collectables such as art or wine, you need to make sure that SMSF members don't have use of, or access to, the assets of the SMSF.

Your fund fails the sole purpose test if it provides a pre-retirement benefit to someone – for example, personal use of a fund asset.

## See also:

- Self-managed superannuation funds ruling [SMSFR 2008/2 \(/law/view/document?Docid=SFR/SMSFR20082/NAT/ATO/00001&PiT=99991231235958\)](https://www.ato.gov.au/law/view/document?Docid=SFR/SMSFR20082/NAT/ATO/00001&PiT=99991231235958): sole purpose test

# Carrying on a business in an SMSF

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Carrying-on-a-business-in-an-SMSF/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Carrying-on-a-business-in-an-SMSF/>).
- Last modified: 23 Sep 2016
- QC 42474

Self-managed super funds (SMSFs) are not prohibited from carrying on a business, but the business must be:

- allowed under the trust deed
- operated for the sole purpose of providing retirement benefits for fund members.

The rules governing SMSFs prohibit or limit some activities available to other businesses, such as entering into credit arrangements or having overdrafts. You should get professional advice before carrying on a business through your SMSF.

## Sole purpose test

If the trustee of an SMSF carries on a business, we examine the activities closely to ensure the sole purpose test ([/super/self-managed-super-funds/investing/sole-purpose-test](https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/sole-purpose-test/)), is not breached. Cases that attract our attention include those where:

- the trustee employs a family member (we look at things such as, the stated rationale for employing the family member and the salary or wages paid)
- the 'business' is an activity commonly carried out as a hobby or pastime
- the business carried on by the fund has links to associated trading entities
- there are indications the fund's business assets are available for the private use and benefit of the trustee or related parties.

## Other regulatory provisions

As a trustee, ensure a business conducted through your SMSF complies with investment rules and restrictions applying to SMSFs.

Your [investment strategy](/super/self-managed-super-funds/investing/your-investment-strategy/) – the nature of the business activities and the way they are conducted must be in accordance with the SMSF's investment strategy.

[Restrictions on investments](/super/self-managed-super-funds/investing/restrictions-on-investments/) – all investments by your SMSF must be made on a commercial 'arm's length' basis. If you don't comply with the investment restrictions, penalties could apply.

[Loans and financial assistance](/super/self-managed-super-funds/investing/restrictions-on-investments/loans-and-early-access/) – the business activities must not involve:

- selling an SMSF asset for less than its market value to a member or relative of a member
- purchasing an asset for greater than its market value from a member or relative of a member
- acquiring services in excess of what the SMSF requires from a member or relative of a member
- paying an inflated price for services acquired from a member or relative of a member.

[Acquiring assets from related parties](/super/self-managed-super-funds/investing/restrictions-on-investments/acquiring-assets-from-related-parties/) – purchasing assets (such as plant and equipment) for use in business activities from a member or other related party could contravene the related party acquisition rules.

[Borrowing](/super/self-managed-super-funds/investing/restrictions-on-investments/borrowing/) – drawing on a bank overdraft or margin lending account to fund the business activities could contravene the borrowing restrictions. Borrowing money and placing a mortgage on an asset would contravene the borrowing and charge-over assets restrictions.

[Arm's length dealings](/super/self-managed-super-funds/in-detail/smsf-resources/smsf-videos/?anchor=Armslength#Armslength) – employing a member, or relative of a member, in the business at a salary higher than an arm's length rate could contravene the arm's length provisions.

[Collectables and personal use assets](/super/self-managed-super-funds/investing/restrictions-on-investments/collectables-and-personal-use-assets/) – these type of assets owned by the SMSF can't be displayed at the business premises.

# Paying benefits

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/>).
- Last modified: 16 Jun 2015
- QC 23335

Generally your SMSF can only pay a member's super benefits when the member reaches their 'preservation age' and meets one of the conditions of release, such as retirement. The payment may be an income stream (pension) or a lump sum, depending on the circumstances.

## Find out about:

- [Preservation of super](/super/self-managed-super-funds/paying-benefits/preservation-of-super) (/super/self-managed-super-funds/paying-benefits/preservation-of-super).
- [Conditions of release](/super/self-managed-super-funds/paying-benefits/conditions-of-release) (/super/self-managed-super-funds/paying-benefits/conditions-of-release).
- [Innovative retirement income stream products](/Super/APRA-regulated-funds/Paying-benefits/Innovative-retirement-income-stream-products/) (/Super/APRA-regulated-funds/Paying-benefits/Innovative-retirement-income-stream-products/).
- [Death of a member](/super/self-managed-super-funds/paying-benefits/death-of-a-member) (/super/self-managed-super-funds/paying-benefits/death-of-a-member).
- [Lump sums and super income streams \(pensions\)](/super/self-managed-super-funds/paying-benefits/lump-sum-and-income-stream-(pension)) (/super/self-managed-super-funds/paying-benefits/lump-sum-and-income-stream-(pension)).

Payments of benefits to members that have not met a condition of release are not treated as super benefits – instead, they will be taxed as ordinary income at the member's marginal tax rate. If a benefit is unlawfully released, we may apply significant penalties to you, your SMSF and the recipient of the early release.

Note that the operating standards, investment restrictions and other rules and regulations that apply to SMSFs in the accumulation or growth phase, continue to apply when members begin receiving a pension from the SMSF.

# Preservation of super

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Preservation-of-super/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Preservation-of-super/>).
- Last modified: 01 Dec 2015
- QC 23336

Most of the super held in your fund will be in the form of preserved benefits. These must be preserved in the fund until the time the law and your fund's trust deed allows them to be paid.

## On this page:

- [Preservation age](#)
- [Preserved benefits](#)
- [Restricted non-preserved benefits](#)
- [Unrestricted non-preserved benefits](#)

## Preservation age

Access to super benefits is generally restricted to members who have reached preservation age. A person's preservation age ranges from 55 to 60, depending on their date of birth.

Date of birth	Preservation age (years)
Before 1 July 1960	55

1 July 1960 – 30 June 1961	<b>56</b>
1 July 1961 – 30 June 1962	<b>57</b>
1 July 1962 – 30 June 1963	<b>58</b>
1 July 1963 – 30 June 1964	<b>59</b>
After 30 June 1964	<b>60</b>

## Preserved benefits

All contributions made by or on behalf of a member, and all earnings since 30 June 1999, are preserved benefits.

Preserved benefits may be cashed voluntarily only if a condition of release is met and subject to any cashing restrictions imposed as part of the condition of release.

Cashing restrictions tell you what form the benefits need to be taken in.

## Restricted non-preserved benefits

These benefits generally stem from employment-related contributions (other than employer contributions) made before 1 July 1999.

Restricted non-preserved benefits can't be cashed until the member meets a condition of release specific to these benefits such as a nil cashing restriction or where the employment they relate to has been terminated.

## Unrestricted non-preserved benefits

These benefits don't require a condition of release to be met, and may be paid on demand by the member. They include, for example, benefits for which a member has previously satisfied a condition of release and decided to keep the money in the super fund.

Certain employer termination payments (ETPs) received by the fund before 1 July 2004 may also be included in this category of benefits.

**See also:**

- [Conditions of release \(/super/self-managed-super-funds/paying-benefits/conditions-of-release\)](/super/self-managed-super-funds/paying-benefits/conditions-of-release).

## Lump sum and income stream (pension)

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- [https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-\(pension\)/](https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-(pension)/)  
([https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-\(pension\)/](https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-(pension)/)).
- Last modified: 10 Jan 2018
- QC 23340

A self-managed super fund (SMSF) can pay benefits in the form of a [lump sum \(/super/self-managed-super-funds/paying-benefits/lump-sum-and-income-stream-\(pension\)/lump-sum\)](/super/self-managed-super-funds/paying-benefits/lump-sum-and-income-stream-(pension)/lump-sum), an [\(income stream \(/super/self-managed-super-funds/paying-benefits/lump-sum-and-income-stream-\(pension\)/income-stream-\(pension\)\)\)](/super/self-managed-super-funds/paying-benefits/lump-sum-and-income-stream-(pension)/income-stream-(pension)) (pension) or a combination of both, provided the payment is allowed under super law and the fund's trust deed.

You have to [withhold tax \(/super/self-managed-super-funds/paying-benefits/lump-sum-and-income-stream-\(pension\)/payg-withholding-obligations\)](/super/self-managed-super-funds/paying-benefits/lump-sum-and-income-stream-(pension)/payg-withholding-obligations) from benefit payments to members who are:

- under 60 years old
- under 60 years old and your member receives a reversionary capped defined benefit income stream, where the deceased was 60 years or over when they died.
- 60 years old or over if the benefit is from a capped defined benefit income stream.

**Watch:**

Duration 2:27. A [transcript of Planning for retirement \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/?\)](/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/) is also available.

**See also:**

- Refer to [Schedule 13 – Tax table for superannuation income streams \(/Rates/Schedule-13---Tax-table-for-super-income-streams/\)](/Rates/Schedule-13---Tax-table-for-super-income-streams/) for more information on when to withhold.

## Lump sum

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- [https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-\(pension\)/Lump-sum/\(https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-\(pension\)/Lump-sum/\)](https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-(pension)/Lump-sum/(https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-(pension)/Lump-sum/))
- Last modified: 16 Jun 2015
- QC 42481

If your fund allows it, you may be able to pay a member all or some of their super benefit as a single payment. This payment is called a 'lump sum'.



The member may be able to access their super benefit in several lump sums. However, if the members asks to set up a regular payment from the SMSF it may be an income stream (pension).

As a trustee, you need to work out the taxable and tax-free components of the member's super benefit and how much (if any) tax to withhold.

**See also:**

- [How tax applies to your super \(/Individuals/Super/In-detail/Withdrawing-and-using-your-super/Withdrawing-your-super-and-paying-tax/#How\\_tax\\_applies\\_to\\_your\\_super\)](#).
- [PAYG withholding obligations \(/super/self-managed-super-funds/paying-benefits/lump-sum-and-income-stream-\(pension\)/payg-withholding-obligations\)](#).

## Income stream (pension)

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- [https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-\(pension\)/Income-stream-\(pension\)/\\_\(https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-\(pension\)/Income-stream-\(pension\)/\\_](https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-(pension)/Income-stream-(pension)/_(https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-(pension)/Income-stream-(pension)/_).
- Last modified: 22 Mar 2019
- QC 42480

Your self-manage super fund (SMSF) can pay benefits to a member as an income stream (pension) if the member has met one of the conditions of release.

**On this page:**

- [Starting an income stream](#)
- [Standards for income streams](#)
- [Records to keep](#)
- [Minimum payments](#)
- [Managing assets that support a pension](#)
- [Ending a pension](#)

**See also:**

- [Conditions of release \(/super/self-managed-super-funds/paying-benefits/conditions-of-release\)](#).

## Starting an income stream

An income stream is a series of periodic benefit payments to a member. Income streams from an SMSF are usually account-based, which means the amount supporting the pension is allocated to a member's account.

An income stream is a pension if the payments occur at least annually and, for an account-based pension, a minimum amount is paid to the member each year.

If a member starts an income stream after 1 July 2017 or the income stream was in existence just prior to 1 July 2017 then the SMSF is required to report the value of the income stream via the transfer balance account report (TBAR).

**See also:**

- [Event-based reporting for SMSFs \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/\)](#).

## Standards for income streams

If these standards are not met in a financial year, the income stream ceases for income tax purposes and we consider the SMSF has not paid an income stream at any time during the year.

Transition to retirement account-based income streams need to meet the same standards as ordinary account-based income streams. Additionally, there is a maximum annual payment limit of 10% of the account balance. These income streams can only be commuted to a lump sum in limited circumstances.

Income streams started before 1 July 2007 such as market linked pensions, which complied with the rules applicable at the time, are deemed to satisfy the new requirements and may continue to be paid under the former rules.

### See also:

- [Funds: starting and stopping a pension \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Funds--starting-and-stopping-a-pension/\)](#).
- [Transition to retirement income streams \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/SMSF---transition-to-retirement-income-streams/\)](#).
- [Pension standards for SMSFs \(/super/self-managed-super-funds/in-detail/smsf-resources/smsf-technical/pension-standards-for-self-managed-super-funds/\)](#).

## Records to keep

You must maintain appropriate records while running an account-based pension, including records of:

- the value of the pension at commencement
- the taxable and tax-free components of the pension at commencement
- the earnings from assets set aside to support the pension
- the pension payments made.

## Minimum payments

You must make payments at least annually and meet the [minimum pension payment amounts \(/Rates/Key-superannuation-rates-and-thresholds/?page=10#Minimum\\_annual\\_payments\\_for\\_super\\_income\\_streams\)](#). The minimum pension payment amount for an account-based pension is a set percentage of the member's account balance at commencement or at 1 July for every subsequent

year. The percentage varies according to the member's age and the year the pension is paid.

To ensure the pension standards are met, you need to consider the time a member's benefit is cashed. As a general rule, a benefit is cashed when the member receives an amount and the member's benefits in the SMSF are reduced.

### See also:

- [Minimum pension payment requirements - frequently asked questions \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/SMSFs--Minimum-pension-payment-requirements---frequently-asked-questions/\)](#).
- [Timing of a pension payment \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Timing-of-a-pension-payment/\)](#).

## Managing assets that support a pension

Once the pension has started:

- You may be able to claim a tax exemption in the SMSF annual return for certain income earned from assets held to provide for super income stream benefits. This is called exempt current pension income (ECPI).

**Note:** From 1 July 2017, earnings from assets supporting a transition to retirement income stream (TRIS) that is not in retirement phase will not be eligible for ECPI and will be taxed at 15%. This will apply to all TRIS regardless of the date the TRIS started.

- You can't increase the capital supporting the pension using contributions or rollover amounts.
- You can't use the capital value of the pension or the income from it as security for borrowing.
- Before you can commute a pension (for example, into a lump sum), you must pay a minimum amount in certain circumstances.

### See also:

- [Self-managed super funds and tax exemptions on pension assets \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Exempt-current-pension-income/\)](#).
- [Transition to retirement income streams \(/super/apra-regulated-funds/paying-benefits/transition-to-retirement-income-streams/\)](#).

## Ending a pension

The most common circumstances for a pension ceasing are:

- the pension capital is exhausted
- the member dies (but the pension may continue if a dependent beneficiary is automatically entitled to a reversionary pension)
- failure to meet the super pension standards
- the pension is fully commuted to a lump sum.

If you stop an income stream due to either failing to meet the super pension standard or you commute an amount to a lump sum, you are required to report the amount to the ATO via a the transfer balance account report.

### See also:

- [Funds: starting and stopping a payment \(/super/self-managed-super-funds/in-detail/smsf-resources/smsf-technical/funds--starting-and-stopping-a-pension/\)](/super/self-managed-super-funds/in-detail/smsf-resources/smsf-technical/funds--starting-and-stopping-a-pension/).
- [Transfer balance account \(/individuals/super/in-detail/withdrawing-and-using-your-super/transfer-balance-account/\)](/individuals/super/in-detail/withdrawing-and-using-your-super/transfer-balance-account/).

## PAYG withholding obligations

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- [https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-\(pension\)/PAYG-withholding-obligations/](https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-(pension)/PAYG-withholding-obligations/) ([https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-\(pension\)/PAYG-withholding-obligations/](https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Lump-sum-and-income-stream-(pension)/PAYG-withholding-obligations/)).
- Last modified: 26 Feb 2019

- QC 42475

If you are the trustee of a self-managed super fund (SMSF), you have pay as you go (PAYG) obligations to withhold tax for superannuation benefit payments you pay to members who are:

- under 60 years old and the benefit is an income stream (pension) or a lump sum
- under 60 years old and the death benefit is a pension which is a capped defined benefit income stream where the deceased was 60 years old or over when they died
- 60 years old or over and the benefit is a pension which is a capped defined benefit income stream

Capped defined benefit income streams include life expectancy and market linked pensions which were payable before 1 July 2017 and reversionary income streams paid to beneficiaries.

If the member is receiving a capped defined benefit income stream, the member's defined benefit income cap may need to be taken into consideration when working out the member's withholding.

You also have obligations to withhold tax from superannuation benefits you pay to:

- a non-dependant in the event of another person's death
- the trustee of a deceased estate.

## Withholding obligations

If you have obligations to withhold tax, you need to:

- [register for PAYG withholding](#) ([/Business/Registration/Work-out-which-registrations-you-need/Taxation-registrations/Pay-as-you-go-withholding/](#)).
- obtain a [tax file number declaration](#) ([/Forms/TFN-declaration/](#)) (TFN) from the member
  - if they do not provide their TFN before the payment is made you must withhold tax at the top marginal rate (47% for residents or 45% for non-residents from 1 July 2017) from the taxable component

- calculate the rate of withholding that applies in accordance with [Schedule 13 – Tax table for superannuation income streams \(/rates/schedule-13---tax-table-for-super-income-streams/\)](#).
- pay withheld amounts to the ATO
- issue a PAYG payment summary to the recipient of the benefit
  - [PAYG payment summary – superannuation lump sum \(/Forms/PAYG-payment-summary---superannuation-lump-sum/\)](#).
  - [PAYG payment summary – superannuation income stream \(/Forms/PAYG-payment-summary---super-income-stream/\)](#), even if the amount you needed to withhold from the income stream was nil.
- lodge a PAYG withholding payment summary statement with us, usually by 14 August following the end of the financial year in which the payment was made, even if the amount you needed to withhold from the income stream was nil.

## Provide information to the recipient of the benefit

You should provide the recipient with the details of each income stream or lump sum payment on a PAYG payment summary where the:

- super lump sum is paid to
  - a member who was under 60 years old
  - a non-dependant in the event of another person's death
  - the trustee of a deceased estate.
- super income stream
  - you pay the member up until they turn 60 years old
  - capped defined benefit income stream you pay a member after they turn 60 years old
  - capped defined benefit income stream is a death benefit income stream where the you pay a member who is 59 years old or younger and the deceased was aged 60 years old or over at the time of death. The payment summary will need to show that this is a death benefit (reversionary income stream).

Each pension payment summary needs to include details of the payment, including the:

- tax-free component
- taxable component

- tax offset (if applicable)
- tax withheld (if applicable).

Payment summaries should be issued in the situations listed above even if no tax has been withheld.

### **Find out about:**

- When tax is not withheld

## **Withholding obligations – income streams**

SMSFs have obligations to withhold tax from income streams they pay to members who are:

- under 60 years old
- under 60 years old and the income stream is both
  - a death benefit income stream and the deceased member was 60 years old or over when they died
  - a capped defined benefit income stream
- 60 years old or over and the income stream is also a capped defined benefit income stream

You must provide your member with a PAYG payment summary by 14 July following the end of the financial year in which the payment was made.

You must lodge a PAYG withholding payment summary statement with us by 14 August following the end of the financial year in which the payment was made.

You must provide this information even where you are paying an income stream and the rate of withholding is nil. This allows us to ensure the individual pays the correct rate of tax once all their pension income from all their funds is taken into consideration.

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### **Example 1: SMSF with a capped defined benefit income stream withholding obligation**



The SMSF pays member Maryanne an income stream of \$15,000 per month.

The income stream is a capped defined benefit income stream.

Maryanne's annual pension payments will be \$180,000, made up of a:

- a tax-free component of \$80,000
- a taxable component - taxed element of \$100,000.

The defined benefit income cap is \$100,000 and as Maryanne is aged over 61 years old and has received the income stream for the full year there are no factors to reduce the defined benefit income cap.

Maryanne has exceeded her defined benefit income cap and the SMSF trustee will need to work out the rate of withholding.

Withholding applies to 50% of the amount over the cap.

- $\$180,000 - \$100,000 = \$80,000$
- $50\% \text{ of } \$80,000 = \$40,000$

Therefore withholding applies to \$40,000 per annum, the SMSF trustee should follow [Schedule 13 – Tax table for superannuation income streams \(/rates/schedule-13---tax-table-for-super-income-streams/\)](#) to work out the amount to withhold from each payment.

The SMSF trustee will need to provide Maryanne with a PAYG payment summary - superannuation income stream by the 14 July and lodge a PAYG payment summary statement with the ATO by 14 August.

### **Example 2: SMSF with a capped defined benefit income stream withholding obligation where the withholding rate is nil**

The SMSF pays member Richard an income stream of \$2,000 per month.

The income stream is a market linked pension which was payable to Richard just before 1 July 2017

Richard's annual pension payments will be \$24,000, made up of a:

- a tax-free component of \$10,000
- a taxable component - taxed element of \$14,000.

The defined benefit income cap is \$100,000 and as Richard is aged over 61 and has received the income stream for the full year there are no factors to reduce the defined benefit income cap.

As Richard has not exceeded this cap the rate of withholding which applies is nil.

The SMSF trustee will need to provide Richard with a PAYG payment summary - superannuation income stream by the 14 July and lodge a PAYG payment summary with the ATO by 14 August.

### **Example 3: SMSF has an obligation to provide multiple pension payment summaries**

The SMSF pays Greg an income stream of \$7,000 per month.

An income stream of \$9,000 per month is paid to him following the death of his spouse, Julie who was 62 years old at the time of death.

The death benefit income stream payable to Greg is a capped defined benefit income stream.

Greg is 58 years old.

As different rates of tax apply to the two pensions Greg receives, the SMSF trustee will need to calculate the rate of withholding for each income stream and provide Greg with a separate pension payment summary in relation to each income stream and report the details of each income streams in the Payment summary annual report.

## Lump Sum Payments

For lump sums you must provide the recipient with a *PAYG payment summary – superannuation lump sum* within 14 days of making the lump sum payment.

## When is tax not withheld

Tax is not withheld if the member:

- is 60 years old or over and the benefit is from an income stream which is not a capped defined benefit income stream
- has died and the benefit is paid to a dependent beneficiary as a lump sum
- has died and the benefit is paid to a dependent beneficiary as an income stream which is not a capped defined benefit income stream and either the dependant or member were 60 years old or over
- has a terminal medical condition.

### See also:

- [PAYG withholding \(/Business/PAYG-withholding/\)](#).
- [Taxation of super benefits \(/super/apra-regulated-funds/paying-benefits/taxation-of-super-benefits\)](#).
- [PAYG withholding payment summary statement \(/forms/payg-payment-summaries--forms-and-guidelines/?page=13#PAYG\\_withholding\\_payment\\_summary\\_statement\)](#).
- [Withholding rates for super lump sums \(/rates/schedule-12---tax-table-for-super-lump-sums/?page=2#Table\\_A\\_Withholding\\_rates\\_for\\_super\\_lump\\_sums\)](#).
- [Withholding rates for super income streams \(/rates/payg-withholding-2015-16/schedule-13---tax-table-for-super-income-streams/\)](#).

# Conditions of release

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Conditions-of-release/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Conditions-of-release/>).
- Last modified: 02 May 2016
- QC 23338

To cash preserved benefits or restricted non-preserved benefits, a member must satisfy one of the conditions of release.

Unrestricted non-preserved benefits may be cashed at any time.

Some conditions of release restrict the form of the benefit (for example, lump sum or pension) or the amount of benefit that can be paid. These are known as 'cashing restrictions'.

Duration 2:12. A [transcript of retirement and conditions of release \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/?\)](#) is also available.

The most common conditions of release for paying benefits are that the member:

- has reached their preservation age and [retires](#)
- has reached their preservation age and begins a [transition-to-retirement](#) income stream
- [ceases an employment arrangement on or after the age of 60](#)
- is [65 years of age](#) (even if they haven't retired)
- [has died \(/super/self-managed-super-funds/paying-benefits/death-of-a-member/\)](#).

In special circumstances, at least part of a member's super benefits can be released before the member has reached preservation age. These are:

- [terminating gainful employment](#)
- [permanent incapacity](#)
- [temporary incapacity](#)
- [severe financial hardship](#)
- [compassionate grounds](#)
- [terminal medical condition](#)
- [First home super saver scheme](#)

As trustee, you must ensure that the member has met a condition of release before you release any funds, and check that the governing rules of your fund allow it. It's possible that a benefit may be payable under the super laws but not under the rules of your self-managed super fund (SMSF).

Generally, rollovers to other super funds don't require the member to satisfy a condition of release, subject to the governing rules of your SMSF.

Payments of benefits to members who have not met a condition of release are not treated as super benefits – instead, they will be taxed as ordinary income at the member's marginal tax rate. Significant penalties may also apply to you as trustee and to your fund.

Duration 2:02. A transcript of [SMSF loans and early access \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/#SMSFloansandearlyaccess\)](#) is also available.

### **See also:**

- [TA 2009/1 Superannuation illegal early release arrangements \(/law/view/document?DocID=TPA/TA20091/NAT/ATO/00001&PiT=99991231235958\)](#)

## Retirement under super laws

If the member is:

- under 60 years of age – they can access their preserved benefits only when they
  - reach preservation age
  - cease gainful employment
  - have no intention to become gainfully employed in the future
- at least 60 years of age – they can access their preserved benefits when they leave a job.

For retirement, there are no restrictions on the form in which the benefits can be taken.

**See also:**

- [Establishing whether gainful employment has ceased \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-case-studies/Establishing-whether-gainful-employment-has-ceased/\)](#).

## Transition to retirement (TRIS)

An SMSF can pay a transition to retirement income stream to a member who has reached [preservation age \(/Super/Self-managed-super-funds/Paying-benefits/Preservation-of-super/\)](#), and is still working, provided the trust deed of the fund allows this type of income stream to be paid.

A transition to retirement income stream must be an account-based pension. The amount paid to the recipient each year must meet a [specified minimum \(/Rates/Key-superannuation-rates-and-thresholds/?page=9#Minimum\\_annual\\_payments\\_for\\_super\\_income\\_streams\)](#), and must not exceed 10% of the account balance on the commencement of a TRIS for the year it starts or on 1 July for each subsequent year.

The transition to retirement measure can be complex. It's best to get advice from a financial adviser, accountant or tax professional.

**See also:**

- [SMSFs: Minimum pension payment requirements – frequently asked questions \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/SMSFs--Minimum-pension-payment-requirements---frequently-asked-questions/\)](#).
- [SMSF – transition to retirement income streams \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/SMSF---transition-to-retirement-income-streams/\)](#).

## Ceasing an employment arrangement on or after the age of 60

If a member who is 60 or over gives up one employment arrangement but continues in another employment relationship, they may:

- cash all benefits accumulated up to that time
- not cash any preserved or restricted non-preserved benefits accumulated after that condition of release occurs – these benefits can't be cashed until a fresh condition of release occurs.

## Turning 65

A member who has reached age 65 may cash their benefits at any time. There are no cashing restrictions, which mean the benefits can be paid as an income stream or a lump sum.

A fund member is not compelled to draw down their super once they reach a particular age. They can keep their benefits in the fund indefinitely. The only time it is compulsory for an SMSF to pay out a member's benefit is when a member dies.

## Terminating gainful employment

Subject to the governing rules of your fund, where a member (who has not met another condition of release) has ceased employment with an employer who had contributed to the member's fund, on termination:

- All preserved benefits may be paid, but they must be taken as a lifetime pension or annuity, which can't be commuted into a lump sum (unless the preserved benefits are less than \$200, in which case the member can cash the benefits without restriction).
- All unrestricted non-preserved benefits can be cashed out on request from the member (no cashing restrictions).

## Permanent incapacity

A member's benefits may be cashed if they cease gainful employment and you're satisfied that the member is unlikely, because of ill health, to engage in gainful employment that they are reasonably qualified for by education, training or experience. There are no cashing restrictions on payment of benefits.

## Temporary incapacity

A member's benefits may be paid if you're satisfied that the member has temporarily ceased work due to physical or mental ill health that does not constitute permanent incapacity. In general, temporary incapacity benefits may be paid only from the insured benefits or voluntary employer funded benefits.

It's not necessary for the member's employment to fully cease but, generally, a member would not be eligible for temporary incapacity benefits if they were receiving sick leave benefits. The benefit must be paid as an income stream for the period of the incapacity and can't be commuted to a lump sum.

## Severe financial hardship

To release benefits under severe financial hardship you need to be satisfied that the member:

- can't meet reasonable and immediate family living expenses
- has been receiving relevant government income support payments for a continuous period of 26 weeks and was receiving that support at the time they applied to the trustees.

The payment must be a single gross lump sum of no more than \$10,000 and no less than \$1,000 (or a lesser amount if the member's benefits are less than \$1,000). Only one payment is permitted in any 12-month period.

Alternatively, if the member has reached their preservation age plus 39 weeks, you need to be satisfied that the member:



- has been receiving relevant government income support payments for a cumulative period of 39 weeks since reaching their preservation age
- was not gainfully employed on a full-time or part-time basis at the time of applying to the trustees.

If you release benefits under these circumstances, there are no cashing restrictions.

## Compassionate grounds

Benefits may be released on specified compassionate grounds if all the following conditions are met:

- a member does not have the financial capacity to meet an expense
- release is allowable under the governing rules of your fund.

The amount of super that you can pay on compassionate grounds is limited to what is reasonably needed. It is paid as a lump sum.

### See also:

- [Early access to your super \(/individuals/super/withdrawing-and-using-your-super/early-access-to-your-super/\)](#).

## Terminal medical condition

If a member has a terminal medical condition and two medical professionals certify that the condition is likely to result in the member's death in the next 24 months, the balance of their super account may be paid as a tax-free lump sum benefit. There are no cashing restrictions.

### See also:

- [Access to super for members with a terminal medical condition \(/Super/APRA-regulated-funds/In-detail/APRA-resources/Access-to-super-for-members-with-a-terminal-medical-condition/\)](#).

Improper early access to your super is illegal. There are severe consequences for you and your fund if you access your super before you are legally entitled to do so. These include:

- disqualification of trustees
- the fund being made non-complying
- imposition of administrative penalties
- prosecution.

Any money accessed illegally will also be included in the assessable income of the individual and taxed at the applicable marginal tax rate.

## First home super saver scheme

The First home super saver (FHSS) scheme allows your fund members to save for their first home inside their super. Your members can do this by making voluntary concessional and non-concessional contributions to their super. When your members are ready to receive their FHSS amounts, they can request a release from us to withdraw personal contributions they have made into super since 1 July 2017, along with associated earnings.

If your member's request to release a FHSS amount is successful, we will issue you with a release authority letter showing the amount you are required to send to us. We will also send you a release authority statement form, which you will need to complete (which must be completed in all cases, including partial releases or where you are unable to release any amounts). You are required to comply with this release authority within 10 business days of the date on the letter.

Even if your member has not made voluntary contributions to your fund, the FHSS amount can still be released from their account subject to the applicable cashing order of benefit rules. Once you have sent any FHSS release amounts to us, we will withhold the appropriate amount of tax, and in some cases offset the remaining amount against any outstanding Commonwealth debts. We will then pay the balance of the FHSS release amount to your member.

### **See also:**

- [First home super saver scheme \(/Individuals/Super/Withdrawing-and-using-your-super/First-Home-Super-Saver-Scheme/\)](#).

## Death of a member

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Death-of-a-member/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Paying-benefits/Death-of-a-member/>).
- Last modified: 08 Dec 2016
- QC 42473

When a self-managed super fund (SMSF) member dies, the SMSF generally pays a death benefit to a dependant or other beneficiary of the deceased. This should be done as soon as possible after the member's death.

If the recipient is a dependant of the deceased, the death benefit can be paid as a lump sum or income stream. The income stream can be new or a continuation of an existing income stream.

If the recipient is not a dependant of the deceased, the death benefit must be paid as a lump sum.

Duration 3:01. A [transcript of What happens when a member dies](#) is also available.

### On this page:

- [Dependants](#)
- [Who to pay the death benefit to](#)
- [Calculating tax on super death benefits](#)

- Tax saving amount

**See also:**

- [Notify us of changes \(/super/self-managed-super-funds/administering-and-reporting/notify-us-of-changes/\)](/super/self-managed-super-funds/administering-and-reporting/notify-us-of-changes/).

## Dependants

A person is a dependant of a deceased member if, at the time of death, that person was:

- the deceased's spouse
- a child of the deceased – this includes a child less than 18 years old or a child that was financially dependent on the deceased and less than 25 years old or the child has a disability
- in an interdependency relationship with the deceased – this is a close personal relationship between two people who live together, where one or both provides for the financial, domestic and personal support of the other.

For income tax purposes, a person is death benefits dependant of a deceased member if, at the time of death, that person was:

- the deceased's spouse or former spouse
- the deceased person's child, aged less than 18
- any other person whom the deceased had interdependency relationship

Also included in the definition of a death benefit dependant is someone receiving a super lump sum because the deceased died in the line of duty as a:

- member of the defence force
- the Australian Federal Police
- the police force of a state or territory
- a protective service officer
- or they are the deceased member's former spouse or de facto spouse.

## Who to pay the death benefit to

The member may have made a death benefit nomination asking the SMSF trustees to pay their death benefit to their nominated beneficiaries.

The nomination may be binding or non-binding. While having regard to the member's nomination, the SMSF trustees must ensure the nominated beneficiaries are entitled to receive death benefits under the trust deed and super law.

If the deceased member did not nominate a beneficiary, the trustee may pay it to the deceased's estate for the executor to distribute it according to the instructions in their will.

### See also:

- [SMSFD 2008/3: Binding death nominations \(/law/view/document?DocID=SFD/SMSFD20083/NAT/ATO/00001&PiT=99991231235958\)](#)
- [Super death benefits \(/Individuals/Super/In-detail/Withdrawing-and-using-your-super/Withdrawing-your-super-and-paying-tax/?page=8#Super\\_death\\_benefits\)](#)

## Calculating tax on super death benefits

If the death benefit is paid as a lump sum to a dependant of the deceased, it's tax free. It's not assessable income or exempt income. The SMSF doesn't withhold tax from the payment and the recipient doesn't include it in their income tax return.

If the death benefit is paid as an income stream, or is paid to a non-dependent or the trustee of a deceased estate, there may be tax to pay. Your SMSF will need to determine the taxed and untaxed elements of the benefit, calculate the applicable tax and, if appropriate, withhold tax from payments.

### See also:

- [How tax applies \(/Individuals/Super/In-detail/Withdrawing-and-using-your-super/Withdrawing-your-super-and-paying-tax/?page=9#How\\_tax\\_applies\)](#).

## Tax saving amount

A tax saving amount is an additional lump sum payment that increases the deceased member's lump sum death benefit to negate the effect of tax while the member's benefit was accumulating in the fund. It can be made to a:

- trustee of the deceased estate
- spouse or former spouse of the deceased
- child (including an adult child) of the deceased.

The SMSF can claim an income tax deduction for the payment.

**Note:** From 1 July 2017, funds may only include a tax saving amount as part of a death benefit if the member has died on or before 30 June 2017. The fund must make this payment by 30 June 2019. From 1 July 2019, no tax saving amount will be available for funds members, regardless of when the member has died.

## Video transcript – What happens when a member dies

We'd all rather not think about it, but you should know what will happen to your self-managed super fund if a member dies.

Bob and Greg are individual trustees of a typical SMSF. But what happens if Bob dies?

A legal personal representative is appointed as trustee for Bob and looks after his interest in the fund until his benefits are paid to his beneficiaries.

Then Greg must make sure the fund still meets the definition of an SMSF.

If the fund had a corporate trustee, it would remain an SMSF because Greg could be the sole director.

But because Greg is an individual trustee, the fund won't meet the definition of an SMSF.

To fix this, Greg could ask someone else to become a trustee, set up a corporate trustee and become its director, or transfer his super to another fund and wind up the SMSF.

Bob's death benefits must be dealt with as soon as possible.

If the fund has limited cash available, assets may need to be sold to pay the benefits.

SMSF members can nominate who will get their benefits when they die.

*A binding death benefit nomination* directs the trustee to pay the benefit to a legal personal representative or a dependant.

Without a binding nomination, the remaining trustees will decide how the benefits are distributed by considering the trust deed and super laws.

The trust deed must be followed, even if it is different to the member's will.

To understand how death benefits can be paid you need to know who is a dependant.

A dependant is generally a spouse, or someone in a close personal interdependent relationship. Or a child who is under 18, has a disability or is aged between 18 and 25 and is financially dependent on the deceased.

A dependant can be paid a lump sum or an income stream. A non-dependent can only be paid a lump sum.

Benefits paid as a lump sum to a dependant are tax-free but a lump sum paid to a non-dependant will be taxed.

Lump sums can be paid in cash or non-cash form, for example, shares or property.

The trustee may need to withhold tax from a death benefit. Working this out can be complex and will depend on a number of factors.

If a trustee has to withhold tax, they must register for PAYG withholding and complete some other ATO forms.

It's wise to plan ahead. If there is a dispute over the payment of death benefits which can't be resolved, it may lead to costly court action.

Clear guidelines in the trust deed will help prevent problems. An SMSF professional can help you get it right.

For more SMSF information, take a look at our other videos or at our other videos – or visit the ATO website at **ato.gov.au**

### See also:

- [ATO interpretive decision 2010/05 – Complying superannuation fund: deduction for increased amount of superannuation lump sum death benefit \(/law/view/document?DocID=AID/AID20105/00001&PiT=99991231235958\)](#).

## Winding up

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Winding-up/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Winding-up/>).
- Last modified: 16 Jun 2015
- QC 23348

To wind up your fund:

- complete any requirements that the trust deed specifies about winding up the fund



- [pay out or rollover all super \(/super/self-managed-super-funds/winding-up/deal-with-members--benefits\)](/super/self-managed-super-funds/winding-up/deal-with-members--benefits). (leaving a sufficient amount to pay final tax or expenses if required)
- [appoint an SMSF auditor to complete the final audit \(/super/self-managed-super-funds/winding-up/arrange-a-final-audit-and-complete-your-reporting\)](/super/self-managed-super-funds/winding-up/arrange-a-final-audit-and-complete-your-reporting).
- complete and [lodge the final SMSF annual return \(/super/self-managed-super-funds/administering-and-reporting/lodge-smsf-annual-returns\)](/super/self-managed-super-funds/administering-and-reporting/lodge-smsf-annual-returns). (including wind up details)
- pay any outstanding tax
- after all expected liabilities have been settled and requested refunds are received, close the fund's bank account.

Once a fund is wound up, it can't be reactivated.



## Watch

Duration 2:41. A [transcript of When should I wind up my SMSF \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/?anchor=Transcript11111111120#Transcript11111111120\)](/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-videos/?anchor=Transcript11111111120#Transcript11111111120) is also available

The breakdown of a relationship between one or more members of your SMSF may affect the ability of a member to effectively undertake their trustee/member obligations. If a member chooses to leave your SMSF as a result of a relationship breakdown, their benefits must be rolled over to another complying super fund. Your SMSF does not have to be wound up, but it may need to be restructured to continue to meet the definition of an SMSF.

# Deal with members' benefits

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Winding-up/Deal-with-members--benefits/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Winding-up/Deal-with-members--benefits/>).
- Last modified: 04 Sep 2018
- QC 23350

When winding up a self-managed super fund (SMSF), you need to make sure that:

- you deal with members' benefits according to the super law and the trust deed
- your fund has no assets left once it has been wound up.

When you wind up your SMSF and pay benefits to a member, they must meet a condition of release allowing them to access their benefits. If they don't meet this condition or don't want to access their benefits when the fund winds up, you'll need to roll over the benefits to another complying super fund.

There are serious penalties for accessing your super before you are legally allowed.

There may be capital gains tax (CGT) implications for your SMSF on the disposal of assets to enable the payment of benefits or the rollover of benefits to another fund.

If one or more of your members are in retirement phase you will need to consider if you have any transfer balance account reporting obligations when winding up your fund.

All SMSFs must report events that affect their member's transfer balance account. Your member's account is debited when they fully or partially commute a retirement phase income stream. This can be paid out of the super system in a lump sum, or it can be transferred to another fund. The value of this commutation needs to be reported to us on a [super transfer balance account report \(/forms/super-transfer-balance-account-report-instructions/\)](#) (TBAR) at the time it occurs.

**Next step:**

- [Arrange a final audit and complete your reporting \(/super/self-managed-super-funds/winding-up/arrange-a-final-audit-and-complete-your-reporting/\)](#).

**See also:**

- [Conditions of release \(/super/self-managed-super-funds/paying-benefits/conditions-of-release/\)](#).
- [Capital gains tax \(/General/Capital-gains-tax/\)](#).
- [Event-based reporting for SMSFs \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/\)](#).

## Arrange a final audit and complete your reporting

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Winding-up/Arrange-a-final-audit-and-complete-your-reporting/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Winding-up/Arrange-a-final-audit-and-complete-your-reporting/>).
- Last modified: 04 Sep 2018
- QC 23352

When winding up a self-managed super fund (SMSF), you need to have an audit completed by an approved SMSF auditor before you can lodge your final SMSF annual return.

You need to lodge your SMSF annual return and complete Question 9 **Was the fund wound up during the income year?** in Section A.

You should also complete question M **Supervisory levy adjustment for wound up funds** in Section D. This reduces the SMSF supervisory levy that you must pay so that you do not pay the levy for the following year. You must also pay any outstanding tax liabilities and lodge any outstanding returns.

If you don't wind up your fund correctly you may be selected for compliance activities and subject to penalties.

## Complete your transfer balance account reporting

If one or more of your members are in retirement phase you will need to consider if you have any transfer balance account reporting obligations when winding up your fund.

All SMSFs must report events that affect their member's transfer balance account. Your member's account is debited when they fully or partially commute a retirement phase income stream. This lump sum can be paid out of the super system, or it can be transferred to another fund.

Where your member is rolling over their income stream to another fund, we strongly encourage you to report this commutation to us as early as possible.

For example, if an SMSF member rolls their super benefit into an APRA-regulated fund and starts an income stream there – and it is not reported to us by the SMSF at the time it happens – a double-counting of the member's income streams will occur. This is because there will be a mismatch in timing of the reporting done by the APRA-regulated fund and the SMSF. In this instance, an SMSF is encouraged to report the commutation as it occurs, or no later than at the time of the rollover.

## Confirmation of your wound up fund

To confirm that you have met all of your reporting and tax responsibilities, we'll send you a letter stating that we have:

- cancelled your SMSF's ABN
- closed your SMSF's record on our systems.

Do not close your bank accounts until all expected final liabilities have been settled and requested refunds are received. Tax liabilities (including the supervisory levy) can be paid when you lodge the final SMSF annual return.

**Next step:**

- [Lodge SMSF annual return \(/super/self-managed-super-funds/Administering-and-reporting/Lodge-SMSF-annual-returns/\)](/super/self-managed-super-funds/Administering-and-reporting/Lodge-SMSF-annual-returns/).

**See also:**

- [Event-based reporting for SMSFs \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/\)](/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/).
- [Super transfer balance account report instructions \(/forms/super-transfer-balance-account-report-instructions/\)](/forms/super-transfer-balance-account-report-instructions/).

## Administering and reporting

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/>).
- Last modified: 16 Jan 2018
- QC 23329

As a trustee you have a number of administrative obligations. You need to:

- [appoint an SMSF auditor \(/super/self-managed-super-funds/administering-and-reporting/appoint-an-smsf-auditor/\)](/super/self-managed-super-funds/administering-and-reporting/appoint-an-smsf-auditor/).
- [value the fund's assets \(/super/self-managed-super-funds/administering-and-reporting/value-the-fund-s-assets/\)](/super/self-managed-super-funds/administering-and-reporting/value-the-fund-s-assets/).
- [lodge SMSF annual returns \(/super/self-managed-super-funds/administering-and-reporting/lodge-smsf-annual-returns/\)](/super/self-managed-super-funds/administering-and-reporting/lodge-smsf-annual-returns/).

- [report transfer balance cap events \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/\)](/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/).
- [lodge Superannuation transfer balance account reports \(/Forms/Super-Transfer-Balance-Account-Report-Instructions/\)](/Forms/Super-Transfer-Balance-Account-Report-Instructions/).
- [keep records \(/Super/self-managed-super-funds/administering-and-reporting/record-keeping-requirements/\)](/Super/self-managed-super-funds/administering-and-reporting/record-keeping-requirements/).
- [notify us of changes \(/super/self-managed-super-funds/administering-and-reporting/notify-us-of-changes/\)](/super/self-managed-super-funds/administering-and-reporting/notify-us-of-changes/).

**See also:**

- [How we help and regulate SMSFs \(/super/self-managed-super-funds/administering-and-reporting/how-we-help-and-regulate-smsfs/\)](/super/self-managed-super-funds/administering-and-reporting/how-we-help-and-regulate-smsfs/).

**Watch:****Duration 01:37**

## Appoint an SMSF auditor

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Appoint-an-SMSF-auditor/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Appoint-an-SMSF-auditor/>).
- Last modified: 19 Dec 2017
- QC 23330

You must appoint an approved SMSF auditor to audit your fund each year, not later than 45 days before you need to lodge your SMSF annual return. The auditor examines your fund's financial statements and assesses your fund's compliance with super law.

**Watch:**

Your SMSF auditor must be:

- registered with ASIC (<http://www.asic.gov.au/>). – if they are, they will have an SMSF auditor number, which you need to provide on your annual return
- independent – they should not audit a fund in which they hold any financial interest, or where they have a close personal or business relationship with members or trustees.

An audit is required even if no contributions or payments are made in the financial year.

Before an SMSF auditor can start an audit, you or your professional adviser need to give them information about your accounts and transactions for the previous financial year. Any additional information requested by your SMSF auditor, in writing must be provided within 14 days.

Your auditor should advise you of any breaches of the rules. You, as trustee, should rectify any contravention as soon as possible.

Your auditor is also required to report certain contraventions to us. Even if you terminated an auditor engagement or the auditor does not finish the audit, if they have identified a reportable contravention, their obligation to report to us remains.

## Value the fund's assets

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Value-the-fund-s-assets/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Value-the-fund-s-assets/>).

- Last modified: 24 Oct 2018
- QC 42472

You need to value the assets of the fund at their market value for the purpose of preparing your fund's accounts, statements and the SMSF annual return.

Market value is the amount that a willing buyer of the asset could reasonably be expected to pay to acquire the asset from a willing seller if all the following assumptions were made:

- that the buyer and the seller dealt with each other at arm's length in relation to the sale
- that the sale occurred after proper marketing of the asset
- that the buyer and the seller acted knowledgeably and prudently in relation to the sale.

Apart from preparing and lodging your annual accounts and, if required, transfer balance account reports, you will also need to value assets:

- if your fund has investment dealings with, or sells assets to, a related party
- if you need to determine the percentage of in-house assets in your fund
- on the commencement day of a pension
- if your fund transfers a collectable or personal use asset to a related party – in this case the valuation must be done by a qualified independent valuer.

**See also:**

- [Event-based reporting for SMSFs \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/\)](/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/).
- [Valuation guidelines for self-managed superannuation funds \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/Valuation-guidelines-for-self-managed-super-funds/\)](/Super/Self-managed-super-funds/In-detail/SMSF-resources/Valuation-guidelines-for-self-managed-super-funds/).



# Lodge SMSF annual returns

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Lodge-SMSF-annual-returns/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Lodge-SMSF-annual-returns/>).
- Last modified: 07 Feb 2019
- QC 23331

You need to lodge an annual return once the audit of your SMSF has been finalised. The SMSF annual return is more than an income tax return. It is also used to report super regulatory information, member contributions and pay the SMSF supervisory levy.

If your fund did not have assets in the first year it was registered, it may not need a return lodged for that year.

## Find out about:

- [How to lodge](#)
- [When to lodge](#)
- [Funds without assets](#)
- [Amend your SMSF annual return](#)
- [Supervisory levy](#)

## How to lodge

You can lodge your return electronically through [Standard Business Reporting \(SBR\)](http://www.sbr.gov.au/) (<http://www.sbr.gov.au/>). You'll need:

- an [AUSkey](https://abr.gov.au/AUSkey/AUSkey-explained/) (<https://abr.gov.au/AUSkey/AUSkey-explained/>).
- [SBR-enabled business software](https://www.sbr.gov.au/sbr-products-register/browse-products-form/australian-taxation-office-ato#smsfar) (<https://www.sbr.gov.au/sbr-products-register/browse-products-form/australian-taxation-office-ato#smsfar>).

To lodge a paper annual return, download the [SMSF annual return \(/Forms/Self-managed-superannuation-fund-annual-return/\)](/Forms/Self-managed-superannuation-fund-annual-return/) and [SMSF annual return instructions \(/Forms/SMSF-annual-return-instructions/\)](/Forms/SMSF-annual-return-instructions/) for the relevant year. Complete the return and post it to:

**Australian Taxation Office**

**GPO Box 9845**

**[insert the name and postcode of your capital city]**

For example;

**Australian Taxation Office**

**GPO Box 9845**

**SYDNEY NSW 2001**

As SMSFs assess their own tax debt or refund, a notice of assessment is not issued.

## When to lodge

If you lodge your SMSF annual return yourself, the due date is generally 28 February following the financial year. If you did not lodge your return for the previous financial year on time, the due date will be 31 October. For your first year the due date is 31 October.

If your return is lodged through a tax agent, they'll tell you the due date. For your first year the due date will be 28 February.

If your SMSF is reviewed by us at registration, your first year return due date will be 31 October even if it is prepared and lodged by a tax agent. You will be notified by us if this is the case.

If a due date falls on a weekend or public holiday you can lodge or pay on the next business day.

Failure to lodge your SMSF annual return by the due date can result in penalties and the loss of your SMSF's tax concessions.

**See also:**

- [Super lodgment obligations \(/Tax-professionals/Prepare-and-lodge/Tax-agent-lodgment-program/Obligation-type/Super-lodgment/\)](#).

## Funds without assets

An SMSF is not legally established until the fund has assets set aside for the benefit of members. Our systems will not accept an annual return for an SMSF that has no assets or no closing member account balances, unless the return is for the year in which the fund is wound up.

If an SMSF does not have assets set aside for the benefit of members in the first year it was registered, you can ask us to either:

- cancel the fund's registration
- flag the SMSF's record as return not necessary (RNN) if the SMSF confirms in writing:
  - that although registered, it had no assets and did not receive contributions or rollovers in the first financial year
  - that it has documentary evidence of the date the SMSF first held assets and commenced operating (for example the SMSF's first bank statement)
  - that it will be lodging future returns.

### Trustees:

Your written request must include:

- the SMSF's name, TFN or ABN
- confirmation that it meets all eligibility conditions
- documentary evidence of the date assets were first placed into the fund.

This request can be sent to us at:

### Australian Taxation Office

**GPO Box 9990****[insert the name and postcode of your capital city]**

For example;

**Australian Taxation Office****GPO Box 9990****SYDNEY NSW 2001****Tax agents:**

Use the Tax Agent Portal mail option, select 'superannuation' as the topic, and choose from the following mail subjects:

- SMSF cancellation of registration where a fund has not legally established
- SMSF new registrant – Return Not Necessary request.

For RNN requests your submission must include:

- the SMSF's name, TFN or ABN
- confirmation that it meets all eligibility conditions
- documentary evidence of the date assets were first placed into the fund.

An RNN is generally only allowed for a newly-registered SMSF in its first year of registration.

RNNs for subsequent years will only be granted in limited circumstances and where the fund provides documentary evidence of the date assets were first held by the fund, for example the SMSF's first bank statement.

When an SMSF that has previously advised a return was not necessary is legally established and needs to lodge a return for the first time, the due date of the first return lodged by a tax agent will be 28 February.

## Amend your SMSF annual return

To amend your SMSF annual return you need to resubmit the whole return. Make sure you answer 'yes' in section A at question 5, **Is this an amendment to the SMSF's annual return?**

Because information on the SMSF annual return is inter-related, changing one label on the form is likely to require changes to other labels too. So we need you to always complete the form in full, not just the parts you want to amend, and provide contributions information for all members, not just the member whose contributions you may need to change.

## Supervisory levy

You need to pay the supervisory levy with your SMSF annual return. The amount payable is stated on the return.

**From 1 July 2013**, the levy is payable for the financial year in which the annual return is due. For example, when you lodge your 2014–15 annual return you pay the levy for the 2015–16 financial year.

**Up to 1 July 2013**, the SMSF supervisory levy was payable for the financial year to which the SMSF annual return related.

From 2013–14 the annual SMSF levy is \$259.

To bring collections forward, transitional provisions apply to the levy for the 2013–14 financial year so that it is payable in two instalments which are collected upon lodgment of the 2013 and 2014 annual returns.

Label M on the annual return will enable funds that have wound up during a financial year to adjust the levy so they don't pay the levy for the following year.

New funds will also have an adjustment label (N) on the annual return to add the levy relating to the year of establishment to the amount payable.

# Event-based reporting for SMSFs

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/>).
- Last modified: 20 Dec 2018
- QC 54088

The event-based reporting (EBR) framework for self-managed super funds (SMSFs) commenced on 1 July 2018. It enables us to administer the [Transfer balance cap \(/individuals/super/withdrawing-and-using-your-super/Transfer-balance-cap/\)](#). You generally need to start reporting to us, under the EBR framework, when your first member commences a retirement phase income stream.

The [transfer balance account report \(TBAR\) \(/forms/super-transfer-balance-account-report-instructions/\)](#) is used to report certain events and is separate from the SMSF annual return (SAR). The TBAR enables us to record and track an individual's balance for both their transfer balance cap and total superannuation balance.

There is no 'special circumstances' discretion for contraventions of the transfer balance cap and it is particularly important for all SMSF trustees and members to self-monitor and ensure that members do not exceed their transfer balance cap.

## Find out about:

- [What and when to report \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/What-and-when-to-report/\)](#).
- [How to report \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/How-to-report/\)](#).
- [Commutation authorities for SMSFs \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Commutation-authorities-for-SMSFs/\)](#).
- [Event-based reporting case studies \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Event-based-reporting-case-studies/\)](#).

# What and when to report

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/What-and-when-to-report/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/What-and-when-to-report/>).
- Last modified: 22 May 2019
- QC 57300

## On this page:

- [What events you need to report](#)
- [How often and when you need to report](#)
- [Total superannuation balance](#)
- [When you need to report sooner](#)
- [Working out your reporting due date](#)

## What events you need to report

An SMSF must report events that affect a member's transfer balance, including:

- details of pre-existing income streams (including value and type) being received on 30 June 2017 that
  - continued to be paid to them on or after 1 July 2017
  - were in retirement phase on or after 1 July 2017
- details of new retirement phase and death benefit income streams including value and type (when a death benefit income stream is reversionary, the start date will be the date on which the member died)
- details of limited recourse borrowing arrangement (LRBA) payments (including the value and date of each relevant payment) if the LRBA was entered into on or after 1 July 2017 (or a pre-existing LRBA was re-financed on or after 1 July 2017) and the payment

results in an increase in the value of the member's interest that supports their retirement phase income stream

- compliance with a [commutation authority](#) ([/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Commutation-authorities-for-SMSFs/](#)), issued by us
- details (including value) of personal injury (structured settlement) contributions
- details (including value) of commutations of retirement phase income streams that occur on or after 1 July 2017.

If no event occurs you have nothing to report.

## Some exclusions from reporting

Events that an SMSF does **not** need to report include:

- any pension payments made on or after 1 July 2017
- investment earnings and losses that occurred on or after 1 July 2017
- when an income stream ceases because the interest has been exhausted
- the death of a member
- information that individuals report to us directly using a [Transfer balance event notification form](#) ([/Forms/Transfer-balance-event-notification-form-instructions/](#)) (NAT 74919) – typically, this is when the following events occur
  - family law payment split
  - debit event from fraud, dishonesty, or bankruptcy
  - structured settlement contributions made before 1 July 2007
- information other funds will report to us, such as a member's interest in an APRA fund.

## See also:

- [Super Transfer balance account report \(TBAR\) instructions](#) ([/forms/super-transfer-balance-account-report-instructions/](#)).

## How often and when you need to report



If an SMSF member had a pre-existing income stream, it needed to have been reported to us on the TBAR on or before 1 July 2018.

From 1 July 2018, all SMSFs must report events that affect their members' transfer balances. If no event occurs, there is nothing to report. Timeframes for reporting are determined by the total superannuation balances of an SMSF's members.

SMSFs that have **any** members with a total superannuation balance of \$1 million or more on 30 June the year before the first member starts their first retirement phase income stream, must report events affecting members' transfer balances **within 28 days** after the end of the quarter in which the event occurs.

In line with our [valuation guidelines \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/Valuation-guidelines-for-self-managed-super-funds/\)](#), where an SMSF has an obligation to report TBAR events quarterly and the member commences an income stream, or has an existing income stream move into the retirement phase, the SMSF trustee may choose to use a reasonable estimate of the value of that income stream to meet their TBAR obligations. We expect that as part of choosing to commence a pension, an individual will be in possession of a reasonable estimate of the value of that pension and have taken that into consideration as part of both their broader financial planning and as part of ensuring that commencing the pension will not result in them exceeding their transfer balance cap. In some instances it may be prudent to bring forward the usual valuation practices.

If the trustee has used a reasonable estimate and the value of that income stream significantly changes, the trustee may choose to correct the value initially reported to us.

When all members of an SMSF have a total superannuation balance of less than \$1 million, the SMSF can report this information at the same time as when its SMSF annual return (SAR) is due.

Transfer balance account events that occur during 2017–18 should be reported when an SMSF's first TBAR is due.

If an SMSF is reporting annually, this will be the same time as the trustee is due to lodge the 2017–18 SAR.

If an SMSF is reporting quarterly, this will be **28 October 2018**.

An SMSF is required to report earlier if a member has exceeded their transfer balance cap.

Any SMSF can choose to report events as they occur and in some instances are encouraged to do so to avoid incorrect excess transfer balance determinations issuing.

To work out if the quarterly or annual reporting arrangements apply, an SMSF will need to know the total superannuation balance of all of its members at the later of:

- 30 June 2017 if a member had a pre-existing income stream in retirement phase or when the first member starts their first retirement phase income stream during the 2017–18 year
- 30 June the year before the first member starts their first retirement phase income stream.

Even when an SMSF has only one member with an individual total superannuation balance of \$1 million or more, it must report **all** events for **all** members within 28 days after the end of the relevant quarter, even if the balance of the first member to start a retirement phase income stream is below \$1 million.

Once the reporting framework is set, SMSF trustees will not be expected to move between annual and quarterly reporting, regardless of fluctuations to any of the members' balances.

We will continue to evaluate the benefits and risks arising from this reporting framework. For example, the \$1 million reporting threshold may be re-evaluated in the future, given that the \$1.6 million transfer balance cap is indexed.

### See also:

- [When you need to report sooner](#)
- [Event-based reporting case studies \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Event-based-reporting-case-studies/\)](#)
- [Working out your reporting due date](#)

## Total superannuation balance

A member's total superannuation balance is essentially the sum of all their accumulation and retirement phase superannuation interests across all their accounts and funds.

In recognition that a member's total superannuation balance could be spread across multiple superannuation providers, SMSF trustees will need to self-assess their members' total superannuation balances when determining if the annual or quarterly reporting framework applies as there may be outstanding information yet to be reported to us.

Trustees are expected to demonstrate that they have taken a fair and reasonable approach to assess their members' total superannuation balances when determining if the annual or quarterly reporting framework applies.

### See also:

- [Event-based reporting case studies \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Event-based-reporting-case-studies/\)](/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Event-based-reporting-case-studies/).
- [Total superannuation balance \(/individuals/super/in-detail/growing-your-super/super-contributions---too-much-can-mean-extra-tax/?page=5\)](/individuals/super/in-detail/growing-your-super/super-contributions---too-much-can-mean-extra-tax/?page=5).
- [Exceeding the cap on or after 1 July 2017 \(/individuals/super/withdrawing-and-using-your-super/transfer-balance-cap/#Exceedingthecaponorafter1July2017\)](/individuals/super/withdrawing-and-using-your-super/transfer-balance-cap/#Exceedingthecaponorafter1July2017).

## When you need to report sooner

If a member exceeds their transfer balance cap, you **must** report the following events sooner:

- a voluntary member commutation of an income stream in response to an excess transfer balance (ETB) determination **must** be reported within **10 business days** after the end of the month in which the commutation occurs
- responses to commutation authorities **must** be reported within **60 days** of the date the commutation authority was issued.

### Earlier reporting is encouraged in some situations

We strongly encourage you to report earlier in some situations.

For example, if an SMSF member rolls their super benefit into an APRA-regulated fund and starts an income stream there – and it is not reported to us by the SMSF at the time it happens – a double-counting of the member’s income streams will occur. This is because there will be a mismatch in timing of the reporting done by the APRA-regulated fund and the SMSF. In this instance, an SMSF is encouraged to report the commutation as it occurs, or no later than at the time of the rollover.

Likewise, if the transitional rules apply and an SMSF member was in excess at 1 July 2017 and rectifies it by 31 December 2017 but does not report the rectification to us when the pre-existing income stream is reported, we will not know the member has rectified the excess. In this instance, an SMSF is encouraged to report the commutation that rectifies the small excess under the transitional rules at the time the pre-existing income stream is reported.

In these situations, there is risk we will incorrectly issue an ETB determination and a commutation authority. This could lead to increased administrative costs for the SMSF.

### See also:

- [Event-based reporting case studies \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Event-based-reporting-case-studies/\)](#)
- [LCR 2016/9 Superannuation reform: transfer balance cap \(/law/view/document?DocID=COG/LCR20169/NAT/ATO/00001\)](#)

## Working out your reporting due date

When a member of the fund has a pre-existing income stream that continues to be paid as a retirement phase income stream to the member on or after 1 July 2017, the TBAR due date is on or before 1 July 2018.

For SMSFs with transfer balance account (TBA) events occurring in 2017–18 and future years, the following table will help you work out your reporting due date.

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**Table 1: Due dates for reporting TBA events**

Transfer balance account (TBA) event	Amount of SMSF members' total superannuation balance (TSB)	TBAR due date
A voluntary member commutes an income stream in response to an excess transfer balance (ETB) determination	Not applicable, as member has exceeded their TBC	Within 10 business days after the end of the month in which the commutation occurs
A response to a commutation authority	Not applicable, as the reporting obligation is set by legislation	Within 60 days of the date the commutation was issued
Any other TBA event – see <a href="#">What events you need to report</a>	When the first member started a retirement phase income stream during a year, and all members of the SMSF had a TSB of <b>less than \$1 million</b> as at 30 June immediately before they started their income stream	No later than the due date for lodging the SMSF's annual return for the financial year in which the event occurs
Any other TBA event – see <a href="#">What events you need to report</a>	When the first member started a retirement phase income stream during a year and the SMSF had any member with a TSB of <b>\$1 million or more</b> as at 30 June immediately before they started their income stream	28 days after the end of the quarter in which the event occurred. For 2017–18 TBA events, this will be 28 October 2018

Once the reporting framework is set, SMSF trustees will not be expected to move between annual and quarterly reporting due dates, regardless of fluctuations in any of its members' balances or members leaving or joining the SMSF.

## Consequences of late reporting

Unless a member has exceeded their cap and the fund needs to report an event sooner, the first due date for the lodgment of transfer balance account reports (TBARs) is 28 October. There has been no change to this previously announced date. We first announced this date on 9 November 2017.

We are currently taking an educative and supportive approach where TBARs are lodged late. We encourage you to lodge your transfer balance reporting as soon as possible to avoid adverse consequences for members of the fund.

If an SMSF does not lodge a TBAR by the required date, the member's transfer balance account will be adversely affected, the member may be penalised and there may be reverse workflow for the trustee.

In particular, if the SMSF is late reporting a commutation made after we issued an excess transfer balance determination to the member, we may send a commutation authority to their fund, putting the member at risk of having the excess amount removed from retirement phase twice.

In the future, an SMSF may be subject to compliance action and penalties (</general/interest-and-penalties/>), although we don't intend to deny exempt current pension income (ECPI) claims if an SMSF doesn't report their transfer balance cap on time.

### **Find out about:**

- [How to report](/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/How-to-report/) (</Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/How-to-report/>).
- [Valuation guidelines for self-managed superannuation funds](/super/self-managed-super-funds/in-detail/smsf-resources/valuation-guidelines-for-self-managed-super-funds/) (</super/self-managed-super-funds/in-detail/smsf-resources/valuation-guidelines-for-self-managed-super-funds/>).
- [Commutation authorities for SMSFs](/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Commutation-authorities-for-SMSFs/) (</Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Commutation-authorities-for-SMSFs/>).
- [Event-based reporting case studies](/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Event-based-reporting-case-studies/) (</Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Event-based-reporting-case-studies/>).

# How to report

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/How-to-report/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/How-to-report/>).
- Last modified: 07 Nov 2018
- QC 57301

## On this page:

- [Reporting methods and lodgment](#)
- [Correcting a report](#)

## Reporting methods and lodgment

You can lodge a TBAR to report information to us by:

- completing an online form if you are an SMSF trustee or administrator
- BDE (bulk data exchange) submitting a data file through the file transfer facility in the business portal or tax agent portal (the file must meet our bulk data entry specifications and you will generally need support from a software provider to do this)
- completing the recognised spreadsheet if you are a tax agent
- mailing a paper report.

Depending on which method you use, you may be able to report multiple events for multiple members using an electronic method or up to four events per member on each paper form.

## See also:

- [TBAR reporting methods and lodgment \(/Forms/Super-Transfer-Balance-Account-Report-Instructions/?page=3#Reporting\\_methods\\_and\\_lodgment\)](/Forms/Super-Transfer-Balance-Account-Report-Instructions/?page=3#Reporting_methods_and_lodgment).

## Correcting a report

If you need to correct information you have reported to us in your TBAR, you must cancel the original report and then lodge a separate report with the correct information.

The instructions specific to the lodgment method used contain further information on how to amend an incorrect report.

### Find out about:

- [Commutation authorities for SMSFs \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Commutation-authorities-for-SMSFs/\)](/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Commutation-authorities-for-SMSFs/).
- [Event-based reporting case studies \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Event-based-reporting-case-studies/\)](/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Event-based-reporting-case-studies/).

## Commutation authorities for SMSFs

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Commutation-authorities-for-SMSFs/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Commutation-authorities-for-SMSFs/>).
- Last modified: 21 Dec 2018
- QC 57302



A commutation authority is a notice issued by the Commissioner of Taxation to a self-managed super fund (SMSF), when an SMSF member has exceeded their transfer balance cap and we have sent them an excess transfer balance determination. They have either:

- not commuted the excess amount in the determination in full by the due date
- made an election for us to send a commutation authority to their fund to have the excess amount commuted.

A commutation authority is also sometimes referred to as a Commissioner's Commutation Authority (CCA).

### On this page:

- [What you need to do if you receive a commutation authority – overview](#)
- [Responding to the commutation authority](#)
- [TBAR instructions for each commutation authority scenario](#)
- [What to do if you disagree with the commutation authority](#)
- [What happens after you have complied with the commutation authority](#)

## What you need to do if you receive a commutation authority – overview

If you are issued with a commutation authority you must, by the due date on the commutation authority, that is, within 60 days:

- pay a superannuation lump sum by way of commutation (the commutation authority will detail the amount that must be [commuted \(/Definitions/?anchor=P163-12972&anchor=P163-12972#P163-12972\)](#) from a specified income stream for that SMSF member) or
- choose not to comply with the commutation authority because the member is deceased or because we've issued it in relation to an income stream that is a capped defined benefit income stream
- send us a [Transfer balance account report \(TBAR\) \(/forms/super-transfer-balance-account-report-instructions/\)](#), reporting the details of the commutation or why you have chosen not to comply with the commutation authority
- notify your member in writing that you have complied or not complied with a commutation authority.

**Note:** The Commissioner doesn't have discretion to grant you an extension of time to respond to the commutation authority.

## Next step:

- TBAR instructions for each scenario

## What you need to report on the transfer balance report (TBAR)

The TBAR must report that the SMSF has:

- complied with the commutation authority by commuting the full amount from the income stream stated in the notice
- complied with the commutation authority by commuting the income stream as much as possible – even if this is less than the amount in the commutation authority, this is known as the **maximum available release amount** and in some instances it may be nil
- chosen not to comply with the commutation authority because
  - the member is deceased
  - we issued the commutation authority in relation to a capped defined benefit income stream.

It is important to ensure that the pension payment standards (</super/self-managed-super-funds/in-detail/smsf-resources/smsf-technical/pension-standards-for-self-managed-super-funds/>) are met when partially or fully commuting an income stream.

## What you need to tell your member

You must notify your member in writing (within 60 days of the issue date of the commutation authority) when you comply with a commutation authority and include the following information:

- the member's name and address
- income stream account number in the commutation authority
- the issue date and due date of the commutation authority
- the amount you were required to commute.

If you have commuted an amount in response to the commutation authority you must also include

- the amount you commuted
- the date of the commutation.

If you have chosen not to comply with the commutation authority because it was in relation to a capped defined benefit income stream, you must also include a statement to this effect.

You must also sign the notice you provide your member and declare that the information it contains is 'true and correct'.

## **Consequences of not responding to the commutation authority by the due date**

If you do not commute the required amount by the due date (that is, within 60 days of the issue date of the commutation authority) or tell us why you have not done so (using a TBAR), the income stream will stop being in the retirement phase. This will affect the fund's entitlement to exempt current pension income. You may also be liable for penalties or subject to compliance action.

There is also an administrative penalty if you do not notify your member of your response to the commutation authority within 60 days of the issue of the commutation authority.

## Responding to the commutation authority

When you can commute an amount, you should make reasonable efforts to contact the member and discuss their options. For example, whether to retain the commuted amount in an accumulation account or take it as a lump sum. If you cannot contact the member, you should commute the amount in a way that you judge to be in the member's best interests.

Unless the commutation authority relates to a death benefit income stream, the member can choose to keep the commuted amount in an accumulation phase account or cash the amount out of the superannuation system.

If the commutation authority relates to a death benefit income stream the commuted amount must be cashed out of the superannuation system.

You **don't** have authority from us to commute the member's income stream after the due date on the commutation authority.

## Commuting the full amount

You must commute the full amount set out in the commutation authority, including cents, when it is possible to do so.

### Next step:

- [TBAR instructions for each scenario](#)

## Commuting a partial amount

If you can't commute the full amount stated on the commutation authority because the amount is higher than the value of the interest supporting the income stream, you must commute the value of the interest and close the account. As part of calculating the value of the interest that can be commuted, you should take into account any pro-rata minimum pension payments that need to be met.

You must also lodge a TBAR to tell us you have complied in part.

If the income stream stated in the commutation authority has already ceased (for example, if the member has already exhausted the full value of the interest through pension payments) then you need to lodge a TBAR by the due date to tell us you have complied in part, the commutation amount is nil and the account is closed.

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### Example 1

A member is receiving an income stream valued at \$70,000 on 1 July 2018.

On 1 October 2018 we issue you with a commutation authority for \$100,000. You are required to commute the amount by 30 November 2018 (within 60 days of issue date).

The member is receiving monthly payments of \$525 so they have already received \$1,575 to date. You decide to commute on 15 October 2018 therefore you will need to pay the minimum pension amount before you make the commutation. The minimum annual amount is \$6,300 (the member is 86 so their minimum pension payment is 9% of the balance on 1 July 2018).

The pro-rata amount is calculated by multiplying the annual amount by the number of days in the period, then dividing by the number of days in the financial year.

In this example:

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$$\text{\$6,300} \times 107 \div 365 = \text{\$1,850}$$

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You make another minimum pension payment amount of \$275 to ensure that the minimum pension payment standards will be met up to the date of the commutation.

The remaining \$68,150 is commuted and retained in an accumulation account in the SMSF.

You lodge a TBAR reporting that you have complied with the commutation authority in part and report a commutation value of \$68,150 and that the account is closed. You will need to report this on the TBAR by 30 November 2019.

### Next steps:

- [TBAR instructions for each scenario](#)

### **What to do if the income stream identified in the commutation authority is a market-linked pension that isn't a capped defined benefit income stream**

A market-linked pension isn't a capped defined benefit income stream if it started on or after 1 July 2017. The pension rules that apply in these circumstances generally mean this type of pension can only be commuted to start another market-linked pension.

If we issue you with a commutation authority in relation to one of these income streams, the maximum commutable release amount will be nil.

If you receive a commutation authority in relation to this type of market-linked pension, you need to lodge a TBAR by the due date to tell us you have complied in part, the commutation amount is nil and the account is open.

This may have consequences for the member.

### **Next step:**

- [TBAR instructions for each scenario](#)

## **What to do if the commutation authority relates to a capped defined benefit income stream**

You can choose not to comply with a commutation authority if it relates to a capped defined benefit income stream.

If you choose not to comply with a commutation authority because it relates to a capped defined benefit income stream you must still lodge a TBAR by the due date to tell us you're choosing not to comply for this reason.

However, as we won't issue a commutation authority to an SMSF in relation to an income stream you have told us is a capped defined benefit income stream, you'll also need to amend your initial reporting to us to advise that the income stream is a capped defined benefit income stream. Amending your reporting may mean we need to recalculate your member's transfer balance.

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### **Example 2**

You reported a member has an account based pension with a value of \$2.0 million

You receive a commutation authority requiring you to commute an amount from this pension.

You review your records and identify that this is a capped defined benefit income stream.

You lodge three TBARS to:

- cancel the original incorrect information
- correctly report the original pension as a capped defined benefit income stream
- report that you're choosing not to comply with the commutation authority because it relates to a capped defined benefit income stream.

### **Next step:**

- [TBAR instructions for each scenario](#)

### **What to do if the member is deceased**

You don't need to comply with a commutation authority in relation to a member who is deceased. However you must still lodge a TBAR by the due date to tell us you're choosing not to comply for this reason.

**Note:** You don't need to report the death of a member on the TBAR for any other reason.

### **Next step:**

- [TBAR instructions for each scenario](#)

### **What to do if the account number for the pension has changed**

In some instances the reference you use to identify an income stream may have changed since the income stream was reported to us. For example, the SMSF has changed software providers and the income stream reported to us as account 123 is now referred to as account 123A.

In these instances we may send a commutation authority identifying the income stream that needs to be commuted, which uses the account number you initially reported to us.

You're still required to commute the identified income stream, even though the reference you use has changed.

### Next step:

- [TBAR instructions for each scenario](#)

## TBAR instructions for each commutation authority scenario

This table provides detailed instructions on how to complete the paper form of the [Transfer balance account report \(TBAR\)](#). (</forms/super-transfer-balance-account-report-instructions/>), depending on how you are responding to the commutation authority.

If you are **not** lodging a paper TBAR form, refer to the bullet points below the table.

Regardless of which scenario applies to you, the TBAR must be completed on or before the due date of the commutation authority. You must also complete all other relevant information in the TBAR, such as the member's details, fund's details, event details, member account details and declarations.

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**Table 2: Instructions for each scenario on a paper TBAR form**

Scenario	Reporting using a paper TBAR
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Commuting the amount in full	<p>At Question 12, tick the box <b>Commutation authority - commuted in full.</b></p> <p>At Question 17, report the date you complied with the commutation authority</p> <p>At Question 18, report the value of the commutation.</p> <p>You should also complete Question 19 to tell us if you transferred the lump sum to an accumulation account or cashed it out of the superannuation system.</p>
Commuting as much as possible, including when the amount is nil	<p>At Question 12, tick the box <b>Commutation authority – commuted in part.</b></p> <p>At Question 17, report the date you complied with the commutation authority</p> <p>At Question 18, report the value of the commutation, including if that amount is nil.</p> <p>Unless the amount is nil, you should also complete Question 19 to tell us if you transferred the lump sum to an accumulation account or cashed it out of the superannuation system.</p> <p>You must also select <b>Closed</b> at Question 21 unless the pension is a market linked pension and the maximum available release amount is nil. If this is the case then you must select <b>Open</b> at Question 21.</p>
Not complying because the commutation authority relates to a capped defined benefit income stream	<p>At Question 12, tick the box <b>Commutation authority - capped defined benefit income stream.</b></p>
Not complying because the member is deceased	<p>At Question 12, tick the box <b>Commutation authority - deceased.</b></p>

## Other reporting avenues

- If you're using the online form from the [Business portal \(/business/business-portal/\)](https://www.ato.gov.au/business/business-portal/), select the relevant event from **Reporting event** drop-down list. The events in this list are the same as the events in Question 12 on the paper form.

- If you're completing the approved spreadsheet (<https://www.ato.gov.au/forms/super-transfer-balance-account-report-instructions/?page=3#Lodgingaspreadsheetversion>), select the relevant event from the **Transfer balance cap reporting event type** drop-down list. The events in this list are the same as the events in Question 12 on the paper form.
- If you're using a software solution developed by your administrator, you'll need to follow their instructions to select the relevant event that corresponds to the events in Question 12 on the paper form.

**See also:**

- Super Transfer balance account report instructions (</forms/super-transfer-balance-account-report-instructions/>).
- Reporting methods and lodgment (</forms/super-transfer-balance-account-report-instructions/?anchor=Reportingchannels#Reportingchannels>).

## What to do if you disagree with the commutation authority

You **can't** object to a commutation authority and your member can't direct you not to comply with it.

If you think the amount on the commutation authority doesn't take into account a commutation by the member then this may be because your member commuted their income stream after the due date on the ETB determination or there was a delay in reporting the commutation to us.

If your member disagrees with the way we calculated their excess, then they can seek an extension of time to lodge an objection to the ETB determination. However, this doesn't remove your obligation to comply with the commutation authority by the due date, once it's issued.

If an objection is lodged to the ETB determination and we allow the objection in full, then we will revoke or amend the commutation authority, if we are able to do this, by the due date. Otherwise, you'll still need to action the commutation authority by the due date.

## Instances when we may be able to vary or revoke a commutation authority

In limited circumstances we may be able to vary or revoke a commutation authority once we receive and process any outstanding information. For example, if you think the amount on the commutation authority doesn't take into account a commutation by the member then this may be because your member commuted their income stream after the due date on the ETB determination or there was a delay in reporting the commutation to us.

However, varying your commutation authority **won't** give you more time to comply. For example, if we issued a commutation authority with a due date of 30 November and receive information that allows us to vary it on 1 November, you'll still only have until 30 November to action the varied commutation authority.

## What happens after you have complied with the commutation authority

The table below provides information on what we will do next after you have responded to the commutation authority, based on your situation.

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**Table 3: ATO action on commutation response**

Your situation	Our action
You comply with the commutation authority in full	After you lodge a TBAR, we will send your member an ETB tax notice of assessment.
You tell us the member is deceased	After you lodge a TBAR, we will send your member's estate an ETB tax notice of assessment.

<p>You comply with the commutation authority in part and the account is closed, or if you didn't comply because the income stream is a capped defined benefit income stream</p>	<p>After you lodge a TBAR we will consider whether your member has other retirement phase income streams that are not capped defined benefit income streams. If they do, then we will send commutation authorities to the providers of those income streams until the excess is resolved. If they don't resolve the excess, we will send your member a <i>Notice of non-commutable excess transfer balance</i>. If we send your member this notice, they will receive a debit in their transfer balance account to resolve their excess transfer balance. Once your member is no longer in excess we will send them an ETB tax notice of assessment.</p>
<p>You comply with the commutation authority in part and report the maximum available release amount is nil, but the account is still open (for example, because it's a market linked pension)</p>	<p>We won't send the member a <i>Notice of non-commutable excess transfer balance</i> after we have determined that they have no other retirement phase income streams that are not capped defined benefit income streams. In these circumstances the member will potentially be perpetually in excess and we may send an ETB tax notice of assessment periodically.</p>

### See also:

- [Transfer balance cap \(/individuals/super/withdrawing-and-using-your-super/transfer-balance-cap/\)](/individuals/super/withdrawing-and-using-your-super/transfer-balance-cap/).
- [Event-based reporting for SMSFs \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/\)](/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/).
- [Super Transfer balance account report instructions \(/forms/super-transfer-balance-account-report-instructions/\)](/forms/super-transfer-balance-account-report-instructions/).
- [Pension standards for self-managed super funds \(/super/self-managed-super-funds/in-detail/smsf-resources/smsf-technical/pension-standards-for-self-managed-super-funds/\)](/super/self-managed-super-funds/in-detail/smsf-resources/smsf-technical/pension-standards-for-self-managed-super-funds/).

### Find out about:

- [Event-based reporting case studies \(/super/self-managed-super-funds/administering-and-reporting/event-based-reporting-for-smsfs/event-based-reporting-case-studies/\)](https://www.ato.gov.au/Super/self-managed-super-funds/administering-and-reporting/event-based-reporting-for-smsfs/event-based-reporting-case-studies/).

## Event-based reporting case studies

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Event-based-reporting-case-studies/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/Event-based-reporting-case-studies/>).
- Last modified: 06 Feb 2019
- QC 57304

In the case studies below, the pre-existing income streams or income streams that start are in retirement phase.

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**Table 4: Reporting requirement under different scenarios**

Main points	Scenario	Reporting requirement
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<p>Pre-existing income stream exists</p> <p>Total superannuation balance for all members is below \$1 million</p>	<p>Bill has a total superannuation balance of \$900,000 as at 30 June 2017, a pre-existing income stream valued at \$900,000 and no other super interests.</p> <p>Over time, the value of the income stream increases to \$1 million and Bill commutes \$100,000 from the income stream on 1 July 2019.</p>	<p>Bill's SMSF reported the pre-existing income stream to us before 1 July 2018.</p> <p>As Bill had a total superannuation balance of less than \$1 million on 30 June 2017, the SMSF is required to report any events that occur annually in line with their SAR for that year.</p> <p>The SMSF would be required to report on the TBAR the commutation that occurred on 1 July 2019 no later than the due date of the fund's SMSF annual return for 2019–20, generally 15 May 2021.</p>
<p>SMSF first starts to pay a member an income stream after 1 July 2017</p> <p>Total superannuation balance of all members is below \$1 million</p>	<p>Tam and Cho are the only two members of their SMSF. They have no other super interests.</p> <p>On 30 June 2017, Tam's total superannuation balance is \$800,000 and Cho's is \$550,000.</p> <p>On 4 February 2018, Tam starts an income stream valued at \$700,000.</p>	<p>As no member of the fund had a total superannuation balance of \$1 million or more as at 30 June 2017 (the year before the first fund member started an income stream), the SMSF is required to report any events that occur annually in line with their SAR for that year.</p> <p>The start of Tam's income stream would need to be reported to us at the same time the SMSF annual return for 2017–18 is due, generally 15 May 2019.</p>

<p>SMSF first starts to pay a member an income stream after 1 July 2018</p> <p>Total superannuation balance of a member is above \$1 million</p>	<p>On 30 June 2018, Mary has a total superannuation balance of \$1.2 million.</p> <p>On 20 September 2018, Mary starts an income stream valued at \$1.2 million and has no other super interests. Over time the value of the income stream decreases to \$800,000.</p> <p>On 3 March 2019, Mary commutes \$100,000 from the income stream.</p>	<p>As Mary had a total superannuation balance of \$1 million or more as at 30 June 2018, the SMSF is required to report any events 28 days after the end of the quarter in which the event occurs.</p> <p>The start of the income stream would need to be reported to us no later than 28 October 2018.</p> <p>The commutation would need to be reported no later than 28 April 2019.</p>
<p>Pre-existing pension exists and SMSF has annual reporting obligation</p> <p>Assets supporting pension grows to exceed \$1 million</p>	<p>Gary has a total superannuation balance of \$900,000 as at 30 June 2017.</p> <p>He has two pre-existing income streams valued at \$500,000 and \$400,000 respectively and no other super interests.</p> <p>Gary continues to make contributions and, as at 30 June 2018, his total superannuation balance is \$1.1 million. On 1 July 2018, he commutes the two income streams and starts a new income stream valued at \$1.1 million.</p>	<p>The trustee reported the pre-existing income stream to us before 1 July 2018.</p> <p>As Gary has a total superannuation balance of less than \$1 million as at 30 June 2017, the SMSF is required to report any events that occur annually in line with their SAR for that year.</p> <p>This will not change even though his total superannuation balance increases over time.</p> <p>The following reportable events would need to be individually reported to us no later than the due date of the fund's SMSF annual return for 2018–19, generally 15 May 2020:</p> <ul style="list-style-type: none"> <li>• each debit resulting from the commutation of the two pre-existing income streams</li> <li>• the new income stream.</li> </ul>

<p>First income stream starts on or after 1 July 2018 SMSF must calculate all total superannuation balances to determine reporting obligation</p>	<p>Fiona, of Seagull SMSF, has a total superannuation balance at 30 June 2018 of \$500,000 and starts an income stream valued at \$500,000 on 1 July 2018.</p> <p>Jimmy has a total superannuation balance at 30 June 2018 of \$2 million, made up of \$500,000 in Seagull SMSF and \$1.5 million in an APRA super fund. All of Jimmy's interests are in accumulation phase.</p>	<p>Jimmy is a member of Seagull SMSF and has a total superannuation balance of \$1 million or more as at 30 June 2018. The SMSF is required to report any events 28 days after the end of the quarter in which the event occurs.</p> <p>Seagull SMSF must report the starts of Fiona's income stream to us no later than 28 October 2018.</p>
<p>Rollover from SMSF to APRA fund inadvertently causes excess transfer balance</p>	<p>On 30 June 2017 Jeff, a member of Snowflake SMSF, has a pre-existing income stream valued at \$900,000, which his SMSF reported to us on 30 June 2018.</p> <p>On 7 August 2018, Jeff rolls over his interest, now valued at \$800,000 to an APRA fund to start a new income stream on the same day.</p>	<p>As Jeff had a total superannuation balance of less than \$1 million as at 30 June 2017, the SMSF has until the due date for lodging its SAR for the 2018–19 year to report the commutation to us. However, this means the APRA fund will report the credit arising from Jeff's new income stream before the SMSF advises us of the debit.</p> <p>Unless the SMSF reports the commutation at the time of the rollover to APRA, we will consider that Jeff will exceed his transfer balance cap by \$100,000 and we will issue an ETB determination.</p>



<p>SMSF starts part-way through a year</p>	<p>Robyn and Chris both held their superannuation in APRA funds.</p> <p>On 30 June 2018 Robyn had a total superannuation balance of \$925,000 and Chris had a total superannuation balance of \$788,000.</p> <p>In September 2018 Robyn and Chris started an SMSF and in October 2018 Robyn started a pension. At the time Robyn started their pension, the pension was valued at \$1,110,000.</p>	<p>As no member of the fund had a total superannuation balance of \$1 million or more as at 30 June 2018 (the year before the first fund member started an income stream), the SMSF is required to report any events that occur annually in line with their SAR for that year.</p>
<p>SMSF change in membership</p>	<p>Abbey and Adam were the two members of their SMSF.</p> <p>As at 30 June 2018 Abbey had a total superannuation balance of \$750,000 and Adam had a total superannuation balance of \$850,000.</p> <p>In October 2018 Adam started a pension valued at \$800,000.</p> <p>In November 2018 Abbey left the fund, rolling over her interest to a new SMSF.</p> <p>In January 2019 Noel joined the SMSF, rolling in assets of \$1.2 million.</p> <p>On 1 June 2019 Noel started a pension valued at \$1.3 million.</p>	<p>As no member of the fund had a total superannuation balance of \$1 million or more as at 30 June 2018 (the year before the first fund member started an income stream), the SMSF is required to report any events that occur annually in line with their SAR for that year. However they can choose to report earlier.</p> <p>This won't change even though the fund membership changes.</p> <p>As Abbey hadn't started an income stream at the time she rolled her interest over to a new fund, there's no event in her transfer balance account to report.</p> <p>The following reportable events would need to be individually reported to us no later than the due date of the fund's SMSF annual return for 2018–19, generally 15 May 2020:</p> <ul style="list-style-type: none"> <li>• the start of Adam's pension in October 2018</li> <li>• the start of Noel's pension in June 2019.</li> </ul> <p>Noel will need to take particular care to monitor his transfer balance account and ensure he doesn't exceed his transfer balance cap.</p>

<p>Reporting a reversionary death benefit income stream</p>	<p>Robyn and Daryl are the two members of their SMSF.</p> <p>Robyn and Daryl each had a pre-existing income stream valued at \$1.2 million at 30 June 2017.</p> <p>On 12 January 2019 Robyn passes away. Robyn's death benefit income stream is a reversionary income stream, with Daryl being the reversionary beneficiary. The value of the reversionary income stream on 12 January is \$900,000.</p>	<p>As both members of the SMSF had a total superannuation balance of \$1 million or more as at 30 June 2017, the SMSF is required to report any events 28 days after the end of the quarter in which the event occurs.</p> <p>The start of the reversionary income stream in Daryl's hands needs to be reported to us no later than 28 April 2019.</p> <p>The trustee reports the event to us, clearly identifying that the income stream is a reversionary income stream and the effective date is the date of death of the member.</p> <p>We will show the pending credit in Daryl's transfer balance account information on line, along with the date the credit will arise in Daryl's transfer balance account, 12 January 2020.</p> <p>Darryl has until 12 January 2020 to decide whether to commute the life interest pension or the death benefit income stream in order to avoid exceeding the transfer balance cap.</p>
<p>Transitional rules apply and member commutes excess Member may receive a determination if commutation is not reported</p>	<p>Alex had a pre-existing income stream valued at \$1.64 million at 30 June 2017. As he exceeded the transfer balance cap by \$100,000 or less on 1 July 2017 due to a pre-existing income stream, the transitional rules apply. Alex commuted \$40,000 on 30 October 2017 to avoid having to remove the excess capital, plus notional earnings and pay excess transfer balance tax.</p>	<p>Alex's fund reported the pre-existing income stream to us by 1 July 2018.</p> <p>As Alex had a total superannuation balance of \$1 million or more as at 30 June 2017, the SMSF does not need to report the commutation until 28 October 2018.</p> <p>However, if Alex's fund does not report the commutation that was made under the transitional rules at the same time as the pre-existing income stream, we will consider that he has exceeded the transfer balance cap and issue a determination.</p>

<p>Pre-existing pension exists and SMSF has annual reporting obligation. SMSF starts to pay a member a death benefit income stream on 15 January 2018.</p>	<p>On 30 June 2017 Kate, a member of Alignment SMSF, has a pre-existing income stream valued at \$900,000.</p> <p>On 15 January 2018, Kate starts receiving a death benefit income stream valued at \$800,000.</p> <p>Alignment SMSF has annual reporting obligations and chooses to report the death benefit income stream to us at the time the 2017–18 SMSF annual return was due (that is 15 May 2019).</p>	<p>The trustee of Alignment SMSF will need to report the pre-existing income stream to us by 1 July 2018.</p> <p>As Alignment SMSF did not report the death income stream until 15 May 2019, Kate has been in excess for 16 months. Kate must remove the excess capital of \$100,000 plus the notional earnings that accrued from the day she exceeded her cap to the date of the ETB determination.</p> <p>Kate will pay excess transfer balance tax on the notional earnings that accrued from the day she exceeded her cap to the day she is no longer in excess.</p> <p>If Alignment SMSF had reported the death income stream earlier, while Kate would still have been in excess, the amount of notional earnings and excess transfer balance tax would not have been as high, as the excess would have been removed earlier.</p>
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### See also:

- [Super Transfer balance account report \(/Forms/Super-Transfer-Balance-Account-Report-Instructions/\)](/Forms/Super-Transfer-Balance-Account-Report-Instructions/).
- [Rollover benefit statement and instructions \(/forms/rollover-benefits-statement-and-instructions-for-transactions-1-july-2017/\)](/forms/rollover-benefits-statement-and-instructions-for-transactions-1-july-2017/).
- [Super changes for self-managed super funds \(/super/\)](/super/).

## Record-keeping requirements

- [https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Record-keeping-requirements/\(https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Record-keeping-requirements/\)](https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Record-keeping-requirements/(https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Record-keeping-requirements/))
- Last modified: 20 Jul 2018
- QC 23333

One of your responsibilities as a trustee is to ensure proper and accurate tax and super records are kept.

**Media:** Record keeping in your SMSF <http://tv.ato.gov.au/ato-tv/media?v=bd1bdiubfshbrt> (<http://tv.ato.gov.au/ato-tv/media?v=bd1bdiubfshbrt>). (**Duration:** 2:22)

You should take minutes of all investment decisions, including:

- why a particular investment was chosen
- whether all trustees agreed with the decision.

If, as one of the fund's trustees, you invest the SMSF's money in an investment that fails, the other trustees could take action against you for failing to be diligent in your duties. However, if your investment decision was recorded in meeting minutes that were signed by the other trustees, you will have a record to show that the other trustees agreed with your actions.

You need to make certain records available to your fund's SMSF auditor when they audit your fund each year. You may also need to provide accurate records to us if we ask to see them.

You need to keep the following records for a minimum of five years:

- accurate and accessible accounting records that explain the transactions and financial position of your SMSF
- an annual operating statement and an annual statement of your SMSF's financial position
- copies of all SMSF annual returns lodged
- copies of Transfer balance account reports lodged
- copies of any other statements you are required to lodge with us or provide to other super funds.

You need to keep the following records for a minimum of 10 years:

- minutes of trustee meetings and decisions (if matters affecting your fund were discussed, for example you reviewed the fund's investment strategy)
- records of all changes of trustees
- trustee declarations recognising the obligations and responsibilities for any trustee, or director of a corporate trustee, appointed after 30 June 2007
- members' written consent to be appointed as trustees
- copies of all reports given to members
- documented decisions about storage of collectables and personal use assets.

Don't forget that income tax record-keeping requirements also need your attention – especially documents on deductions, capital gains and losses.

Keep records in writing and in English. If you keep electronic records, they must be capable of verification by us and be in a form we can access and understand.

### **See also:**

- [Self-managed superannuation fund annual return instructions \(/Forms/SMSF-annual-return-instructions/\)](#).
- [Event-based reporting for SMSFs \(/Super/Self-managed-super-funds/Administering-and-reporting/Event-based-reporting-for-SMSFs/\)](#).

## Changes to your SMSF

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Notify-us-of-changes/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/Notify-us-of-changes/>).
- Last modified: 16 Feb 2018
- QC 23334

### On this page:

- [Notify us of changes](#)
- [Keeping within the definition of an SMSF](#)
- [Removing yourself as a trustee or director](#)
- [Becoming a trustee or director again](#)

## Notify us of changes

As a trustee of an SMSF, you need to notify us within 28 days if there is a change in:

- trustees
- directors of the corporate trustee
- members
- contact details (contact person, phone, email address and fax numbers)
- address (postal, registered or address for service of fund notices)
- fund status.

You can update the details of your SMSF:

- online at [abr.gov.au](http://abr.gov.au) (<https://abr.gov.au/>). (you'll need an [AUSkey](https://abr.gov.au/AUSkey) (<https://abr.gov.au/AUSkey>)). or have an [ABN linked to your myGov](#) ([/Business/Business-Portal/Getting-started/Manage-ABN-Connections/](#)). account)
- through a registered agent
- by phone on **13 10 20** (you must be the authorised contact for your SMSF)
- by lodging the paper form *Change of details for superannuation entities* (NAT 3036)

- download the [form \(PDF, 424KB\) \(/workarea/downloadasset.aspx?id=50877\)](#).
- order a copy from [online ordering \(/About-ATO/Contact-us/Order-publications/\)](#).

You can also use these methods to provide or update your financial institution account details and electronic service address.

You can't use the SMSF annual return to tell us about a change in the structure of your SMSF.

## Keeping within the definition of an SMSF

As a trustee you need to ensure your fund always stays within the legal definition of an SMSF.

If your SMSF no longer meets the definition of an SMSF you have six months to either:

- restructure your fund to meet the definition of an SMSF
- voluntarily wind up your SMSF and roll the benefits into an APRA (Australian Prudential Regulation Authority) regulated fund

If you do not do anything, some of our actions could include:

- making your fund [non-complying \(/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/How-we-deal-with-non-compliance/#Noticeofnoncompliance\)](#).
- disqualifying you as a trustee.

## Removing yourself as a trustee or director

If you become a disqualified person you must immediately:

- notify us of your disqualification (unless you have been disqualified by us)
- cease being a trustee.

If you are a director of a corporate trustee, you may also have obligations to inform the Australian Securities & Investments Commission (<http://asic.gov.au/>). (ASIC).

Penalties apply if you act as a trustee or director while disqualified. Other trustees have a responsibility to prevent you acting as a trustee if they know you're disqualified.

If you resign as a trustee your SMSF has six months to restructure itself. Generally this will mean rolling your super interest out of the fund.

The other trustees or directors can:

- roll over your benefits to another complying super fund
- appoint an approved trustee who has a licence from APRA (that is, become a small APRA fund)
- wind up the fund by rolling all members' benefits out of the fund.

If you are the only member of the fund and the sole director of the fund's corporate trustee, contact us on 13 10 20 for advice about what you need to do.

## Becoming a trustee or director again

If you're disqualified because you've been convicted of a dishonesty offence you can apply to have the disqualification waived. You must apply in writing within 14 days of the conviction.

Send the application to:

**Superannuation Business Line**  
**Australian Taxation Office**  
**PO Box 3100**  
**PENRITH , NSW 2740**



If you have been disqualified by us you can ask for a review of our decision. You must make your request in writing within 21 days of receiving the notice of disqualification.

Send your request to:

**Superannuation Business Line**  
**Australian Taxation Office**  
**PO Box 3100**  
**PENRITH NSW 2740**

If you're disqualified due to being insolvent under administration you can't have your disqualification waived. However, once you are no longer insolvent under administration, you will no longer be disqualified and can become a trustee or director again.

## How we help and regulate SMSFs

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/>).
- Last modified: 26 Sep 2018
- QC 42477

We'll help you understand your duties and responsibilities as a trustee and make it as easy as possible for you to comply. We also regulate SMSFs and verify their compliance. We can advise you about complying with the super and tax laws but we don't provide financial or investment advice.

- [Getting help from us \(/super/self-managed-super-funds/administering-and-reporting/how-we-help-and-regulate-smsfs/getting-help-from-us/\)](/super/self-managed-super-funds/administering-and-reporting/how-we-help-and-regulate-smsfs/getting-help-from-us/).
- [Approved education courses \(/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/Approved-education-courses/\)](/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/Approved-education-courses/).
- [How your SMSF is regulated \(/super/self-managed-super-funds/administering-and-reporting/how-we-help-and-regulate-smsfs/how-your-smsf-is-regulated\)](/super/self-managed-super-funds/administering-and-reporting/how-we-help-and-regulate-smsfs/how-your-smsf-is-regulated).
- [How we deal with non-compliance \(/super/self-managed-super-funds/administering-and-reporting/how-we-help-and-regulate-smsfs/how-we-deal-with-non-compliance\)](/super/self-managed-super-funds/administering-and-reporting/how-we-help-and-regulate-smsfs/how-we-deal-with-non-compliance).
- [Early engagement and voluntary disclosure \(/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/SMSF-early-engagement-and-voluntary-disclosure-service/\)](/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/SMSF-early-engagement-and-voluntary-disclosure-service/).

## Getting help from us

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/Getting-help-from-us/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/Getting-help-from-us/>).
- Last modified: 16 Jun 2015
- QC 42476

You can contact us for general help with your SMSF obligations. We can't provide financial or investment advice.

- Trustees with general SMSF queries: phone **13 10 20**
- Tax agents with general SMSF queries: phone **13 72 86**

- Written enquiries can be sent to:

**Australian Taxation Office**

**PO Box 3100**

**PENRITH NSW 2740**

## SMSF specific advice

You can write to us for SMSF specific advice about how the super law applies, or will apply, to your particular circumstances. To get SMSF specific advice, you need to describe the facts of the investment or arrangement and ask for specific advice about how the super law applies.

You can ask about actions or investments your SMSF plans to take, or actions and investments your SMSF has already taken.

SMSF specific advice is not legally binding but it will provide a level of certainty to you as the trustee of your SMSF. If we later take the view that the law applies less favourably to your SMSF, the fact that you acted in accordance with your SMSF specific advice would be a relevant and important factor in your favour.

We can't provide SMSF specific advice about some topics.

### See also:

- [How to apply for SMSF-specific advice \(/Forms/How-to-apply-for-SMSF-specific-advice/\)](#).
- [ATO advice and guidance \(/General/ATO-advice-and-guidance/\)](#).
- [Superannuation enquiries \(/super/apra-regulated-funds/in-detail/contact-us/superannuation-enquiries/\)](#).

# Approved education courses

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/Approved-education-courses/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/Approved-education-courses/>).
- Last modified: 17 Jul 2017
- QC 41142

From 1 July 2014, we may direct a trustee, or a director of a corporate trustee, of a self-managed super fund (SMSF) to undertake an education course if they have contravened superannuation law.

To comply with an education direction, one of the following courses may be undertaken:

- [CPA-CAANZ SMSF Trustee Education](https://smsftrustee.com/cpa/htm/home.asp) (<https://smsftrustee.com/cpa/htm/home.asp>).
- [SMSF Wisdom](http://smsfwisdom.com.au/) (<http://smsfwisdom.com.au/>).
- [SMSF Association Trustee Education Program](https://smsf.mygo1.com/p/#/access/signin) (<https://smsf.mygo1.com/p/#/access/signin>).
- [AMP SMSF Trustee Course](http://ampicfs.com.au/) (<http://ampicfs.com.au/>).
- [Spring Financial Group SMSF Trustee Program](http://www.wealthadviser.com.au/courses-list/) (<http://www.wealthadviser.com.au/courses-list/>).

These courses are available free and online. Trustees are able to access these courses even if you haven't been directed by us to do so. You are encouraged to undertake a course to improve your understanding of the obligations of an SMSF trustee.

Additional courses can be approved for the purpose of education directions.

## See also:

- [How we deal with non-compliance](#) ([/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/How-we-deal-with-non-compliance/](#)).

- [Seeking approval of education courses \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/Seeking-approval-of-education-courses/\)](/Super/Self-managed-super-funds/In-detail/SMSF-resources/Seeking-approval-of-education-courses/).

## How your SMSF is regulated

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/How-your-SMSF-is-regulated/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/How-your-SMSF-is-regulated/>).
- Last modified: 06 Dec 2018
- QC 23307

As an SMSF trustee you may need to deal with two key government agencies. These are:

- Australian Taxation Office (ATO) – administering the relevant super laws for SMSFs
- Australian Securities & Investments Commission (ASIC) – regulating financial services to protect consumers and manages SMSF auditor registrations.

## How we work with ASIC

The ATO and ASIC are joint regulators of SMSFs.

We assist ASIC by:

- providing SMSF data to assist superannuation sector analysis
- collaborating to develop publications and guidance material

- making referrals to ASIC if we discover potentially unlicensed advice providers, or SMSF auditors who fail to meet their obligations.

## ATO as a regulator in the SMSF Sector

As a key regulator for SMSFs, we can help you understand your duties and legal responsibilities as a trustee. We will make it as easy as possible for you to comply with your obligations and protect the future benefits of fund members.

We check compliance with the law to safeguard retirement income. Our activities include:

- checking you manage your fund in accordance with super laws
- implementing and maintaining systems to check the legal compliance
- taking enforcement action to correct matters when there is a breach of the law
- checking SMSF auditors perform their duties to the required standard.
- verifying a fund's primary purpose is to pay retirement benefits to members
- providing information and forms to help set up and manage your fund
- assessing applications for early release of super on compassionate grounds.

We don't:

- develop the law or related policy
- provide financial or investment advice
- evaluate your investment choices
- advise on the structure of your fund, or whether an SMSF is a sensible choice for you
- advise on resolving disputes between trustees
- recommend specific professionals, or intervene if you have a dispute with a professional.

# SMSF early engagement and voluntary disclosure service

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/SMSF-early-engagement-and-voluntary-disclosure-service/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/SMSF-early-engagement-and-voluntary-disclosure-service/>).
- Last modified: 27 May 2016
- QC 49175

Each year an approved self-managed super fund (SMSF) auditor must audit your fund. The auditor is required to report certain regulatory contraventions to us via the *Auditor/actuary contravention report*.

When contraventions have occurred you should work with your appointed SMSF professionals including your SMSF auditor to rectify them as soon as possible.

You are encouraged to voluntarily disclose regulatory contraventions that remain unrectified. You can do this via our SMSF early engagement and voluntary disclosure service. This service provides a single entry point for SMSF trustees and professionals to engage early with us in relation to unrectified contraventions.

If you voluntarily disclose unrectified contraventions before we commence an audit, your disclosure will be taken into account in determining the enforcement action we take and the appropriate level of remission of administrative penalties.

You must provide us with all relevant facts, supporting documentation and a rectification proposal or proposed Enforceable undertaking and actively engage with us throughout the resolution process.

If you make a disclosure about contraventions that occurred in previous years, you must lodge any outstanding SMSF annual returns.

## See also:

- [Appoint an SMSF auditor \(/Super/Self-managed-super-funds/Administering-and-reporting/Appoint-an-SMSF-auditor/\)](/Super/Self-managed-super-funds/Administering-and-reporting/Appoint-an-SMSF-auditor/).

- [Enforceable undertaking \(/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/How-we-deal-with-non-compliance/#Enforceableundertaking\)](#).
- [Early engagement and voluntary disclosure case studies \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-case-studies/Early-engagement-and-voluntary-disclosure/\)](#).

## Who can use the service?

SMSF trustees, SMSF auditors and SMSF professionals (such as tax agents, accountants, financial planners, lawyers and fund administrators acting on behalf of SMSF trustees) can use our Early engagement and voluntary disclosure service.

## When can the service be used?

The SMSF early engagement and voluntary disclosure service should only be used when it is clear there has been a contravention of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) or regulations and it remains unrectified at the time your SMSF auditor reports it to us. Prior to using this service you should engage with an SMSF professional to receive guidance about rectifying the contravention so you have a rectification proposal to include with your voluntary disclosure.

Your SMSF auditor is still required to report regulatory contraventions via an *Auditor/actuary contravention report* (ACR). However, we will not commence an audit based on an ACR if the issue has been resolved through a voluntary disclosure, unless we receive additional information that requires further investigation.

You should not use this service if you have already received notification of an ATO audit or review in relation to the contravention.

## Service expectations

### **What you can expect from us:**

SMSF trustees and professionals who engage with us and make a voluntary disclosure in accordance with this service can expect us to:



- engage with you and work with you and your SMSF professionals with the intent to agree on a proposed plan for rectifying the disclosed contravention
- take your voluntary disclosure and your willingness to engage with us at an early stage and throughout the review process into account when:
  - determining the level of enforcement action that is required
  - making a decision about the remission of any administrative penalties that may be applicable.

### What we expect from you:

- in all cases where possible, you should engage with your SMSF auditor and/or other professional to devise a proposed plan of action to rectify the contravention
- in all cases where possible, a proposed plan for rectifying the contravention and relevant supporting documentation should be provided with your voluntary disclosure
- you should provide information that demonstrates that measures have been put in place to mitigate the risk of similar contraventions occurring in the future
- you will
  - actively engage with us throughout the review process
  - bring any outstanding SMSF annual return lodgements immediately up to date
  - make any necessary consequential amendments to SMSF annual returns and/or individual members' income tax and pay any resulting, outstanding income tax liabilities.

## Making a regulatory contravention voluntary disclosure

You can complete the *SMSF regulatory contravention disclosure* form or apply in writing to make a voluntary disclosure.

The completed form or your written application and any relevant supporting documentation should be submitted to us by:

- fax: **1300 139 024**

- post
  - **Australian Taxation Office**  
**PO Box 3578**  
**ALBURY NSW 2640**
- e-mail: [SMSFRegulatoryContraventionVoluntaryDisclosure@ato.gov.au](mailto:SMSFRegulatoryContraventionVoluntaryDisclosure@ato.gov.au)  
(<mailto:SMSFRegulatoryContraventionVoluntaryDisclosure@ato.gov.au>).  
Please note that email is an unsecured channel.

If you apply in writing your application should include the information and declaration as outlined in the SMSF regulatory contravention disclosure form.

## Accepting voluntary disclosures

We will acknowledge the SMSF voluntary disclosure within 28 days.

We may contact you to request additional information if insufficient information has been provided.

We will assess your voluntary disclosure and depending on the facts and circumstances of each case it will generally result in an ATO review to consider the undertaking or rectification proposal.

### Get it done

- [SMSF regulatory contravention disclosure \(/Forms/SMSF-regulatory-contravention-disclosure/\)](#).

# How we deal with non-compliance

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/How-we-deal-with-non-compliance/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/Administering-and-reporting/How-we-help-and-regulate-SMSFs/How-we-deal-with-non-compliance/>).
- Last modified: 03 May 2019
- QC 42478

Our main focus is encouraging SMSF trustees to comply with the super laws, but there are occasions when stronger responses are warranted.

To ensure a fair and reasonable outcome in each case, decisions are made according to the statements and principles set out in the:

- *Taxpayers' Charter*, which requires that taxpayers be treated fairly and reasonably.
- Compliance model, which helps in understanding the factors and attitudes that motivate a taxpayer to comply or not comply with the law.
- Good decision-making model, which requires that the decision is legal, ethical, equitable, overt, sensible, timely, and in accordance with the principles of natural justice.

The following courses of action are available to us to deal with SMSF trustees who have not complied with super laws:

- [Education direction](#)
- [Enforceable undertaking](#)
- [Rectification direction](#)
- [Administrative penalties](#)
- [Disqualification of a trustee](#)
- [Civil and criminal penalties](#)

- Allowing the SMSF to wind up
- Notice of non-compliance
- Freezing an SMSF's assets

## Education direction

We may give an SMSF trustee a written direction to undertake a course of education when they have been found to have contravened super laws.

The education course is designed to improve the competency of SMSF trustees, improve their ability to meet their regulatory obligations and reduce the risk of trustees contravening the law in the future.

To comply with the direction, trustees will need to complete the education course within a nominated timeframe online – through approved providers under Approved education courses (</super/self-managed-super-funds/administering-and-reporting/how-we-help-and-regulate-smsfs/approved-education-courses/>).

Trustees are required to provide evidence they completed the course and also sign and retain a Trustee declaration confirming they understand their obligations as a trustee of an SMSF. This should be done no later than 21 days after completing the course of education.

A person who fails to comply with an education direction is liable to pay an administrative penalty of 10 penalty units.

## Enforceable undertaking

An SMSF trustee may initiate, in writing, an undertaking to rectify a contravention. We can decide to accept this or not.

The undertaking, which must be sent to us, should include:

- a commitment to stop the behaviour that led to the contravention
- what action will be taken to rectify the contravention

- the timeframe to rectify the contravention
- how and when the trustee will report the contravention has been rectified
- the strategies to prevent the contravention from recurring.

We will consider the following when deciding if we will accept the undertaking:

- the compliance history of the trustee
- the nature of the contravention
- whether the contravention can be rectified, and when and how this will be done
- whether the contravention had criminal consequences.

We will write to the trustee and advise if the undertaking has been accepted or not.

We may take further action if the SMSF trustee substantially fails to comply with the terms of the undertaking.

### **See also:**

- [PS LA 2006/18 – Self-managed superannuation funds – enforceable undertakings \(/law/view/document?DocID=PSR/PS200618/NAT/ATO/00001&PiT=99991231235958\)](#).

## Rectification direction

We may give a trustee or a director of a corporate trustee a written direction to rectify a contravention of the super laws.

A rectification direction requires a person to undertake specified action to rectify the contravention within a specified time and show proof of compliance with the direction. Rectification generally involves putting in place managerial or administrative arrangements that could reasonably be expected to ensure there are no further similar contraventions.

A person who fails to comply with the direction commits an offence of strict liability. This can also lead to the trustee or director being disqualified or the fund's complying status being removed, which may result in a significant tax penalty on the fund.

A trustee may request us to vary the direction. The request must be made in writing on or before the period specified in the direction, be signed and dated and set out the reasons for the request.

A trustee may also object to our decision to give a rectification direction or to our decision to refuse to vary a rectification direction.

## Administrative penalties

Individual trustees and directors of corporate trustees are personally liable to pay an administrative penalty from 1 July 2014 if they contravene the following provisions of the *Superannuation Industry (Supervision) Act 1993* (SISA).

**Table: SISA provision and associated penalty**

Provision in SISA	Description	Administrative penalty
Subsection 34(1)	Operating standards	20 penalty units
Subsection 35B(1)	Accounts and statements	10 penalty units
Subsection 65(1)	Lending to members and relatives	60 penalty units
Subsection 67(1)	Borrowings	60 penalty units
Subsection 84(1)	In-house assets	60 penalty units
Subsection 103(1)	Duty to keep minutes	10 penalty units
Subsection 103(2)	Duty to keep minutes of meetings	10 penalty units

Subsection 103(2A)	Retention of copy of section 71E election	10 penalty units
Subsection 104(1)	Duty to keep records of changes of trustees	10 penalty units
Subsection 104A(2)	Declaration of recognition of obligations and responsibilities	10 penalty units
Subsection 105(1)	Duty to keep and retain member or beneficiary reports	10 penalty units
Subsection 106(1)	Duty to notify of significant adverse events	60 penalty units
Subsection 106A(1)	Duty to notify of change in status of entity	20 penalty units
Subsection 124(1)	Written appointment of investment managers	5 penalty units
Subsection 160(4)	Education direction	5 penalty units
Subsection 254(1)	Information to be given to the regulator	5 penalty units
Subsection 347A(5)	Participation in the regulator's statistical program	5 penalty units

The penalty cannot be paid or reimbursed from the assets of the fund.

Directors of corporate trustees are jointly and severally liable to the penalty. Individual trustees are each liable to the penalty.

Penalties may be wholly or partially remitted depending on the circumstances of each case.

Administrative penalties may also be imposed on SMSF trustees if they make false and misleading statements to us.

**See also:**

- [Penalties \(/general/interest-and-penalties/penalties/\)](/general/interest-and-penalties/penalties/).

## Disqualification of a trustee

We may disqualify an individual from acting as a trustee or director of a corporate trustee if they've contravened super laws.

We can also disqualify an individual if we're concerned about their actions or suitability to be a trustee. When deciding whether to disqualify a trustee, we take into account how serious the contraventions are, how many contraventions have occurred and how likely it is they will continue to be non-compliant.

An individual may be disqualified as an SMSF trustee for not being a 'fit and proper person'. Personal character is considered along with the circumstances surrounding any contraventions.

We will write to disqualified trustees detailing our decision. This information is published in the [Government Notices Gazette \(https://www.australia.gov.au/about-government/publications/australian-government-gazettes\)](https://www.australia.gov.au/about-government/publications/australian-government-gazettes). Individuals who have been disqualified from being an SMSF trustee can apply to have the decision reviewed.

You can check our [Disqualified trustees register \(XLXS, 249 KB\)](/uploadedFiles/Content/SPR/downloads/disqualified_trustees_register.xlsx) ([/uploadedFiles/Content/SPR/downloads/disqualified\\_trustees\\_register.xlsx](/uploadedFiles/Content/SPR/downloads/disqualified_trustees_register.xlsx)), to see if an individual has previously been disqualified by us. The register:

- provides information already publicly available information on the Government Notices Gazette with some added search functionality to help you search easily and determine if a potential trustee has been disqualified
- is updated quarterly and includes all individuals who have been disqualified by us since 2012, when the information was first published electronically.

When an individual is notified they have been disqualified as a trustee or director of the corporate trustee, they must remove themselves from this role.



It is an offence to continue to act as a trustee or director of the corporate trustee if you have been disqualified. Further penalties may apply.

**See also:**

- [PS LA 2006/17 – Self-managed superannuation funds – disqualification of individuals to prohibit them from acting as a trustee of a self-managed superannuation fund \(/law/view/document?DocID=PSR/PS200617/NAT/ATO/00001&PiT=99991231235958\)](#).
- [Ensure members are eligible to be trustees \(/super/self-managed-super-funds/setting-up/appoint-your-trustees/#Ensuremembersareeligiblebetrustees\)](#).

## Civil and criminal penalties

We may apply through the courts for civil or criminal penalties to be imposed.

Civil and criminal penalties apply where SMSF trustees have contravened provisions concerning:

- the sole-purpose test
- lending to members
- the borrowing rules
- the in-house asset rules
- prohibition of avoidance schemes
- duty to notify the regulator of significant adverse events
- arm's-length rules for an investment
- promotion of illegal early release schemes.

We will consider the severity of the contravention, the circumstances that led to it and the actions of the individuals involved before instigating civil or criminal prosecution.

## Allowing the SMSF to wind up

Following a contravention, the trustee may decide to wind up the SMSF and roll over any remaining benefits to an Australian Prudential Regulation Authority (APRA) regulated fund.

Depending on the actions of the trustees and the type of contravention, we may continue to issue the SMSF with a notice of non-compliance and/or apply other compliance treatments.

## Notice of non-compliance

Serious contraventions of the super laws may result in an SMSF being issued with a notice of non-compliance. In this case the fund remains non-compliant until they receive a notice of compliance.

We'll consider the following when deciding whether to issue a notice of non-compliance:

- the tax consequences and financial impact of making an SMSF non-complying.
- the seriousness of the contravention, including;
  - trustee's behaviour
  - the effect the contravention has on the SMSF's assets
  - the number and duration of contraventions
- all other relevant circumstances, including
  - if the trustee has rectified the contravention
  - the trustee's level of skill and knowledge
  - the compliance history of the fund
  - the events which led to the contravention.

Making a fund non-complying can have a significant financial impact on the SMSF because:

- for every year the fund remains non-complying, its assessable income is taxed at the highest marginal tax rate

- in the year it becomes non-complying, it includes in its assessable income an amount equal to the market value of the fund's total assets less any contributions the fund has received that are not part of the taxable income of the fund.

**See also:**

- [PS LA 2006/19 – Self managed superannuation funds – notice of non-compliance \(/law/view/document?DocID=PSR/PS200619/NAT/ATO/00001&PiT=99991231235958\)](#).

## Freezing an SMSF's assets

We may give a trustee or investment manager a notice to freeze an SMSF's assets where it appears that conduct by the trustees or investment manager is likely to adversely affect the interests of the beneficiaries to a significant extent. This is particularly important when the preservation of benefits is at risk.

The notice may direct the trustee or investment manager not to acquire assets, not to dispose of assets or to deal with assets in a particular way. We may also give a similar written notice to a person, other than a trustee or investment manager, who has possession, custody or control of an asset of the fund.

**See also:**

- [The new administrative penalty regime: the ATO's new stick \(/Media-centre/Speeches/Other/The-new-administrative-penalty-regime--the-ATO-s-new-stick/\)](#).

## SMSF auditors

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/>).
- Last modified: 16 Jun 2015
- QC 45561

Approved SMSF auditors have a critical role in helping to maintain the health and integrity of the SMSF sector through the annual audit of each SMSF.

### Find out about:

- [Professional requirements \(/super/self-managed-super-funds/smsf-auditors/professional-requirements/\)](/super/self-managed-super-funds/smsf-auditors/professional-requirements/).
- [Auditing an SMSF \(/super/self-managed-super-funds/smsf-auditors/auditing-an-smsf/\)](/super/self-managed-super-funds/smsf-auditors/auditing-an-smsf/).
- [Reporting \(/super/self-managed-super-funds/smsf-auditors/reporting/\)](/super/self-managed-super-funds/smsf-auditors/reporting/).
- [Auditor compliance \(/Super/Self-managed-super-funds/SMSF-auditors/Auditor-compliance/\)](/Super/Self-managed-super-funds/SMSF-auditors/Auditor-compliance/).
- [Help and resources \(/super/self-managed-super-funds/smsf-auditors/help-and-resources/\)](/super/self-managed-super-funds/smsf-auditors/help-and-resources/).

## Professional requirements

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Professional-requirements/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Professional-requirements/>).
- Last modified: 04 Mar 2019

- QC 45562

To conduct SMSF audits, you must:

- be registered with the Australian Securities and Investments Commission (<http://www.asic.gov.au/smsf-auditor>). (ASIC) as an approved SMSF auditor
- have a valid SMSF auditor number (SAN)
- meet ongoing obligations as prescribed by the *Superannuation Industry (Supervision) Act 1993* (SISA) and the *Superannuation Industry (Supervision) Regulations 1994* (SISR), and
- comply with ongoing ASIC registration requirements including:
  - keeping your auditor details up to date
  - lodging your annual statement.

Under the SISA, you are required to comply with:

- auditor independence requirements, which the SISR prescribes as being set out in the Code of Ethics for Professional Accountants (APES 110) (PDF 1.57MB). ([https://www.apesb.org.au/uploads/standards/apesb\\_standards/20092017153656\\_Compiled\\_APES\\_110\\_Sept17.pdf](https://www.apesb.org.au/uploads/standards/apesb_standards/20092017153656_Compiled_APES_110_Sept17.pdf)). produced by the Accounting Professional & Ethical Standards Board Limited (APESB)
- the applicable auditing and assurance standards (<https://www.auasb.gov.au/Pronouncements/Standards-on-Assurance-Engagements.aspx>). issued by the Auditing and Assurance Standards Board (AUASB)
- SMSF auditor competency standards issued by ASIC in Class Order [CO 12/1687] Competency standards for approved SMSF auditors (<https://www.legislation.gov.au/Details/F2012L02497>).
- the reporting requirements, including for the Self-managed superannuation fund independent auditor's report ([/Forms/SMSF-independent-auditor-s-report/](#)) and the *Auditor/actuary contravention report*
- the prescribed continuing professional development (CPD) requirements
- the requirement to hold prescribed professional indemnity insurance
- any conditions imposed on your registration by ASIC.

We work closely with ASIC to monitor the effectiveness of SMSF auditors. If we identify performance and compliance issues, including a failure to comply with your obligations under the SISA, we may refer the matters to ASIC for their consideration.

**See also:**

- [PS LA 2018/1 \(/law/view/document?DocID=PSR/PS20181/NAT/ATO/00001\)](#). *Self-managed superannuation funds - referral of approved SMSF auditors to ASIC*
- [ASIC Regulatory Guide 243 Registration of self-managed superannuation fund auditors \(RG 243\)](#). (<http://www.asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-243-registration-of-self-managed-superannuation-fund-auditors/>).
- [Section 128F\(d\) of the SISA \(/law/view/document?DocID=PAC/19930078/128F\)](#).
- [Regulation 9A.06 of the SISR \(/law/view/document?DocID=REG/19940057/9A.06\)](#).
- [Independence guide – published by the Joint Accounting Bodies \(PDF 310KB\)](#). (<https://www.charteredaccountantsanz.com/-/media/c1e23b90fced4d729744b7306405d36e.ashx>).

## Auditing an SMSF

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditing-an-SMSF/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditing-an-SMSF/>).
- Last modified: 17 May 2019
- QC 45565

The trustees must appoint you as their SMSF auditor no later than 45 days before the annual return is due to be lodged and provide you with all relevant documentation to conduct and finalise the audit. If you request more information from the trustees, they must provide it to you within 14 days of your written request.

As an SMSF auditor, it's your role to carry out the annual financial and compliance audit of an SMSF's operations and to provide the Self-managed superannuation fund independent auditor's report (</Forms/SMSF-independent-auditor-s-report/>). (NAT 11466) approved form to trustees within 28 days of receiving all relevant documentation.

A financial and compliance audit must be completed before a fund's SMSF annual return can be lodged.

### Find out about:

- [Financial audit](/super/self-managed-super-funds/smsf-auditors/auditing-an-smsf/financial-audit/) (</super/self-managed-super-funds/smsf-auditors/auditing-an-smsf/financial-audit/>).
- [Compliance audit](/super/self-managed-super-funds/smsf-auditors/auditing-an-smsf/compliance-audit/) (</super/self-managed-super-funds/smsf-auditors/auditing-an-smsf/compliance-audit/>).
- [Audit documentation](/super/self-managed-super-funds/smsf-auditors/auditing-an-smsf/audit-documentation/) (</super/self-managed-super-funds/smsf-auditors/auditing-an-smsf/audit-documentation/>).
- [Auditing an SMSF that is winding up](/Super/Self-managed-super-funds/SMSF-auditors/Auditing-an-SMSF/Auditing-an-SMSF-that-is-winding-up/) (</Super/Self-managed-super-funds/SMSF-auditors/Auditing-an-SMSF/Auditing-an-SMSF-that-is-winding-up/>).

## Financial audit

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditing-an-SMSF/Financial-audit/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditing-an-SMSF/Financial-audit/>).
- Last modified: 04 Mar 2019
- QC 45564

You must conduct your financial audit in accordance with the Australian Auditing Standards (ASAs). (<http://www.auasb.gov.au/Pronouncements/Australian-Auditing-Standards.aspx>). issued by the Auditing and Assurance Standards Board (AUASB).

The relevant auditing standards are outlined under GS 009: Auditing Self-Managed Superannuation Funds (PDF 1.39MB). ([https://www.auasb.gov.au/admin/file/content102/c3/Sep15\\_Guidance\\_Statement\\_GS\\_009.pdf](https://www.auasb.gov.au/admin/file/content102/c3/Sep15_Guidance_Statement_GS_009.pdf)). in the AUASB Guidance Statements (<https://www.auasb.gov.au/Pronouncements/AUASB-Guidance-Statements.aspx>). .

When undertaking the financial audit you should:

- prepare and document the audit plan in writing, which details the approach to be undertaken
- identify the nature, timing and extent of audit procedures used to address the risk that financial statements are materially misstated
- gather appropriate evidence to support assertions for material account balances and transactions in signed financial statements. This includes evidence that assets are valued at market value and any non-arm's length income has been identified
- conduct testing of the assertions made in the signed financial reports about the
  - existence of assets, entitlements and liabilities
  - occurrence of transactions
  - completeness of transactions, events and assets being recorded
  - ownership, rights and obligations the SMSF has for assets, entitlements and liabilities
  - accuracy and valuation of data amounts recorded
  - classification of relevant events to correct accounts
- review the fund's tax calculation and allocation of any tax expense or benefit to the member's accounts. This includes checking whether the fund has
  - correctly classified income (for example, correctly report income as ordinary, statutory, exempt current pension income or arm's length/non-arm's length income)
  - incurred any deductions claimed
  - any imputation credits, carried forward losses and other offsets attributable to the fund
  - correctly classified the tax status of contributions



- complied with regulatory laws that may otherwise impact their ability to claim concessional taxation treatment
- document your conclusions, opinions and judgments based on the evidence obtained. There should be sufficient audit working papers to allow another auditor who has had no previous involvement with the audit to understand the work performed and the opinion reached
- form an opinion about the fair presentation of the financial report based on evidence gathered and checks performed. Your opinion should be reported in the approved Self-managed superannuation fund independent auditor's report (/Forms/SMSF-independent-auditor-s-report/). (NAT 11466) form for the relevant reporting period.

## Compliance audit

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditing-an-SMSF/Compliance-audit/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditing-an-SMSF/Compliance-audit/>).
- Last modified: 04 Mar 2019
- QC 45566

### On this page:

- [Professional standards and conduct of audit](#)
- [Our compliance audit guidance](#)

## Professional standards and conduct of audit

As an approved self-managed super fund (SMSF) auditor, you must possess the required capabilities and competencies to conduct a compliance audit of an SMSF. This includes having full knowledge of the relevant legislation and its application to SMSFs.

You must conduct your compliance audit in accordance with the Standards on Assurance Engagements (ASAE). (<http://www.auasb.gov.au/Pronouncements/Standards-on-Assurance-Engagements.aspx>). produced by the Auditing and Assurance Standards Board (AUASB).

The relevant ASAEs are outlined under GS 009: Auditing Self-Managed Superannuation Funds (PDF 1.39MB). ([https://www.auasb.gov.au/admin/file/content102/c3/Sep15\\_Guidance\\_Statement\\_GS\\_009.pdf](https://www.auasb.gov.au/admin/file/content102/c3/Sep15_Guidance_Statement_GS_009.pdf)). in the AUASB Guidance Statements (<https://www.auasb.gov.au/Pronouncements/AUASB-Guidance-Statements.aspx>). .

Based on your audit, you must be satisfied that the trustees of the fund have met the requirements set out in the super laws. When doing the compliance audit, you should:

- consider materiality and risk
- obtain sufficient and appropriate evidence on which to base your conclusions
- test identified contraventions against the Auditor/actuary contravention report (ACR) reporting criteria
- document your conclusions, opinions and judgments in writing to keep as part of your audit working papers. There should be sufficient audit working papers to enable another auditor who has had no previous involvement with the audit to understand the work performed and the opinion reached.
- report your professional opinion about the subject matter in the approved Self-managed superannuation fund independent auditor's report (/Forms/SMSF-independent-auditor-s-report/) form (NAT 11466)
- if you form the opinion that a contravention of a matter specified in the ACR may have occurred, may be occurring or may occur in the future; notify the trustee in writing and report this to us in the ACR.

## Our compliance audit guidance

The table below provides guidance on the minimum expectation of audit checks and evidence in relation to sections of the *Superannuation Industry (Supervision) Act 1993* (SISA) and regulations in the *Superannuation Industry (Supervision) Regulations 1994* (SISR) that are listed in the *Self-managed superannuation fund independent auditor's report* and in table 1 of the Auditor/actuary contravention report instructions (/Forms/Auditor-actuary-contravention-report-instructions/?page=3#table1).

This guidance material does not replace or limit any professional obligations or standards that you are required to meet. It merely sets out what we expect to see evidenced in an SMSF audit if it were to carry out a compliance review or other activity in relation to an SMSF auditor.

**Table: Minimum expectation of audit checks**

Section or regulation	Minimum expectation of audit check
S17A	<p>To check if the fund meets the definition of an SMSF, the auditor should collect evidence by checking the:</p> <ul style="list-style-type: none"> <li>• trust deed</li> <li>• current number and names of members</li> <li>• type of trustee</li> <li>• relationship between members (for example, no member of the fund is an employee of another member, unless they are relatives)</li> <li>• names of individual trustees or directors of corporate trustees</li> <li>• details of legal personal representatives where relevant.</li> </ul> <p><b>See also:</b></p> <ul style="list-style-type: none"> <li>• <a href="#">SMSFR 2010/2 (/law/view/document?DocID=SFR/SMSFR20102/NAT/ATO/00001)</a>. Self Managed Superannuation Funds: the scope and operation of subparagraph 17A(3)(b)(ii) of the <i>Superannuation Industry (Supervision) Act 1993</i>.</li> </ul>

S35AE	<p>The auditor should check that accounting records are:</p> <ul style="list-style-type: none"> <li>• kept in Australia</li> <li>• written in the English language or in a form that allows easy translation into English</li> <li>• kept on file for at least five years (by sighting historical records or seeking written confirmation from the trustees).</li> </ul>
S35B	<p>The auditor should check that the accounts and statements (an operating statement and a statement of financial position) have been:</p> <ul style="list-style-type: none"> <li>• signed by at least two of the individual trustees or two directors of the corporate trustee (or the sole director of the corporate trustee, where the corporate trustee has one director)</li> <li>• kept for at least five years (by sighting historical records or seeking written confirmation from the trustees).</li> <li>• completed and signed (an operating statement and a statement of financial position)</li> <li>• provided with written confirmation from trustees that accounting statements are kept on file for at least five years (in trustee representation letter).</li> </ul>
S35C(2)	<p>The auditor should keep a record of any written requests to the trustees for documents relevant to the audit. Trustees should be reminded to provide requested documents in a required timeframe of 14 days. Failure to do so is a reportable contravention.</p>

S62

The auditor should:

- check that the trust deed established the fund solely for the provision of benefits for fund members (upon their retirement or turning 65 years old) and their dependants (in the case of the member's death before retirement)
- consider transactions to ensure they have been entered into with the sole purpose of providing benefits to members in retirement and not to provide a current day benefit before a condition of release has been met.

Indicators that a fund may not be meeting the sole purpose test include:

- investments acquired, transactions or contracts entered into that
  - appear to provide minimal or no returns for the fund
  - provide a current or additional personal benefit to members (for example the fund invests in a sports club that provides members with free use of facilities)
- the fund is running an active business which may cause the fund to contravene other provisions of the SISA and the SISR.

**See also:**

- [SMSFR 2008/2 \(/law/view/document?DocID=SFR/SMSFR20082/NAT/ATO/00001\)](#). Self Managed Superannuation Funds: the application of the sole purpose test in section 62 of the *Superannuation Industry (Supervision) Act 1993* to the provision of benefits other than retirement, employment termination or death benefits.

S65

The auditor should obtain evidence that the fund has not lent money or provided financial assistance to members and relatives by:

- examining bank statements and seeking explanation from trustees for any unusual transactions including transfers of money to members or relatives
- checking details of all loans by the fund (including parties to the loan, loan term, interest, repayments)
- checking any transactions with related parties for financial assistance to members or relatives
- reviewing asset ownership to ensure the investment is owned by the fund and that a charge or other form of security has not been taken over any of the SMSF's assets to secure a member's or relative's personal borrowing. If the auditor has reason to suspect this may be happening, they should consider further checks, such as
  - property title search to check for encumbrances on real property
  - the Personal Property Securities Register for other parties registering interests against other SMSF assets.

**See also:**

- [SMSFR 2008/1 \(/law/view/document?DocID=SFR/SMSFR20081/NAT/ATO/00001\)](#). Self Managed Superannuation Funds: giving financial assistance using the resources of an SMSF to a member or relative of a member that is prohibited for the purposes of paragraph 65(1)(b) of the *Superannuation Industry (Supervision) Act 1993*.

S66

The auditor should check whether the fund has acquired assets from related parties by:

- identifying the parties involved in fund acquisitions
- obtain evidence of the parties to acquisitions including sighting minutes of meetings regarding the purchase, invoices or contracts of sale.

If there is a related party acquisition, the auditor should check whether it is:

- an excepted acquisition
- acquired at market value.

**See also:**

- [SMSFR 2010/1 \(/law/view/document?DocID=SFR/SMSFR20101/NAT/ATO/00001\)](#). Self Managed Superannuation Funds: the application of subsection 66(1) of the *Superannuation Industry (Supervision) Act 1993* to the acquisition of an asset by an SMSF from a related party.

S67, s67A, s67B	<p>The auditor should check whether the fund has any borrowings by examining financial statements, documents and bank statements to check for overdrafts, loans or unusual contractual terms or transactions.</p> <p>If there is a borrowing, the auditor should obtain evidence, including loan documents from the trustees, to determine:</p> <ul style="list-style-type: none"> <li>• the reason for the borrowing</li> <li>• whether it is allowed under the borrowing exceptions</li> <li>• whether the trust deed permits the fund to borrow.</li> </ul> <p>If the fund has a limited recourse borrowing arrangement (LRBA) under section 67A the auditor should check that the:</p> <ul style="list-style-type: none"> <li>• asset is a type that can be acquired by the fund</li> <li>• trust deed allows for LRBAs and the investment is in line with the fund's investment strategy</li> <li>• loan documents to ensure there is limited recourse available to the lender should the fund default on the borrowing</li> <li>• deed of the holding trust (also known as the custody deed or the bare trust deed)</li> <li>• express terms of any guarantee arrangements limit the rights of the guarantor to rights relating to the asset which is the subject of the arrangement.</li> </ul> <p>If there is a replacement asset the auditor should check that it is allowed to be treated as an acquirable asset under section 67B.</p> <p><b>See also:</b></p> <ul style="list-style-type: none"> <li>• <a href="#">SMSFR 2009/2 (/law/view/document?DocID=SFR/SMSFR20092/NAT/ATO/00001)</a>. Self Managed Superannuation Funds: the meaning of 'borrow money' or 'maintain an existing borrowing of money' for the purposes of section 67 of the <i>Superannuation Industry (Supervision) Act 1993</i></li> <li>• <a href="#">SMSFR 2012/1 (/law/view/document?DocID=SFR/SMSFR20121/NAT/ATO/00001)</a>. Self Managed Superannuation Funds: limited recourse borrowing arrangements - application of key concepts.</li> </ul>
S82	<p>The auditor should determine if there are related party investments by sighting financial statements, bank statements and any other relevant supporting documents such as share and unit certificates, loan documents or lease documents.</p>



Where the SMSF invests in related parties, the auditor should check:

- the proportion of shares/units held in the related entity
- whether SMSF trustees or related parties hold a controlling interest or can sufficiently influence decisions of the entity (for example, directors, significant share or unit holding, casting votes or control over the day to day operations of the entity)
- the related entity's financial statements, including whether it has borrowed, its dealings are at arm's length, and distributions are paid as they fall due
- whether the loan, investment or lease meets the definition of an in-house asset (loans to, investments in and leases to related parties) and whether any in-house asset exceptions apply
- if there are in-house assets, the auditor calculates the market value ratio of the in-house assets. If the ratio exceeds 5% of the market value of total fund assets, the auditor should seek evidence of a written plan (per section 82 of the SISA) by the trustees to dispose of excess in-house assets by the end of the following financial year to reduce the ratio to less than 5% of total fund assets.

**See also:**

- [SMSFR 2009/4 \(/law/view/document?DocID=SFR/SMSFR20094/NAT/ATO/00001\)](#). Self Managed Superannuation Funds: the meaning of 'asset', 'loan', 'investment in', 'lease' and 'lease arrangement' in the definition of an 'in-house asset' in the *Superannuation Industry (Supervision) Act 1993*
- [SMSFR 2009/3 \(/law/view/document?DocID=SFR/SMSFR20093/NAT/ATO/00001\)](#). Self Managed Superannuation Funds: application of the *Superannuation Industry (Supervision) Act 1993* to unpaid trust distributions payable to a Self Managed Superannuation Fund
- [SMSFD 2008/1 \(/law/view/document?DocID=SFD/SMSFD20081/NAT/ATO/00001\)](#). Self Managed Superannuation Funds: how does the happening of an event in subregulation 13.22D(1) of the *Superannuation Industry (Supervision) Regulations 1994* affect whether a self managed superannuation fund's investments in related companies or unit trusts are in-house assets of the fund?
- [SMSFD 2007/1 \(/law/view/document?DocID=SFD/SMSFD20071/NAT/ATO/00001\)](#). Self Managed Superannuation Funds: when is a dividend or trust distribution 'received' before the end of 30 June 2009 for the purposes of paragraph 71D(d) of the *Superannuation Industry (Supervision) Act 1993*

S83	<p>The auditor should check any acquisitions by the fund during the year including the identity of the parties to the transaction to determine if the fund acquired in-house assets by:</p> <ul style="list-style-type: none"> <li>• sighting financial statements, bank statements and any other relevant supporting documents such as share and unit certificates, loan documents or lease documents to check for related parties</li> <li>• checking the proportion of shares/units held in the related entity</li> <li>• checking whether SMSF trustees or related parties hold a controlling interest or can sufficiently influence decisions of the entity (for example directors, significant share or unit holding, casting votes or control over the day to day operations of the entity).</li> </ul> <p>The auditor should obtain evidence to determine whether the acquisition occurred at a time when the market value ratio of in-house assets already exceeded 5% or whether the acquisition caused the market value ratio of the in-house assets to exceed 5%.</p>
S84	<p>Where a fund has in-house assets, the auditor should obtain evidence that the trustees have taken all reasonable steps to comply with in-house asset rules by checking the:</p> <ul style="list-style-type: none"> <li>• market value ratio of in-house assets does not exceed 5%</li> <li>• trustees did not intentionally acquire in-house assets which caused the market value ratio of in-house assets to exceed 5%</li> <li>• trustees have made a written plan to dispose of any excess in-house assets to reduce the market value ratio to 5%.</li> </ul> <p>Trustee documents including minutes of meetings may contain further evidence about the acquisition and disposal of in-house assets.</p>

S85	<p>When examining fund transactions, the auditor should check for schemes (including transactions entered into through third parties) which may be designed to circumvent in-house asset rules or artificially reduce the market value ratio of the fund's in-house assets by:</p> <ul style="list-style-type: none"> <li>• sighting bank statements and other relevant supporting documents for transactions, including the methods for valuing assets</li> <li>• considering the relationship between the fund and the parties to the transactions.</li> </ul>
S103	<p>The auditor should obtain evidence that minutes of trustee meetings are kept and retained on file for at least 10 years as required by:</p> <ul style="list-style-type: none"> <li>• sighting meeting minutes and records of decisions relevant to the year under audit and retaining these on the audit file</li> <li>• seeking written confirmation from trustees that these minutes and records are kept on file for at least 10 years (in trustee representation letter).</li> </ul>
S104	<p>The auditor should obtain evidence that trustees keep and retain records for at least 10 years of all trustee consents and all changes of trustees, or directors of the corporate trustee, by:</p> <ul style="list-style-type: none"> <li>• sighting records of trustee changes and consents relevant to the year under audit and retaining these on the audit file</li> <li>• seeking written confirmation from trustees that these records are kept on file for at least 10 years (in trustee representation letter), especially if changes occurred during the year prior to engagement with the auditor.</li> </ul>

S104A	<p>The auditor should obtain evidence that that all trustee declarations have been signed and retained as required by:</p> <ul style="list-style-type: none"> <li>• sighting a signed trustee declaration for each individual SMSF trustee or each director of the corporate trustee relevant to the year under audit, and retaining these on the audit file</li> <li>• seeking written confirmation from trustees that the trustee declarations are kept on file for at least 10 years (in trustee representation letter), especially if changes occurred during the year prior to engagement with the auditor.</li> </ul> <p>Signing the ATO trustee declaration applies to new trustees and directors from 30 June 2007 and trustees who have undertaken an education course in compliance with an education direction.</p>
S105	<p>The auditor should obtain evidence that the fund has retained all member or beneficiary reports as required by:</p> <ul style="list-style-type: none"> <li>• sighting any member or beneficiary reports relevant to the year under audit</li> <li>• seeking written confirmation from trustees that the reports are kept on file for at least 10 years (in trustee representation letter).</li> </ul>
S109	<p>The auditor should obtain evidence that the fund's transactions are conducted at arm's length (particularly where there are dealings with a related party of the fund) by examining:</p> <ul style="list-style-type: none"> <li>• financial statements and source documents</li> <li>• bank statements</li> <li>• supporting documents of transactions, such as leases, loan documents or purchase contracts to check for commercial terms and a market rate of return.</li> </ul>

S126K	<p>The auditor should obtain evidence that no trustee or director of a corporate trustee is a disqualified person by seeking written confirmation from the trustees that they are not disqualified persons (in trustee representation letter). The auditor may consider further checks in some cases, for example, if the trustees refuse to provide written confirmation or there is reason to suspect they may be disqualified.</p> <p>Additional checks the auditor may consider include:</p> <ul style="list-style-type: none"><li>• company information with the Australian Securities and Investments Commission (ASIC)</li><li>• insolvency or bankruptcy check with the Australian Financial Security Authority.</li></ul>
Sub Reg 1.06(9A)	<p>The auditor should obtain evidence that the fund has rules for pension payments as set out in SISR subregulation 1.06(9A) and that the fund complies with the rules (ie payments are made at least annually and minimum required payment has actually been paid to the member during the year) by examining:</p> <ul style="list-style-type: none"><li>• the trust deed</li><li>• bank statements for payments</li><li>• actuarial certificates, where relevant</li><li>• member records evidencing pension payments</li><li>• any amounts accrued as pension payments.</li></ul>

## Reg 4.09

The auditor reviews the fund's investment strategy for evidence that the trustees have formulated, and invested in accordance with, an investment strategy that:

- has regard to the whole of the fund's circumstances
- considers investment risk and returns, diversity, liquidity and the ability to discharge liabilities as they fall due
- considers the insurance needs of members
- is regularly reviewed.

The auditor checks the investments of the fund to understand if the trustees have invested in accordance with its requirements.

Evidence that an investment strategy has been regularly reviewed and has considered the insurance needs of members may be found in an updated investment strategy, notations on the current investment strategy or information contained in minutes of trustee meetings.

Generally, the investment strategy is in writing. If there is no formal investment strategy, the auditor must obtain some form of written confirmation from the trustees on which to base their opinion of the trustee's compliance with the requirements of this regulation.

A material contravention of SISR regulation 4.09 should result in a qualified auditor's report and lodgment of an ACR. The trustee should also be notified in writing about the contravention. The auditor can notify the trustees in the management letter of any further concerns about the fund's investment strategy and its investments.

Reg 4.09A	<p>The auditor should obtain evidence that the fund's money and assets are held separately from money and assets held personally by the trustees or a standard employer-sponsor by:</p> <ul style="list-style-type: none"> <li>• sighting asset ownership documents, including bank statements, to verify SMSF assets are held in the name of trustees on behalf of the fund (eg R &amp; J Smith as trustees for the Smith SMSF or R Smith Pty Ltd as trustee for the Smith SMSF) and not in the name of the trustees alone</li> <li>• where State law prevents ownership in the SMSF's name, checking for alternative documentation that protects the fund's assets (eg a valid declaration of trust)</li> <li>• reviewing transactions on bank statements to ensure fund money is not mixed with money belonging to related parties of the SMSF.</li> </ul> <p>Where there has been a change in trustees, the auditor should obtain evidence that ownership documents reflect the change.</p>
Reg 5.03	<p>The auditor should obtain evidence that the investment return from reserves is allocated to each member's account in a fair and reasonable way by:</p> <ul style="list-style-type: none"> <li>• checking details of the reserve account</li> <li>• reviewing earning allocations to each member's account to determine if they are reasonable given the circumstances</li> <li>• sighting the member records and accounts.</li> </ul> <p><b>See also:</b></p> <ul style="list-style-type: none"> <li>• <a href="#">SMSFRB 2018/1 (/law/view/document?DocID=SRB/SRB20181/NAT/ATO)</a>. The use of reserves by self-managed superannuation funds.</li> </ul>

Reg 5.08	<p>The auditor should obtain evidence that minimum benefits have been maintained appropriately by:</p> <ul style="list-style-type: none"> <li>• sighting member accounts and records that evidence pension or lump sum payments</li> <li>• ensuring any loans to members are appropriately documented as such, and are therefore not to be considered an early access of benefits</li> <li>• checking whether members receiving payments have met a condition of release.</li> </ul>
Reg 6.17	<p>The auditor should obtain evidence that any payments were cashed, rolled over or allotted in accordance with the SISR rules.</p> <p>This includes obtaining evidence that the payments were only paid to members who were eligible to receive those payments under the super law and the trust deed (based on age, cessation of employment, death, terminal medical condition, temporary or permanent incapacity, compassionate grounds, severe financial hardship, or transition-to-retirement).</p>
Reg 7.04	<p>The auditor should test that trustees were able to accept contributions by checking:</p> <ul style="list-style-type: none"> <li>• the trust deed of the fund</li> <li>• members' ages and employment status</li> <li>• the type and source of contributions (this could include downsizer contributions for members over 65 years old)</li> <li>• timing and amount of contributions</li> <li>• if not already provided to the fund, the member's TFN was quoted to the trustee within 30 days of receiving the contribution.</li> </ul> <p>If a contribution was accepted that was inconsistent with the requirements of SISR regulation 7.04, the auditor should check whether the trustees have returned the amount to the entity or person who made the payment.</p>



Reg 8.02B	<p>The auditor should determine how the trustees have valued assets and obtain evidence that assets are valued at market value in the fund's accounts and statements by:</p> <ul style="list-style-type: none"> <li>• obtaining evidence from the trustees to confirm what method of valuation they used to value assets</li> <li>• sighting supporting documentation verifying market value of an asset. Evidence must be objective and supportable.</li> <li>• sighting third party financial statements to verify that assets such as units in unit trusts, shares and loans are valued at market value. This includes checking that the entity is a going concern and that assets are recoverable.</li> </ul> <p>A statement in the trustee representation letter or a trustee minute confirming asset valuations is not sufficient audit evidence.</p> <p><b>See also:</b></p> <ul style="list-style-type: none"> <li>• <a href="/super/self-managed-super-funds/in-detail/smsf-resources/valuation-guidelines-for-self-managed-super-funds/">Valuation guidelines for self-managed superannuation funds (/super/self-managed-super-funds/in-detail/smsf-resources/valuation-guidelines-for-self-managed-super-funds/).</a></li> </ul>
Reg 13.12	<p>The auditor should obtain evidence that trustees have not recognised, encouraged or sanctioned an assignment of a member's super interest by seeking written confirmation from trustees (in trustee representation letter).</p>
Reg 13.13	<p>The auditor should obtain evidence that trustees have not recognised, encouraged or sanctioned a charge over or in relation to a member's benefits by seeking written confirmation from trustees (in trustee representation letter).</p>
Reg 13.14	<p>The auditor should obtain evidence that trustees have not given a charge over or in relation to a fund asset by seeking written confirmation from trustees and by carrying out the following checks:</p> <ul style="list-style-type: none"> <li>• property title search to check for encumbrances on real property</li> <li>• the Personal Property Securities Register for other parties registering interests against other SMSF assets.</li> </ul>

Reg 13.18AA	<p>The auditor should obtain evidence that the collectables and personal use assets rules have been met by sighting:</p> <ul style="list-style-type: none"><li>• insurance documents to check that assets were insured within seven days of acquisition and insured in the fund's name</li><li>• written records of the decision for storage of collectable and personal use assets</li><li>• written evidence from the trustees that the asset is not used by, or leased to, a related party or stored in the private residence of a related party</li><li>• lease agreements for terms and conditions to determine if lessees are related parties of the SMSF.</li></ul> <p>If the collectable or personal use asset is sold to a related party, the auditor should obtain evidence that the asset was transferred at market value as determined by an independent qualified valuer.</p> <p><b>See also:</b></p> <ul style="list-style-type: none"><li>• <u><a href="#">Collectables and personal use assets (/super/self-managed-super-funds/investing/restrictions-on-investments/collectables-and-personal-use-assets/)</a></u>.</li></ul>
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## Audit documentation

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditing-an-SMSF/Audit-documentation/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditing-an-SMSF/Audit-documentation/>).
- Last modified: 04 Mar 2019
- QC 45567

As an SMSF auditor, you must have sufficient documentation to support your findings and opinions. This includes:

- preparing and documenting the audit plan in writing, which details the audit approach to be undertaken
- relevant audit evidence supporting the conclusions reached
- audit programs, checklists completed with relevant notation, issues memoranda, analysis undertaken, records of discussions and correspondence with the trustees and others who were relevant in forming the opinion
- evidence of testing undertaken, results of audit testing, summaries of reasoning on all significant matters that require the exercise of professional judgment.

You should keep audit files separate from other files you may hold for the client. Audit papers should be retained for at least seven years from the date the auditor's report is signed.

Your audit file should include copies of the following documentation:

- **Letter of audit engagement:** The letter of engagement confirms your acceptance of the appointment and clearly states the scope of the financial audit and the compliance audit within the super laws. It is required under the auditing standards and it should prevent any misunderstandings between the trustees and auditor about the nature and extent of the audit. Guidance Statement GS 009 Auditing Self-Managed Superannuation Funds, issued by the Auditing and Assurance Standards Board (AUASB) states that the engagement letter is between the auditor and the trustees of the SMSF, not the auditor and any party referring the arrangement such as an accountant or administrator. The engagement letter should be signed by the SMSF trustees.
- **Representation letter:** The representation letter must include all representations required by the AUASB's auditing standards and should be signed by all trustees stating that, to the best of their knowledge, they have approved and acknowledge responsibility for financial statements and the fund complies with the super laws.
- **Management letter:** If there are matters of concern arising from the audit, you should provide the trustees with a management letter stating your findings.
- **Working papers:** The audit working papers should be able to be understood by another experienced auditor who has had no previous connection with the audit. They should record the planning, nature, timing and extent of the audit procedures performed, the results of the audit procedures performed, evidence obtained, and the conclusions drawn from this evidence. They should also include your reasoning on all significant matters arising during the audit that require the exercise of judgment, together with your conclusions and recommendations.

They should also, amongst other things:

Your working papers should confirm that the audit was performed according to the AUASB's Australian Auditing Standards and Standards on Assurance Engagements.

**See also:**

- [Reporting \(/super/self-managed-super-funds/smsf-auditors/reporting/\)](/super/self-managed-super-funds/smsf-auditors/reporting/).
- [ASA 230 – Audit Documentation \(PDF 435KB\)](#).  
([https://www.auasb.gov.au/admin/file/content102/c3/ASA\\_230\\_Compiled\\_2015.pdf](https://www.auasb.gov.au/admin/file/content102/c3/ASA_230_Compiled_2015.pdf)).
- [ASA 580 – Written Representations \(PDF 456KB\)](#).  
([http://www.auasb.gov.au/admin/file/content102/c3/ASA\\_580\\_Compiled\\_2015.pdf](http://www.auasb.gov.au/admin/file/content102/c3/ASA_580_Compiled_2015.pdf)).

## Auditing an SMSF that is winding up

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditing-an-SMSF/Auditing-an-SMSF-that-is-winding-up/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditing-an-SMSF/Auditing-an-SMSF-that-is-winding-up/>).
- Last modified: 17 May 2019
- QC 58940

When winding up an SMSF, there are specific requirements SMSF trustees must attend to, including appointing an SMSF auditor to undertake the final audit. The SMSF auditor's responsibilities in these circumstances include:

- Checking the fund complies with wind-up requirements
- Your reporting obligations.

## Checking the fund complies with wind-up requirements

As an SMSF auditor, there are extra audit checks you need to consider when undertaking the final SMSF audit for an SMSF that is winding up. These include checking that:

- any wind-up requirements in the trust deed have been met
- all members agreed in writing to the wind up
- the financial statements correctly account for assets, liabilities, income, expenses and final allocations to and payments from member accounts
- no accrued income or expenses are overdue at the wind-up date apart from estimated tax accruals awaiting the SMSF's final tax assessment
- asset disposals occurred at market value (based on verifiable evidence provided by the trustees). Market value of collectables disposed of to a related party, including as an in-specie super payment, must be supported by a written valuation from a qualified independent valuer
- benefits were only paid to members who met a condition of release (where the member provided written confirmation to the trustees), to eligible beneficiaries or to the legal personal representative
- benefits were transferred to and received by a complying superannuation fund for members who did not meet a condition of release
- you have written representation from the trustees confirming that any bank transactions occurring after the audit will comply with the super laws. This will apply when trustees leave the fund's bank account open to accommodate a final tax liability or tax refund which must subsequently be paid or transferred according to the payment standards in the super regulations.

## Your reporting obligations

If you find evidence of non-compliance with the super laws or you haven't been provided with sufficient appropriate audit evidence to support your opinion, you should qualify the auditor's report.

Where the trustees have left the SMSF's bank account open, you can add a qualification to the auditor's report. The qualification should say that you are unable to verify the compliance of transactions occurring after the audit date because the SMSF bank account has remained open to receive the final tax refund or pay the final tax liability.

If the SMSF has contravened reportable provisions of the super laws, you must lodge an Auditor/actuary contravention report with us and notify the trustees in writing.

Even where there is no evidence of non-compliance, it is good practice to provide a final management letter to the trustees reminding them of their remaining obligations to formally wind up the SMSF, including:

- lodging the final SMSF annual return
- keeping the SMSF bank account open to pay the final tax liability or receive a tax refund
- keeping all records required under the super laws, including those specific to the wind up, for at least 10 years following lodgment of the final SMSF annual return.

See also:

- [Valuation guidelines for self-managed super funds \(/super/self-managed-super-funds/in-detail/smsf-resources/valuation-guidelines-for-self-managed-super-funds/\)](/super/self-managed-super-funds/in-detail/smsf-resources/valuation-guidelines-for-self-managed-super-funds/).
- [Completing the auditor/actuary contravention report \(/forms/auditor-actuary-contravention-report-instructions/\)](/forms/auditor-actuary-contravention-report-instructions/).
- [Winding up for trustees \(/super/self-managed-super-funds/winding-up/\)](/super/self-managed-super-funds/winding-up/).

## Reporting

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Reporting/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Reporting/>).
- Last modified: 16 Jun 2015
- QC 45568

As an SMSF auditor, you are required to complete the audit and provide the audit report to the trustees within 28 days of receiving all relevant documentation.

If you request information relevant to the audit from the trustees, they must provide it to you within 14 days of your written request.

### Find out about:

- [Auditor reporting requirements to trustees \(/super/self-managed-super-funds/smsf-auditors/reporting/auditor-reporting-requirements-to-trustees\)](/super/self-managed-super-funds/smsf-auditors/reporting/auditor-reporting-requirements-to-trustees).
- [Auditor reporting requirements to ATO \(/super/self-managed-super-funds/smsf-auditors/reporting/auditor-reporting-requirements-to-ato\)](/super/self-managed-super-funds/smsf-auditors/reporting/auditor-reporting-requirements-to-ato).
- [Electronic superannuation audit tool \(eSAT\) \(/super/self-managed-super-funds/smsf-auditors/reporting/electronic-superannuation-audit-tool-\(esat\)\)](/super/self-managed-super-funds/smsf-auditors/reporting/electronic-superannuation-audit-tool-(esat)).

## Auditor reporting requirements to trustees

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Reporting/Auditor-reporting-requirements-to-trustees/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Reporting/Auditor-reporting-requirements-to-trustees/>).
- Last modified: 16 Jun 2015
- QC 45570

As an SMSF auditor, you are required to give the trustees an audit report on the fund's operations for the financial year.

You need to give the trustees the audit report within 28 days of receiving all relevant documentation, drawing attention to any financial and compliance issues identified during the audit.

You must use the [Self-managed superannuation fund independent auditor's report \(/Forms/SMSF-independent-auditor-s-report/\)](#) (NAT 11466) as it is an approved form.

## Audit report

The audit report outlines:

- the trustees' and the auditor's responsibilities
- the auditing standards used to conduct the audit
- your opinion on whether the financial report fairly represents the financial position of the fund and its operational results
- your opinion on whether the trustees of the fund have complied with SISA and the SISR.

## Contraventions or unsatisfactory financial position

You must provide details in the 'qualification' area of the audit report if, during the course of the audit, you have formed an opinion that:

- a contravention of the super laws may have occurred, may be occurring, or may occur in relation to the SMSF
- the financial position of the SMSF may be, or may be about to become, unsatisfactory.

You should notify the trustees as soon as you detect a contravention, so they can respond to the issue and, if possible, rectify or have a plan in place to rectify, the issue before you finalise the audit.

If you are still awaiting documentation from the trustee and want to complete the audit to facilitate the annual return lodgment, you must qualify the audit report to indicate this.



## When is the financial position of the fund unsatisfactory?

If the SMSF is an accumulation fund, its financial position is unsatisfactory if, in the opinion of the auditor, either:

- the fund's assets are inadequate to cover the aggregate benefit accounts of the fund members, or
- the value of fund assets is inadequate to cover the value of the fund's liabilities in respect of benefits accrued to fund members.

If the SMSF is a defined benefit fund, the test is whether the value of fund assets is inadequate to cover the value of the fund's liabilities in respect of benefits vested in the fund members. The likelihood of the value of fund assets being inadequate must be based on the reasonable expectation of an actuary on whose advice the auditor has relied in relation to the matter.

## Auditor reporting requirements to ATO

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Reporting/Auditor-reporting-requirements-to-ATO/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Reporting/Auditor-reporting-requirements-to-ATO/>).
- Last modified: 23 Jul 2015
- QC 45572

### On this page:

- [Contravention reporting](#)
- [Lodging ACRs](#)
- [Failure to notify us](#)

## Contravention reporting

You must advise us by lodging an *Auditor/actuary contravention report* (ACR) within 28 days of completing the audit if, during the course of conducting an audit, you form the opinion that a reportable contravention of the SISA or the SISR may have occurred, is occurring or may occur.

We will review the contravention and the other information we hold to determine what further action we will take.

You must report contraventions resulting from an event. An event is an action or inaction by the trustees that may lead, or has led, to one or more contraventions.

Not all contraventions need to be reported. You must apply the reporting criteria provided in [Completing the Auditor/actuary contravention report \(/Forms/Auditor-actuary-contravention-report-instructions/?page=1#table1\)](#) to work out the contraventions you must report.

If you discover a matter that does not have to be reported but you believe the information will help us with our regulatory role, you can provide this information in the 'other regulatory information' section of the ACR.

## Lodging ACRs

You can lodge your ACRs through our [electronic superannuation audit tool \(eSAT\) \(/calculators-and-tools/electronic-super-audit-tool/\)](#).

Alternatively, you can [order a paper form \(/About-ATO/Contact-us/order-publications/\)](#). *Auditor/actuary contravention report* (NAT 11239).

## Failure to notify us

If you fail to notify us as required, a penalty of \$9,000 can be imposed.

A penalty can also be applied if you, as the first auditor, tell another auditor that you have informed us and a trustee about a matter that must be reported, when in fact you have not done this.

**See also:**

- [Penalties \(/General/Interest-and-penalties/penalties/\)](#).

## Electronic superannuation audit tool (eSAT)

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- [https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Reporting/Electronic-superannuation-audit-tool-\(eSAT\)/](https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Reporting/Electronic-superannuation-audit-tool-(eSAT)/)  
([https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Reporting/Electronic-superannuation-audit-tool-\(eSAT\)/](https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Reporting/Electronic-superannuation-audit-tool-(eSAT)/)).
- Last modified: 16 Jun 2015
- QC 45569

The electronic superannuation audit tool, ([eSAT \(/Calculators-and-tools/Electronic-super-audit-tool/\)](#)) is available free of charge. It has been specifically designed to help SMSF auditors fulfil their obligations, carry out the annual compliance audit and lodge an ACR when required. Its main features include:

- a compliance audit support tool to help identify contraventions
- an electronic lodgment facility for lodgment of contravention reports
- an audit complete advice tool for notifying us when you have completed an audit.

# Auditor compliance

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditor-compliance/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditor-compliance/>).
- Last modified: 05 Mar 2018
- QC 45573

We work closely with ASIC to support and regulate SMSF auditors.

Our compliance approach incorporates four key elements that are designed to support SMSF auditors and identify and deal with high-risk SMSF auditors. We do this through:

- the publication of web materials and guidance to help SMSF auditors understand and comply with their professional obligations and the super laws
- the provision of specialist support products such as the electronic superannuation audit tool (eSAT) and the SMSF Auditors' Professional to Professional service
- providing targeted information and advice to auditors where our data indicates areas of concern
- audits and reviews of SMSF auditors where our data or intelligence indicates there may be some concerns with their compliance and behaviour.

## Find out about:

- [What you can expect in an audit or review \(/super/self-managed-super-funds/smsf-auditors/auditor-compliance/what-you-can-expect-in-an-audit-or-review/\)](#).
- [Issues of concern \(/super/self-managed-super-funds/smsf-auditors/auditor-compliance/issues-of-concern/\)](#).
- [Penalties \(/super/self-managed-super-funds/SMSF-auditors/Auditor-compliance/Penalties/\)](#).

## What you can expect in an audit or review

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditor-compliance/What-you-can-expect-in-an-audit-or-review/> (<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditor-compliance/What-you-can-expect-in-an-audit-or-review/>).
- Last modified: 04 Mar 2019
- QC 45574

We undertake audits and reviews of auditors where we have information indicating there are matters of concern, or where we want to provide assurance that an auditor is complying with their obligations.

Our audits and reviews will:

- review your audit processes and performance to identify issues
- ensure you are meeting the independence requirements of self-managed super fund (SMSF) auditors
- test whether you are correctly applying the super laws

- identify areas where you need support or education.

If you are selected for review, we will ask for copies of your audit working papers and any other documents or evidence relevant to your assessment of the fund's compliance with super laws.

The names of the selected SMSFs will generally only be provided during our field visit. However, if the audit or review is not conducted in the field, we will advise you of the names of the selected SMSFs during the phone interview.

Where a practice is responsible for large numbers of SMSF audits, we will review and test internal controls to give us assurance that the large numbers of SMSF audits are being undertaken satisfactorily.

In most cases, our initial approach will be informal. We will advise you of:

- the purpose and scope of the review or audit
- what action you need to take
- your rights.

If the review is to be conducted in your office, we will contact you to arrange an agreed time for an initial meeting.

If you do not respond to our request for information and documentation, we will refer the matter to the Australian Securities and Investments Commission (ASIC).

We may refer an SMSF auditor to ASIC for consideration and possible enforcement action in accordance with practice statement [PS LA 2018/01](#) ([/law/view/document?DocID=PSR/20181/NAT/ATO/00001](#)). *Self-managed superannuation funds - referral of approved SMSF auditors to ASIC.*

## Issues of concern

- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditor-compliance/Issues-of-concern/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditor-compliance/Issues-of-concern/>).
- Last modified: 16 Jun 2015
- QC 45575

Issues we find when reviewing the performance of SMSF auditors include:

- auditor independence – you should never audit an SMSF if you or a relative are members, or if you undertake another role in its administration or accounting
- SISA and SISR knowledge - you need to understand and apply the super laws
- insufficient documentation - you must maintain a record of your audit processes and keep sufficient audit evidence to support your findings and opinions
- failure to report contraventions to us – you must report all contraventions that meet the reporting criteria, even if they have been rectified during the year.

Where we find matters of concern, we will determine the appropriate action, including referral to ASIC.

We will refer an SMSF auditor to ASIC if we form an opinion that the auditor:

- has failed to perform their duties under the SISA, or other law or
- has breached a provision of the SISA or SISR or
- is not 'fit and proper' to be an approved SMSF auditor.

You will generally be considered by us to be 'fit and proper' if you have:

- adequately and properly performed your duties and functions as an SMSF auditor
- a good character and appropriate professional abilities (which include competency, diligence, knowledge and soundness of judgment)

- not been subject to sanctions under any relevant laws (including laws dealing with responsibilities relating to the person's profession, honesty and business transactions).

ASIC may take action against a person who is an approved SMSF auditor, including:

- imposing a condition on an auditor's registration
- varying a condition on an auditor's registration
- accepting an enforceable undertaking
- cancelling an auditor's registration
- suspending an auditor's registration
- disqualifying a person from being an approved SMSF auditor.

**See also:**

- APES 110 Code of ethics for professional accountants  
([http://www.apesb.org.au/uploads/meeting/board\\_meeting/24112014043919\\_agenda-item-16-f-cpa-australia-s-overview-of-apes-110.pdf](http://www.apesb.org.au/uploads/meeting/board_meeting/24112014043919_agenda-item-16-f-cpa-australia-s-overview-of-apes-110.pdf)).
- AUASB Guidance Statement GS009 Auditing Self-managed superannuation funds  
(<http://www.auasb.gov.au/Pronouncements/AUASB-Guidance-Statements.aspx>).
- asic.gov.au/smsf-auditor (<http://www.asic.gov.au/smsf-auditor>).

## Penalties

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditor-compliance/Penalties/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Auditor-compliance/Penalties/>).
- Last modified: 18 Aug 2017
- QC 45576

Penalties may be imposed on SMSF auditors if they contravene the SISA.

Description	Provision in SISA	Penalty
A person holds themselves out as an approved SMSF auditor and is not an approved SMSF auditor	<u>Section 131B(2)</u> . ( <a href="http://www.austlii.edu.au/au/legis/cth/consol_act/sia1993473/s131b.html">http://www.austlii.edu.au/au/legis/cth/consol_act/sia1993473/s131b.html</a> ).	50 penalty units
A person who is or acts as an approved SMSF auditor and has been disqualified or suspended by ASIC.	<u>Section 131C</u> ( <a href="http://www.austlii.edu.au/au/legis/cth/consol_act/sia1993473/s131c.html">http://www.austlii.edu.au/au/legis/cth/consol_act/sia1993473/s131c.html</a> ).	60 penalty units, or imprisonment for up to two years

<p>An auditor (first auditor) is aware of a matter that must be told to the ATO and a trustee, and</p> <ul style="list-style-type: none"> <li>the auditor tells another auditor (second auditor) that they have told the ATO and a trustee about the matter, and</li> <li>the first auditor has not told the ATO and the trustee about the matter.</li> </ul>	<p><u><a href="#">Sections 129(3B) &amp; (3C) (/law/view/document?DocID=PAC/19930078/129&amp;PiT=99991231235958).</a></u></p>	<p>Imprisonment for 12 months</p>
<p>An auditor fails to inform trustees and the ATO of:</p> <ul style="list-style-type: none"> <li>contraventions identified during an SMSF audit, and/or</li> <li>the fund's unsatisfactory financial position identified during an SMSF audit.</li> </ul>	<p><u><a href="#">Sections 129(4) &amp; (5) (/law/view/document?DocID=PAC/19930078/129&amp;PiT=99991231235958).</a></u></p>	<p>50 penalty units (each offence)</p>

<p>An auditor fails to inform trustees and the ATO of:</p> <ul style="list-style-type: none"> <li>• contraventions identified during an SMSF audit, and/or</li> <li>• the fund's unsatisfactory financial position identified during an SMSF audit.</li> </ul>	<p><a href="#">Section 129(6) (/law/view/document?DocID=PAC/19930078/129&amp;PiT=99991231235958).</a></p>	<p>25 penalty units (each strict liability offence)</p>
<p>An auditor fails to provide the audit report to the trustees within the prescribed period.</p>	<p><a href="#">Section 35C(6).</a> (<a href="http://www.austlii.edu.au/au/legis/cth/consol_act/sia1993473/s35c.html">http://www.austlii.edu.au/au/legis/cth/consol_act/sia1993473/s35c.html</a>).</p>	<p>50 penalty units</p>

### See also:

- [Penalties \(/General/Interest-and-penalties/penalties/\)](#).

## Help and resources

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- <https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Help-and-resources/>  
(<https://www.ato.gov.au/Super/Self-managed-super-funds/SMSF-auditors/Help-and-resources/>).
- Last modified: 17 May 2018
- QC 45577

We offer a number of tools and resources that can help SMSF auditors in their role.

- [SMSF auditor resources](#)
- [Professional-to-professional support](#)
- [Other support and guidance services](#)

## SMSF auditor resources

Super Professional 2 Professional service	If you need help with circumstances not covered in existing material you can access non-binding guidance.	visit <a href="https://ato.gov.au/SP2P">ato.gov.au/SP2P</a>
electronic Superannuation Audit Tool	eSAT is our preferred channel for auditor contravention reports. We developed this software to help you with the compliance element of an SMSF audit.	watch <a href="https://ato.gov.au/esatoverview">ato.gov.au/esatoverview</a> ( <a href="https://ato.gov.au/esatoverview">/esatoverview</a> ).  install <a href="https://ato.gov.au/eSAT">ato.gov.au/eSAT</a> ( <a href="https://ato.gov.au/eSAT">/Calculators-and-tools/Electronic-super-audit-tool/</a> ).
Webinars	We invite you to attend our SMSF webinars. We record these so you can view them at a time that suits you.	view <a href="https://ato.gov.au/smsfwebinars">ato.gov.au/smsfwebinars</a> ( <a href="https://ato.gov.au/smsfwebinars">/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-webinars/</a> ).
ato.gov.au	Our tailored information on helps you find the information you need quicker.	visit <a href="https://ato.gov.au/smsfauditors">ato.gov.au/smsfauditors</a> ( <a href="https://ato.gov.au/smsfauditors">/super/self-managed-super-funds/smsf-auditors/</a> ).

We also have products and tools that are designed for trustees, but can also help auditors in their role.

SMSF News	SMSF News provides news updates, case studies, and Q&As. Subscribe here <a href="https://ato.gov.au/smsfnews">ato.gov.au/smsfnews</a> ( <a href="https://ato.gov.au/smsfnews">/smsfnews</a> ).
SMSF videos	These short educational videos explain the basics about a range of SMSF topics – <a href="https://ato.gov.au/smsfvideos">ato.gov.au/smsfvideos</a> ( <a href="https://super/self-managed-super-funds/in-detail/smsf-resources/smsf-videos/">./super/self-managed-super-funds/in-detail/smsf-resources/smsf-videos/</a> ).
ATO app	Our app has specific SMSF resources, including checklists and key rates and dates – <a href="https://ato.gov.au/app">ato.gov.au/app</a> ( <a href="https://ato.gov.au/app">./General/Online-services/ATO-app/</a> ).
ato.gov.au	Our SMSF web content provides useful information for all stages of the SMSF lifecycle – <a href="https://ato.gov.au/smsf">ato.gov.au/smsf</a> ( <a href="https://ato.gov.au/smsf">/Super/Self-managed-super-funds</a> ).

## Professional-to-professional support

The SMSF auditors' professional-to-professional support service (which we refer to as the Super P2P service) provides technical assistance to SMSF auditors.

### What you can expect

You can request general advice on the SISA and SISR requirements or SMSF administrative issues. The service provides you with direct access to our senior technical officers who provide a timely response to your query.

You can expect to receive a phone call from a subject matter expert within two working days to:

- discuss your query
- provide general advice

- negotiate a response date, where required.

After our phone call, we will confirm our response in an email. We endeavour to provide an ATO view on the matter as soon as possible. However, times may vary depending on the nature of your query.

If the issue you raise is particularly complex or very specific, we may ask you to complete a [Request for self-managed superannuation fund specific advice \(/Forms/Request-for-SMSF-specific-advice/\)](#). (NAT 72441) in place of your request for Super P2P guidance.

## What we expect

To ensure that the service remains focused on providing timely support to SMSF auditors, we have established the following principles for participants.

- You will only raise queries in relation to your SMSF audits.
- Before lodging a request, you will conduct research using other existing support and guidance products, such as the reference facility in eSAT ([/Calculators-and-tools/Electronic-super-audit-tool/](#)).
- If you require a tailored response, you will use the existing [Request for self-managed superannuation fund specific advice \(/Forms/Request-for-SMSF-specific-advice/\)](#). (NAT 72441) process.

## Accessing the service

SMSF auditors can access this service by completing the [Request for approved SMSF auditors' professional-to-professional technical guidance \(/uploadedFiles/Content/SPR/downloads/SPR35145.pdf\)](#). (PDF, 675KB) form. You should submit the completed form to us by emailing [Super P2P enquiries \(mailto:superp2penquiries@ato.gov.au\)](mailto:superp2penquiries@ato.gov.au).

We may contact you to request additional information if we need more information.

## Other support and guidance services

- Our phone support service is available on **13 10 20** for straightforward or simple queries.

- For specific advice, use our [Request for self-managed superannuation fund specific advice \(/Forms/Request-for-SMSF-specific-advice/\)](#) (NAT 72441).
- [eSAT \(/Calculators-and-tools/Electronic-super-audit-tool/\)](#) is a free downloadable application designed to help auditors fulfil their obligations and lodge auditor contravention reports (ACRs) if required.
- We also provide a range of technical guidance products for SISA regulatory issues, including:
  - [SMSF rulings and determinations \(/General/ATO-advice-and-guidance/ATO-advice-products-\(rulings\)/Public-rulings/\)](#).
  - [ATO Interpretative Decisions \(/Law/#Law/quickaccess/qa\\_dis\)](#).
  - [Law Administration Practice Statements \(/Law/#Law/quickaccess/qa\\_lap\)](#).

## Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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