

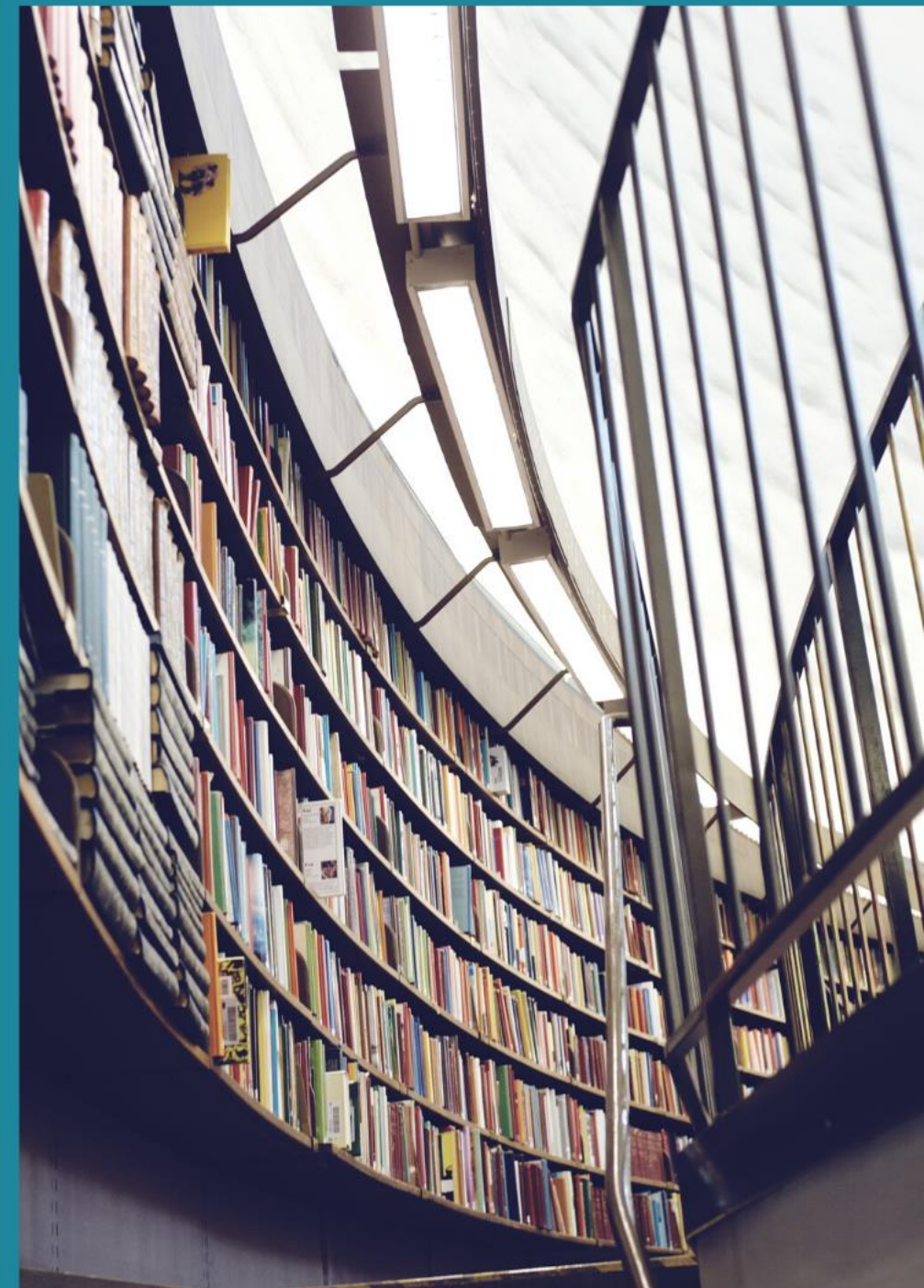


TriSuper Auditors

LIVE WEBINAR

SMSF ATO Hotlist & COVID-19 Update

Presenter: Joel Curry, Director TriSuper Auditors





COVID-19 induced policy changes to SMSFs

- 01 SMSF Annual Return now due 30th June
- 02 Early Access to Super
- 03 LRBA Related Party Loan Relief
- 04 Minimum Pension payments
- 05 Related Party Rent Relief
- 06 SMSF Residency Issues

COVID-19 induced policy changes to SMSFs

02 Early Access to Super

- Access up to \$10,000 (this year and next)
- Based on Financial Hardship condition of release
- Apply before 30 June 2020 & 23 September 2020
- SMSF members still need to apply through myGov

Providing Advice

- ASIC announced temporary relief measure
- No need for an SoA
- Tax Agents can give advice without an AFSL
- Superannuation trustees can give the advice (must be free)
- Need to provide a 'Record of Advice'
- Max you can charge is \$300



COVID-19 induced policy changes to SMSFs

03 LRBA Related Party Loan Relief

- Customer advises they are impacted by covid-19
- Can provide arms length equivalent relief
- Interest is capitalized
- Repayment holiday up to 6 months
- Document

Process:

- Borrower writes to the lender
- Lender accepts
- Lender writes back to the borrower



COVID-19 induced policy changes to SMSFs

04 Minimum Pension payments

The Government has announced a 50% reduction in minimum payments for the 2020 and 2021 financial year as a result of covid-19.

The current factors are:

Age* at 1 July	Minimum
< 65	2.00%
65-74	2.50%
75-79	3.00%
80-84	3.50%
85-89	4.50%
90-94	5.50%
95 >	7.00%



COVID-19 induced policy changes to SMSFs

05 Related Party Rent Relief

- If you provide rent relief ATO will not take action
- Including related company or unit trust
- Follow national code of conduct
- Document correspondence between landlord and tenant



COVID-19 induced policy changes to SMSFs

06 SMSF Residency Issues

- Trustee due back in Australia
- Stranded overseas because of covid-19
- Over the 2 year window limit
- ATO will not apply compliance resources



Other Recent Changes

- 01 No work test up to age 67
- 02 Bring-forward rule changes
- 03 Super Guarantee Amnesty passed
- 04 Catch up Concessional Contributions (CCC's)



Other Recent Changes

01 No work test up to age 67

- Superannuation Legislation Amendment (2020 Measures No.1) Regulations) 2020 passed on 28 May
- Apply from 2020/21 financial year
- Allows contributions for 65 and 66 year olds without meeting work test

Don't forget from 1 July 2019:

- One year exemption from work test
- Super balance < \$300k in prior year
- Once off availability



Other Recent Changes

02 Bring-forward rule changes

- Treasury Laws Amendment (More Flexible Superannuation) Bill 2020
- Extends bring forward rule to age 66
- Applies from 1 July 2020
- "You are under 67 at any time in the first year"
- Has not passed yet



Other Recent Changes

03 Super Guarantee Amnesty passed

- Expires 7 September 2020
- Deduction for contributions
- No admin charges
- Interest is payable
- No relief under covid-19



Other Recent Changes

04 CCC's

- 2020 is the first year you can use bring forward CC shortfall
- Tax portal can provide clients carry forward amounts
- TSB under \$500k prior year



The ATO Hotlist



01 **SMSF investment strategies and diversification a focus of the ATO in 2020**

For any SMSF, an appropriate investment strategy needs to be carefully considered and thoroughly justified, with documentation covering the risks involved, the composition of the funds' investments, liquidity of the funds' assets, the funds' ability to pay benefits and whether to hold insurance cover.

Extra vigilance is thoroughly advised to ensure this is completed correctly for all funds you audit, lest you be considered liable for any problems the ATO discover.

The ATO Hotlist



02 The TBAR remains an issue

Many accountants still don't quite have their heads around the lodgement of TBAR's or Transfer Balance Account Reports.

It's important to ensure you get this right and report on time, every time.

The ATO Hotlist



03 Top 5 Errors on SMSF Annual Returns

1. Bank accounts not unique to the SMSF
2. Providing an incorrect electronic service address (ESA)
3. Not valuing SMSF's assets at market value
4. Trying to lodge with zero assets
5. Lodging a SAR without auditors' details

The ATO Hotlist



04 Beware early release schemes

Unfortunately, there are still individuals and promoters out there who claim they can help trustees release their super early. There is a good chance though that most of these schemes will be illegal.

The ATO Hotlist



05 Non-Arms Length

As of October 2019, double checking 'non-arms' length expenses' and funds paying less than market rate for expenses.

The 7 most common mistakes we see coming through now

SMSFs are the most complex area of tax with new rulings, regulations and case law coming out weekly.

It is why many accountants are out of date, and in their hurry to complete the work miss things.

This can have a significant impact on your clients.



The 7 most common mistakes we see coming through now

01 Not checking the Investment Strategy and insurances

Trustees have a duty of care to act per SISA and act in the best of interest of the members. The Trustee and member could ultimately be the same, but each Trustee also has a duty to all other members of the Fund.

Action

1. Review each SMSF's investment strategy for compliance with [Regulation 4.09](#).
2. Demonstrate that the Trustees have given due consideration to insurance for its' members. A generic statement about insurance is not enough. Document the decision as to why or why not insurance was bought.
3. Review whether the Fund's actual investments are in line with the strategy.
4. Review recent ATO spotlight on meeting the [diversification](#) requirement.
5. Provide a copy of the current strategy to the auditor as part of the annual audit process.

The 7 most common mistakes we see coming through now

02 Not checking all transactions are at arm's length

It is quite common for an SMSF to have not maintained transactions at “arm’s length”. Whether the SMSF is advantaged or disadvantaged, serious consequences can result.

Action

1. Review the following:
 - i. Leases of commercial property to a related party
 - ii. Investment in related (and non-related) unit trust and companies
 - iii. Loans of monies to a non-related party
 - iv. Related Parties lending to the SMSF in a Limited Recourse Borrowing Arrangement (LRBA). Review [ATO Safe Harbour Guidelines](#).
5. Ensure that they are being conducted on a commercial arm's length terms and take steps to correct where appropriate.

The 7 most common mistakes we see coming through now

03 Incorrect or non-lodgement of TBAR's

To enforce compliance, the ATO has measures in place to deal with members exceeding the limit, including requiring excess amounts to be commuted and taxes levied on notional earnings on these amounts.

Action

1. Review TBC transactions for all SMSF's paying income streams since 1 July 2017.
2. Is the SMSF an annual or quarterly reporter?
3. Lodge outstanding TBARs.
4. Review members TBC for accuracy.

The 7 most common mistakes we see coming through now

04 Assets not held in the correct name

It is common during the life of an SMSF for the Trustee of the Fund to change. Members come and go, or change from individuals to a corporate trustee or vice versa.

Trustees can then be faced with the administrative burden to update the ownership titles of all SMSF assets. This is typically mishandled.

Action

1. Review asset documents where a member has left or joined an SMSF.
2. Consider a corporate trustee for all new SMSF's.
3. In the case of difficulties, consider a declaration of trust over the asset.

The 7 most common mistakes we see coming through now

05 Valuation of Assets

We are often asked by Trustees “why this is so important”. It is after all their money, and the financial statements are not relied on by external parties.

However, there are valid reasons for the market value requirement that have severe consequences if the Trustee gets it wrong.

Action

1. Review [ATO guidelines](#) on market value.
2. Advise SMSF clients where you feel a valuation needs to be obtained on a particular asset.
3. Obtain representation from Trustee's as to their opinion on current valuation.
4. Consider whether valuations of assets in a private company and trust SMSF investments need to be obtained.

The 7 most common mistakes we see coming through now

06 Borrowing from related parties (LRBA's)

It is quite common for a related party to be the lender under a section 67A borrowing arrangement. A typical strategy is for the lender to charge a below-market rate to make the borrowing more affordable to the SMSF.

Action

1. Are loan interest and payment terms in line with standard commercial terms?
2. Is the mortgage registered?
3. Has the agreement been adhered to?
4. Review [ATO Safe Harbour Guidelines](#).
5. Consider amending loan terms.

The 7 most common mistakes we see coming through now

07 Under / overpayment of pensions to members

The payment of a pension from an SMSF to a member appears to be a simple process and can lead to significant tax and estate planning benefits. Get it wrong, however, and the consequences can be severe.

Action

1. Ensure each SMSF paying an ABP / TTRP makes the minimum required payment, and in the case of a TTRP does not exceed 10%.
2. Review planning opportunities to convert existing accumulation balances to ABP/TTRP.
3. Ensure you have a copy of the commencement minutes on file.



Thank you for watching. If you have any further questions, please feel free to get in touch on 1300 TRISUP.

We will send through the webinar recording, presentation slides, and end of year checklist for you shortly.



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