



Welcome

As the ramifications of the 'Stronger Super' reforms become clearer, it's time to take a closer look at some specifics as well as some Federal Budget highlights. We'll also review a couple of strategies for transferring property into your SMSF and recent developments with the borrowing rules.

I trust you enjoy this edition.

Robert Taber
PARTNER



How transferring a commercial property into your SMSF could save you BIG dollars!

If you own a commercial property personally, you might have considered transferring it into your SMSF to take full advantage of the concessional tax environment but thought that the stamp duty payable on the transfer would be too high.

Well, here's the good news. The transfer of certain eligible dutiable property into a super fund will attract a concessional stamp duty of only \$50 or \$500.

The new rules provide for a \$50 stamp duty payable on a transfer from an individual or individuals into their SMSF.

This would apply, for example, in the case where an individual transfers commercial premises to their SMSF and full market value consideration is paid for the property.

Where the transfer is from an individual to the custodian of the trustee of their SMSF, stamp duty of \$500 is payable.

This would apply, for example, when the SMSF is unable to pay full consideration for the property, say in the case of a Limited Recourse Borrowing arrangement. The SMSF borrows part of the purchase price and the property is held in trust for the SMSF until the borrowing has been repaid.

Here's an example to illustrate how these new rules could work for you

Bailey owns a commercial business premises worth \$1m.

He wishes to transfer the property into his SMSF using Limited Recourse Borrowing

Ordinary stamp duty payable on the transfer as calculated by the Office of State Revenue (OSR) would be approximately **\$40,490**

Concessional stamp duty applicable under the new rules is **\$500**.

Stamp Duty Saving = \$39,990!

Of course, you'll have to jump through some documentation hoops in order to assess your eligibility for these stamp duty concessions. And that's where we come in.

If you want to know more, please contact a member of the Super Team on 02 4928 8500 and ask for a no-obligation appointment to check your eligibility.

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Did you know...

Diary Dates

Super seminar – register now





What's new in superannuation

The Federal Budget was handed down on the 10th of May 2011 and contained the following new measures.

Collectables and Personal Use Assets

From 1 July 2011 there are new rules.

For those assets held on or before 30 June 2011 there is a five year transitional period for any holdings to conform to the new rules or for the assets to be sold.

If a collectable or personal use asset is purchased after 30 June 2011 the asset:

- Cannot be leased to a member of the Fund or any related parties
- Cannot be stored in the private residence of a member of the Fund or any related parties
- Decision on how and where to store the asset must be in writing and must be kept for 10 years
- Must be insured in the trustee's / corporate trustee's name and must be insured within seven days of purchase
- Cannot be used by a member of the Fund or any related parties
- Independent valuation of market value must be obtained if the asset is to be transferred in-specie to a related party

Collectables and Personal Use Assets include artwork, jewellery, antiques, artefacts, coins or medallions, postage stamps or first day covers, rare folios / manuscripts or books, memorabilia, wine, cars, recreational boats and memberships of sporting or social clubs.

Excess Contributions Tax

The Government has implemented a refund option for excess concessional contributions up to \$10,000. This allows individuals the choice to withdraw the excess amount and pay tax at their marginal rate instead of at the top rate of 46.5% (15% contributions tax + 31.5% excess contributions tax)

It's a one-off concession for first time breaches only and applies from 1 July 2011 (2012 year or later).

Minimum Pension Drawdown

The reduction is being phased out to allow only 25% reduction for 2012 year (must draw 75% of minimum). This will be back to the full 100% minimum for 2013 year

Concessional Contribution Caps

Individuals aged 50–75 years will be allowed an additional \$25,000 towards the concessional cap but must have less than \$500,000 in their fund.

The general concessional cap is \$25,000 from 1 July 2012, so eligible individuals will have a total concessional cap of \$50,000 (\$25,000 + \$25,000)

Applies from 1 July 2012.

Increased Super Fund Levy

This is up from \$150 to \$180. It applies from the lodgement of a fund's 2011 Annual Income Tax Return and is payable with the Annual Return

The increase was brought on by the Government's "Stronger Super" reforms which were designed to improve the operation, efficiency and integrity of SMSF's.

Government Co-Contributions

Remaining at the current maximum co-contribution of \$1,000. The government will continue to match dollar for dollar for incomes up to \$31,920, phasing out for incomes up to \$61,920.

Still a great strategy for those who are eligible.

Superannuation Guarantee Payments to Increase Over Time

From the 2014 financial year superannuation guarantee payments will gradually increase over a number of years to 12% in the 2020 financial year (up from the current 9%)

Borrowing in Super

– recent developments



Do you want to invest in property within superannuation, but don't have sufficient funds for the purchase? There have been a number of recent changes to the legislation governing the borrowing rules within superannuation.

Here's a rundown on the new rules

- The property must consist of a single title or a collection of identical assets that have the same market value and are treated as a single asset i.e. multiple titles = multiple bare trusts
- The asset must not be an asset that the fund would otherwise be prohibited from acquiring.
- You can't borrow to improve an asset.
- The property must not be subject to a charge (other than to the lender in respect of the limited recourse borrowing arrangement).
- The property is held on trust (by the Bare Trust) with the SMSF trustee to receive a beneficial interest in the property.
- The SMSF trustee acquires legal ownership once borrowing has been fully repaid.
- Recourse of the lender is limited to the property and cannot extend to any other assets of the SMSF

Types of property that can be purchased

- Residential property purchased from an unrelated third party.
- Residential property off the plan. There must be one contract for the land and house, with no progress payments.
- Commercial property / Business real property.
- Rural property. But be aware of multiple titles.

How it works

- The property must be valued by an independent third party.
- The Fund Trust Deed must be up to date for the current borrowing provisions.
- Generally banks will require the Fund to have a corporate trustee.
- Deposit must be paid by the Fund.
- A Bare Trust and Bare Corporate Trustee must be established.
- The Bare Trust will be the purchaser (noted on the purchase contract) and holds the property in trust for the SMSF until the borrowing is extinguished.
- If accessing the stamp duty concessions (see page 1) the Fund's Trust Deed must contain an "irrevocable clause" to the effect that the property is held for that member or member's benefit only.

What's NOT allowed

Under the new legislation, money cannot be used to improve the property. General repairs and maintenance to ensure functionality is allowable. However extreme caution should be exercised as this can sometimes be a grey area. If the property you are considering purchasing is in need of extensive works, then purchasing via a Limited Recourse Borrowing arrangement is not advisable, especially if this means the property is uninhabitable in its current state, as no work would be able to be commenced until after the loan has been fully repaid.

If the property is not held on a single title, there cannot be one Bare Trust arrangement in place. However, there can be multiple borrowings with multiple Bare Trusts.

In summary, there are excellent opportunities on offer here if you meet the criteria.

Contact your Super Team member for more information.

September

21 August 2011 monthly activity statements – final date for lodgment and payment

October

21 September 2011 monthly activity statements – final date for lodgment and payment

21 Annual PAYG instalment notice – final date for payment and, if using the rate method or varying the instalment amount, final date for lodgment

28 July - September 2011 activity statements – final date for lodgment and payment

31 Individual, partnership and trust income tax returns – final date for lodgment. If not prepared by tax agent

Did you know?

ATO getting tough – penalties for non-compliance

The Australian Taxation Office (ATO) is moving away from their education stance in relation to SMSFs and towards stricter enforcement of penalties for non-compliance with the rules.

The Cooper Review recently suggested administrative penalties for non-compliance to be based on a sliding scale according to severity. These penalties would be levied on the Trustees, not the SMSF!

The ATO has increased the supervisory levy to \$180 to fund extra compliance and audit activity.

Failure to Draw Minimum Pensions

What are the ramifications of not drawing your minimum pension from your Account Based Pension or a Non-Commutable Account Based Pension?

The fund may lose its “Exempt Pension Income” status for the entire year – this means that all income less expenses would be taxed at 15% rather than 0%! An Auditor Contravention Report may need to be lodged.

ATO Compliance Focus for 2012

Focus for the year commencing 1 July 2011 on:

- Newly registered Funds – ensuring not established to provide illegal early access to benefits
- Fund’s lodging their first annual return – ensuing entitled to “Notice of Compliance”
- Auditor Contravention Reports
- Related party investments
- Exempt pension income
- Non-arm’s length income
- Excess contributions



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September Super Seminar Secure your seat now

The Cooper Review and Government recommendations for SMSF’s have been handed down and the ATO has also recently drafted some controversial rulings that will directly affect your SMSF.

Our special SMSF and Investment Market update on **Tuesday 13th September** from 6.30pm at **The Sebel Newcastle Beach, Level 2, Morrow Room, 5 King Street Newcastle** will tell all. Don’t miss it.

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