



Super
Concepts



SMSF Audits in the age of COVID-19

Your 14-point checklist

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An audit may seem a necessary evil, however, it's an opportunity for an overview of the status of your SMSF – an assessment of the fund's compliance as well as its overall health. Look at the annual audit as a medical check-up of your fund, which is worthwhile given the unique challenges COVID-19 brings.

To make life a little easier for you, we've assembled a 14-point checklist to get you on your way.



Check the trust deed

Check the Trust Deed to ensure it is properly executed. And make sure the trusteeship and membership align. When a company is trustee, all members must be directors (the principle exception being single-member funds). With individual trustees, all must be members of the fund (again, single-member funds being the main exception).

As a rule – if there has been a change of member or trustee circumstances throughout the year, this is impetus to review the fund's Trust Deed.



Review the fund's investment strategy

Check if the fund's investment strategy is fit for purpose, given recent (and probably continuing) market volatility. And don't just look at the fund's Strategic Asset Allocation (its long term 'benchmark' risk/return nexus). Consider the fund's ability to take short-term positions away from the benchmark.



Check actuarial certificates and determine if your fund is subject to the disregarded small fund assets rule

The rules changed in the 2017/18 financial year. In short, your fund will not require an Actuarial Certificate if:

1. It has been 100% in pension mode for the entire financial year
2. Your fund is not subject to the disregarded small fund assets rule

Disregarded small fund assets is where:

- Any member of the SMSF has retirement-phase assets of at least \$1.6m
- The asset does not need to be in the SMSF
- Measured as at 30 June the previous financial year

So, if \$1m is in pension mode in your SMSF and you also have, say, \$600k in an industry fund also paying you a pension as at 30 June 2019, the SMSF will be subject to the disregarded small fund assets rule in the 2020 financial year. It will require an actuarial certificate, even though the certificate will say the fund was 100% in pension mode (and thus not subject to tax on earnings). In a similar vein, if you started your SMSF pension with \$1.5m and it has now grown to \$1.6m, the fund will also be subject to the disregarded small fund assets rule.

Thankfully this requirement will not apply from 1 July 2021, as a change was mooted in the 2019 Federal Budget (it has yet to be passed into legislation, however). Assuming it does become law, from 2021 onwards, a fund will not require an actuarial certificate if it is 100% in pension mode.



Make sure the assets are registered in the correct name

We are often asked, “What about a term deposit commencing when the fund had individual trustees? Now we’ve changed to a corporate trustee, the financial institution says the ownership of the term deposit will change if the investment is registered in the name of the new company, and accrued interest will be lost. What will the auditor think about this?”

In these situations, a Declaration of Trust may need to be signed by the trustee to satisfy the auditor, stating the term deposit is not registered in the name of the trustee.



Are assets recorded at market value?

It is very important assets are recorded at market value and it’s up to the trustees to provide the valuation. Market valuations are important for several reasons, including:

- Determining pension payments for the year
- Determining the level of in-house assets
- Payment of lump sums (member accounts need to be valued before a lump sum can be paid)
- Other scenarios, such as estate planning and retirement decisions.

The ATO have published [some very helpful guidelines on valuation of assets](#).



Limited Recourse Borrowing Arrangements (LRBAs)

An SMSF can borrow to invest in assets under strict conditions (usually for property). These arrangements are complex but suffice to say if you have an LRBA in place, the property must be held in the name of the holding trust trustee, not the SMSF trustee.

- For those SMSFs with LRBAs, the impacts of COVID-19 on rental incomes, contributions by members or other fund income may impact the SMSF’s ability to make loan repayments.

- If a commercial lender has provided loan deferral, it is important this is documented to ensure the auditor understands why loan repayments are not being made. Where the lender is a related party, if loan deferrals are to be provided to the fund, such arrangements must mirror commercial practices and be undertaken on an arm's length basis.
- It is also important to ensure this information and the actual amendment to loan terms is documented and the documentation retained for audit and other purposes.



Make sure related party transactions are at arm's length terms

Acquisition prices of assets, such as transfers of property, must be at market value, otherwise Non-Arm's Length Income (NALI) provisions may apply. These provisions ensure assets not acquired at market value will be subject to tax on income (and any future realised capital gains) at the top marginal tax rate, irrespective of whether the fund is in pension mode. The ATO is also targeting non-arm's length expenses; whereby a related party provides a service to their SMSF and does not charge the fund a commercial rate regarding the expense.



In-house assets to be no more than 5% of overall assets

An in-house asset, in general terms, is:

- A loan to, or an investment in, a related party of the fund
- An investment in a related trust of the fund
- An asset of the fund subject to a lease or lease arrangement between the trustee of the fund and a related party of the fund.

In-house assets cannot be more than 5% of the fund's total assets and are measured on 30 June each year.

Ordinarily, the trustees would need to put in place a rectification plan to bring the in-house asset back to within the 5% limit by 30 June 2021. COVID-19 may mean funds with in-house assets breach the limit, so the ATO has stated they may not take any compliance action if the rectification plan is not executed by 30 June 2021. The plan would still need to be in place, however, and this is something the auditor is going to want to see.



Check the contribution restrictions

The types of contributions your SMSF can accept are restricted by several factors:

- The age and employment status of the member
- The amount of contributions, known as the Contributions Cap
- The member's Total Superannuation Balance on 30 June of the previous financial year (affecting the member's eligibility to Non-Concessional Contributions, Spouse Contributions and Government Co-contributions).



Fund expenses cannot be of a personal nature

Expenses can only be paid by the fund where they relate to the running of the SMSF and the tax invoice is in the name of the SMSF. No expenses of a personal nature can be paid by the fund.



Assemble your benefit payments documentation

Make sure documentation relating to a benefit payment (lump sum or pension) is in place. Pensions must be paid in cash. Lump sums can, however, be paid in-specie. At this stage, if you have paid more than your reduced COVID-19 minimum, you cannot refund the excess back to your fund.



Documentation requirements due to COVID-19 – Pension reduction

Trustees need to document a member's decision to take the reduced pension minimum. The auditor will require this to see why the ordinary minimum was not drawn from the fund in the 2020 financial year.



Documentation requirements due to COVID-19 – Rent relief

The ATO and the auditor will not take compliance action where an SMSF landlord gives a related party tenant rent reduction in 2020 and 2021 financial years. However, the rent relief must be due to the impact of COVID-19 and must be on arm's length terms.



Documentation requirements due to COVID-19 – Early access to super

This is the \$10,000 tax-free lump sum payable to fund members who have been adversely impacted by COVID-19. It is a self-assessed lump sum, but make sure you are eligible for the payment, as the ATO will vigorously police this scheme and severe penalties apply to those who abuse it.

Documentation that shows a loss of employment, or a reduction in earnings, will be important for the auditor to verify accessibility to the scheme.



Find out more

With over 30 years' experience and a team of leading experts, we've helped setup and manage thousands of SMSFs.

For help in building and supporting an SMSF client base, feel free to contact us.



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