

SMSFOA Members' Newsletter

#5 /2014

Dear Members

New ATO penalty regime

Just a reminder to Members that from 1 July, the Australian Taxation Office will be empowered to impose administrative fines on SMSF trustees for breaches of the rules.

These fines range up to \$10,200.

Any fine must be paid personally by trustees. It cannot be paid from fund assets.

A fine applies to each trustee so if a fund has two trustees in effect the fine is doubled.

Fines are expressed as penalty units (\$170 per unit) and the maximum fine is 60 penalty units. This could be for offences such as failure to observe borrowing rules and in-house asset rules. Lesser fines apply to offences like not completing a tax return on time.

The ATO can give directions to trustees to rectify the issue that has given rise to the fine and may require trustees to undergo an education course on their obligations under the rules.

Although fines imposed by the ATO will sting, they are a softer and more flexible option for the ATO than the heavy sanctions that can be imposed on non-complying funds, including having their assets taxed at the top marginal rate.

The new administrative fines and directions were proposed by the former Labor Government and enacted by the current Coalition Government.

Read more about the new ATO administrative penalty powers here:

<https://www.ato.gov.au/Super/Self-managed-super-funds/In-detail/News/SMSF-News/SMSF-News--edition-29/?page=2>

If you want to see the legislative detail:

<http://www.comlaw.gov.au/Details/C2014A00011>

Other end of financial year changes

Apart from the new ATO administrative penalties, other changes to apply from 1 July 2014 include:

- The concessional contributions cap will rise from \$25,000 to \$30,000. For over 50s, the cap will rise to \$35,000.

- The non-concessional contributions cap will rise from \$150,000 to \$180,000 with the maximum contributed over 3 years to rise from \$450,000 to \$540,000

Note: It was previously announced that from 1 July SMSFs receiving contributions from a non-related employer (e.g. you work for an employer and direct contributions to your SMSF) must register an Electronic Service Address (ESA) to which communications from the employer to the fund will be sent. The deadline for meeting this requirement has been extended to 3 November 2014. You can view a list of ESA providers here: <https://www.ato.gov.au/Super/SuperStream/In-detail/Contributions/SMSF-messaging-service-providers/>

A useful summary of the changes (prepared by Peter Burgess, Head of Policy, Technical and Education Services, AMP SMSF) is found in the online newsletter *SMSF Adviser* here:

<http://www.smsfadvisoneronline.com.au/columns/item/205-five-reasons-to-update-your-smsf-end-of-year-checklist>

SMSFs outperform the big funds

Also from *SMSF Adviser*:

"A NAB analysis has demonstrated SMSFs outperformed APRA-regulated funds between 2005 and 2012.

A Rice Warner analysis of APRA and ATO statistics commissioned by NAB indicates that during the period from 2005 to 2012 SMSFs generated an average annual return of 7.7 per cent compared to the average 4.9 per cent return produced by the rest of the superannuation industry.

Taking fees into account SMSFs produced a return of 6.8 per cent over the eight years compared to 4.1 per cent for the rest of the superannuation industry.

NAB's executive general manager banking and wealth solutions David Gell said the analysis shows that not only have a million Australians chosen to manage their own retirement savings, "they're actually doing a particularly good job of it".

"It is clear that SMSFs do rate very well in terms of performance against the other funds, contrary to some perceptions out there," said Mr Gell.

He said while SMSF trustees are taking responsibility for their own retirement, they are also seeking out and paying for good advice.

"It's clear that many members and trustees are fully prepared to pay for advice if they believe it's worth doing so," he said."

SMSFOA and the ATO

As a result of our on-going high-level dialogue with the Assistant Commissioner responsible for SMSF supervision, SMSFOA has been invited to be part of the ATO's Consultation Hub process. SMSFOA will be represented on the National Superannuation Industry Advisory Group (SIAG) and the Superannuation Industry Relationship Network (SIRN).

The ATO says this about its consultation program:

*The ATO have implemented **improved consultation arrangements** to ensure that we consult with the right people, at the right time, about the right issues. In relation to superannuation, the **National Superannuation Industry Advisory Group (SIAG)** is now our peak forum, with a focus on strategic superannuation issues in the national interest. The forum provides opportunities for improvements to*

the administration of the superannuation system and to progress ideas to support a whole of Government approach.

*Our new **Superannuation Industry Relationship Network (SIRN)** supports the SIAG and undertakes work commissioned by the SIAG, consults on specific matters and maintains a dialogue that enables clear and mutual understanding of perspectives in the operation of the superannuation system.*

Membership of these consultative bodies will give SMSFOA the inside running on tax policy issues affecting SMSFs and give us another forum in which to express views in the interests of our members.

Please let us know if you have a particular interest and expertise in tax matters. Contact: info@smsfoa.org.au

Next Newsletter

We'll aim to get another newsletter to you in a month.

SMSFOA Members' Newsletter #5/14.

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