



## Property and your SMSF

Property has long been a favoured investment class due to the consistent capital returns and yields offered as well as the preference of many people to invest in a tangible asset that they believe will always command real value.

It is therefore no surprise that both residential and commercial properties are popular choices within self managed superannuation funds.

In addition, the concessions provided to SMSFs in relation to the transfer and use of business real property have made it extremely attractive for business owners to set up their own SMSF and hold their business premises within the fund. This has encouraged growth in the already burgeoning sector and made commercial property a common feature on the balance sheet of a number of funds.

With property being such a popular investment and quite often a large proportion of the total investments of an SMSF, it follows that there are extra responsibilities for SMSF trustees who choose to hold either residential or commercial property in their fund. The one we will discuss in greater depth here is the need for the property to be recorded at an appropriate value within the year end accounts.

This may sound obvious to some - but it is an issue that can and does cause trustees, advisers, accountants and auditors angst at the financial year end (hence why we are highlighting its importance in this newsletter).

The appropriate value for a property is of course its market value, but until the property is sold/bought we cannot say with any great deal of certainty what that figure will be.

The valuations at a trustee's disposal can be formal or informal and range from;

- an independent property valuation;
- a valuation from a real estate agent;
- a valuation provided on council rates notices;
- an investigation into nearby sales in recent times;
- a basic increase in line with CPI, or cost.

An independent property valuation is the most accurate valuation method, followed by a valuation from a real estate agent. While these two options are the most expensive, an SMSF Specialist Auditor will often insist that they sight an independent property valuation that is no more than 3 years old before they are satisfied that the value of the property is fair and reasonable.

Many Auditors ask that the fund obtains an independent valuation every 3 years, but it is not uncommon for an auditor to ask for evidence of a more recent valuation if they believe the current value is too high or low, or even unsubstantiated.

Depending on the circumstances of the fund, the auditor may even require the property to be revalued every year, but we'll touch more on this later.

Council rates can provide a foundation for a valuation but can often vary significantly, by tens of thousands of dollars, from what is actually received in an ordinary sale event. As a result, if council rates are to be used to determine a value, a suitable method is to compare the council rates at the time of purchase against what was actually paid for the property and extrapolate this out using the current council rate value.

For example, a property was purchased 5 years ago for \$200,000 and the council rates notice at the time used a value of \$225,000. If the current council rates notice suggests a value of \$300,000 (representing a 33.33% increase in value) it can be argued that a reasonable value for the property in the accounts is \$266,666.

Again, it should be noted that this is an informal valuation and an auditor may request that a more formal valuation is attached to the property if an independent analysis has not been completed for a number of years.

Other valuation methods, including recent sales of nearby properties and an increase with CPI, are particularly informal and should only be used in the absence of other information not being available. Cost may be appropriate, but only if the property was purchased in the last year or two.

Another important consideration when revaluing a property is whether the SMSF in question is in the accumulation or pension phase.

The valuation of the property becomes increasingly important when the fund is paying a pension because the value of the property in the accounts will affect the minimum and maximum withdrawal requirements.

As a result, an auditor may require an independent valuation or real estate agent valuation more frequently than once every 3 years so that they can be comfortable that the fund is valued accurately and the pension payments being made are suitable.

Ultimately, responsibility to value the investments of a self managed superannuation fund rests with the trustees.

The ATO and auditors alike stress that assets in the pension phase are to be shown at market value and updated at least once a year, and while there may be a little more flexibility offered in the accumulation phase, the importance of accurate and regular revaluation can not be underestimated. This is particularly so when a property investment represents a large proportion of the value of an SMSF, which is quite often the case in a medium-size fund.

## Excess Contribution Concerns

The ATO are 'set to target' excess contributions under the new reduced caps. They have identified an increasing number of individuals exceeding their concessional, non-concessional or both caps each year.

### TAX TIP

According to the ATO, a contribution is anything of value that increases the capital of a superannuation fund, ultimately benefiting one or any of the members in the fund. Therefore a 'contribution' is far more than just a cash deposit.

### Traps for \$25,000 cap for concessional contributions

As the amount of concessional contributions for individuals aged under 50 has been halved from the previous figure of \$50,000 to \$25,000 per person per annum – this is an area of risk for many trustees.

Concessional contributions generally include contributions made by an employer such as Superannuation Guarantee 'SG' and salary sacrifice, or deductible personal contributions for the self-employed.

As it is not an employer's responsibility to monitor the amount of SG or salary sacrifice paid into a Members account – it is possible that the cap may be inadvertently exceeded.

### Traps for salary package arrangements

Many super contributors do not realise that a salary sacrifice arrangement will effectively reduce their superannuation guaranteed contributions (SGC).

Essentially, an employer's obligation to make SG contributions for employees is calculated at 9% of the employee's ordinary time earnings, which includes an employee's cash salary (after reductions for salary sacrifice amounts).

So for every \$1 that is sacrificed, the employer's obligation is reduced by 9%.

In fact, the amount an employee packages to their super is taken into account when determining if an employer has met their quarterly SG obligation – thus potentially reducing and eliminating the need for the employer to provide any separate superannuation guarantee whatsoever!

We recommend employees review their employment agreements or industrial awards and ensure they understand how salary packaging ultimately affects them.

### Traps for employees with multiple employers

The concessional contributions cap applies on a 'per person' basis. Therefore, where an employee works for multiple employers, the total of all employer contributions is counted toward the concessional contribution cap.

As there is no current provision allowing employers to 'opt out' of the superannuation guarantee, there are circumstances where for high income earners, excess contributions tax is unavoidable!

### Inadvertent contributions

We often see members paying SMSF expenses on behalf of the fund. The ATO, however, stipulate that a SMSF must pay it's own operating and running expenses.

Therefore, where members use a personal cheque to pay an expense, the payment must be allocated to a member of the fund as a contribution and therefore counts towards the member's contribution cap.

### Summary

The ATO are taking a zero tolerance approach to excess contributions and we recommend SMSF members understand the traps open to them.

For more information relating to this newsletter, please call your Client Manager or **Olivia Long** on **1300 787 576**.



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