

Self Managed Superannuation Funds

Common mistakes by trustees

A salary sacrifice arrangement—also known as salary packaging or total remuneration packaging—is an arrangement between an employee and an employer, where the employee agrees to give up part of his/her entitlement to salary or wages in exchange for the employer providing to him/her benefits of a comparable value.

In light of the ATO's announcement that it will be monitoring trustees of self managed superannuation funds (SMSFs) more closely, we advise that trustees should check their policies and procedures to be sure that they are in full compliance. It could be costly for trustees found to be in breach, either through fines or losing their favourable tax status.

Most SMSF breaches fall into the following categories.

Loans to members or relations

It is illegal for SMSFs to lend money or provide any other financial assistance using the fund's resources to a member or a member's associate.

Breaches of in-house asset rules

SMSFs cannot acquire or hold in-house assets that are valued at more than 5% of their market value of total assets. Any fund with in-house assets is required to conduct an annual review to determine if the assets remain below 5%.

Assets not in the name of the funds

SMSFs assets cannot be held in the name of individual or corporate trustees in their own capacity. Assets must be held in their capacity as the trustee of a fund, as funds not identified as being owned on behalf of the SMSF are at risk.

Documents requested by auditor not provided

If the auditor provides a written request for documents that are relevant to the preparation of a report, each trustee of the SMSF must ensure that the document is provided to the auditor with 14 days of the date of the request.

Breaches of the sole purpose test

An SMSF must be maintained only for: each member on or after their retirement; or a member's legal representative or the member's dependents after the member's death.

Unauthorised borrowings

Generally, it is illegal for an SMSF to borrow money or maintain an existing borrowing of money, except for instalment warrants, as long as they comply with specific rules.

Contact us

For further clarification on the above or for information on how we can help you, please contact us:

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