

LEGISLATIVE AND REGULATORY SMSF CHANGES 2007-2018

YEAR	CHANGE
2018	
Superannuation Guarantee	Government announced it will permit individuals with multiple employers to nominate specific employers to be exempt from Superannuation Guarantee obligations
Work Test and Contributions	Government announced it will permit individuals to make contributions in the first year they do not meet the work test
Limited Recourse Borrowing	Proposed legislation to include portion of loans arranged post 1 July 2018 in a Member's Total Superannuation Balance
Exempt Current Pension Income & Actuarial Certificates	ATO has directed a segmented approach when calculating Exempt Current Pension Income entitlements for SMSFs with segregated and unsegregated periods within a year
Increase in maximum number of Members of SMSF	Government announced it will increase maximum number of members in an SMSF from 4 to 6
Downsizer Contributions & First Home Saver Contributions	Commences from 1 July 2018
Personal Deductible Contributions	'10% Rule' removed for 2017/18 financial year and subsequent years, enabling personal deductible contributions regardless of employment income
Reaching Preservation Age	Minimum age for reaching Preservation Age after 1 July 2018 to be 57 years
Conversion of Transition to Retirement Income Streams from Accumulation Phase to Retirement Phase	Legislation directs automatic conversion of a Transition to Retirement Income Stream payable to a Member who reaches age 65, with other Accumulation Phase recipients of Transition to Retirement Income Streams who meet a Condition of Release with a Nil Cashing Restriction before age 65 able to elect to convert to Retirement Phase and report the conversion through the Transfer Balance Account Report
Reversion of Transition to Retirement Income Streams	Legislation introduced to remove requirement for nominated reversionary beneficiaries of Transition to Retirement Income Streams to have personally met a Condition of Release with a Nil Cashing Restriction before reversion could occur
ATO SMSF Regulator's Bulletin	ATO issued the first of its SMSF Regulator's Bulletins, SMSFRB 2018/1, titled 'The use of reserves by self-managed superannuation funds', providing guidance on the types of reserves acceptable for an SMSF
2017	
Superannuation Reform Legislation	Action required in respect to pension balances, asset segregation, capital gains and other matters prior to 30 June 2017. Post 1 July 2017, various restrictions apply, with penalties in the form of taxes for exceeding limits. SMSF trust deeds need to provide sufficient powers to enable compliance with new legislation
ATO Law Compliance Guidelines (later converted to Law Companion Rulings)	ATO issued guidelines following the passing of the Superannuation Reform legislation including coverage of Transfer Balance Caps, TRISs and other income streams, CGT relief, contributions issues and matters concerning Total Superannuation Balance Caps

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Total Superannuation Balance Caps	Introduced as part of the Superannuation Reform legislation, Total Superannuation Balance Caps impact the ability of a super fund member to make non-concessional contributions to superannuation in a particular year
Transfer Balance Caps	Introduced as part of the Superannuation Reform legislation, Transfer Balance Caps limit the amount an individual may have in superannuation income streams (excluding Transition to Retirement Income Streams)
Electing to treat payments not as an income stream	The Superannuation Reform legislation included removal of the ability to elect to treat payments as lump sum instead of as an income stream
Transition to Retirement Income Streams	From 1 July 2017, Transition to Retirement Income Streams may continue but the income generated by assets supporting the income stream will cease to be exempt from tax, for Transition to Retirement Income Streams in Accumulation Phase
Removal of anti-detriment deductions	Ability to 'claw back' taxes paid following the death of a member removed from 1 July 2017
Limited Recourse Borrowing deadline	Deadline of 31 January 2017 imposed by ATO to ensure loans to SMSF by a related party are brought under safe harbour provisions or are otherwise deemed to be on commercial terms
2016	
Superannuation Reform Legislation	Legislation to implement the first two tranches of the May 2016 Budget announcements received assent on 29 November 2016
ATO Case Studies	ATO issues a range of case studies aimed at ensuring SMSF trustees and their advisers are aware of legislative and regulatory requirements in a range of SMSF compliance and investment scenarios
Qualifying Recognised Overseas Pension Scheme (QROPS)	Requirement for transfers from UK funds. SMSF trust deed must meet new requirements of UK to enable transfer of benefits
Collectables and Personal Use Assets	Exemption from storage and insurance rules for some assets ceased 1 July 2016
Self Insurance by superannuation fund	Superannuation funds not able to self insure from 1 July 2016
Limited Recourse Borrowing Safe Harbour guidelines	ATO issued guidelines in respect to when Limited Recourse Borrowing arrangements with related party lenders would effectively be considered to be at arm's length
Electing to treat payments not as an income stream	ATO issued a Private Binding Ruling which indicated election to treat payment as a lump sum was possible. SMSF trust deed needs to enable such election
2015	
Superannuation Income Streams following death of pension recipient	Regulations introduced to permit the income on assets supporting an income stream to remain tax free for a period of time after the death of the pension recipient. SMSF trust deeds should contain sufficient flexibility
SuperStream	Commences from July 2015 (delayed from 2014). Provisions in SMSF trust deeds should be reviewed to ensure trustees are permitted to correspond by electronic means

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Various cases decided regarding effectiveness of Binding Death Benefit Nominations	Cases covered a variety of scenarios. Trust deeds should provide for different circumstances of individuals providing Binding Death Benefit Nominations
Refund of excess non-concessional contributions	Legislation passed. SMSF trust deed should permit refund of excess non-concessional contributions
2014	
Tax and Superannuation Laws Amendment (2014 Measures No 1) Act 2014 receives royal assent	Provides powers to the ATO to direct rectification of breaches, education for SMSF trustees and/or for the imposition of administrative penalties on SMSF trustees
Self Managed Superannuation Funds (Limited Recourse Borrowing Arrangements – In-house Asset Exclusion) Determination 2014	ATO legislative instrument created to ensure assets acquired under SMSF borrowing arrangements do not become in-house assets if they continue to be held by the bare trustee following repayment of the loan
Insurance in SMSFs	Restrictions introduced on types of insurance able to be obtained for members of some SMSFs from 1 July 2014. Some ‘grandfathering’ available for existing members, so specific provisions are required in the SMSF’s trust deed
Segregation of pension assets in SMSF	ATO Tax Determinations TD 2013/D7 (withdrawn but to be re-introduced) and TD 2014/7 regarding requirements when segregating fund assets to ensure availability of pension tax concessions
Superannuation Guarantee contributions	Superannuation Guarantee Contribution rates increase from 1 July 2014
2013	
Tax Laws Amendment (Fairer Taxation of Excess Concessional Contributions) Act 2013 receives royal assent	Changes introduced in relation to excess contributions and the ability to refund them. SMSF trust deed should permit refund of excess non-concessional contributions
Private Binding Ruling released by ATO regarding related party SMSF Borrowing transactions	Clarified in some respects the requirements relating to the terms of related party loans to SMSFs
Binding Death Benefit Nomination court rulings	Outcomes of two court cases, Ioppolo & Hesford v Conti and Wooster v Morris provide greater guidance on what a deed should contain in relation to the ability for members to utilise a BDBN, and the deed requirements of a non-lapsing BDBN
Tax Office Ruling TR 2013/5 regarding SMSF Pensions	Tax Office Ruling outlines what documentation should be in place for a pension to be effective, including deed provisions
Pension and tax following death of a member	Proposed legislation deeming an income stream as continuing for a period of time after the death of the recipient
Superannuation Guarantee contributions	Maximum age of 70 for Superannuation Guarantee contributions removed from 1 July 2013 Contribution rates increase from 1 July 2013
Registration of SMSF Auditors	Audits of SMSFs after 1 July 2013 must only be conducted by an auditor registered with ASIC
SMSF Regulatory Levy	Adjustment to amount of levy and timing of payment

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2012	
SMSF investment Strategy Changes	Change to SIS Regulations require Investment Strategies to be reviewed regularly and for trustees to consider insurance for members
Valuation of assets in SMSF accounts	Assets must be valued at market value each year, commencing from 2012/13 year
Share trading losses	Legislation directing that share trading gains and losses are a capital in nature and not to be treated as income for tax purposes
2011	
Deductibility of TPD Premiums – ATO Tax Ruling TR 2012/6	Changes introduced to the ability of a Fund to claim a deduction for TDP premiums, with full deduction for ‘any occupation’ and partial for ‘own occupation’
Collectables and Personal Use Assets	Changes to rules for ownership of Collectables and Personal Use Assets by SMSFs
2010	
SMSF Borrowing	Changes to legislation governing SMSF Borrowing removes section 67(4A) and replaces with new legislative provisions outlined in sections 67A & 67B of the SIS Act
2009	
Limit on Concessional Contributions	Reduced from \$50,000 to \$25,000 if under 50 years of age for 2009/10 and later years
Limit on Non-Concessional Contributions	Changed to 6 times the limit for under 50 years of age Concessional Contributions (e.g. 6 x \$25,000 = \$150,000)
Pre 1999 Unit Trusts	Ability to acquire units through re-investment of distributions or otherwise, without becoming in-house assets, ceased
2008	
Removal of Same-Sex Discrimination	Includes Superannuation Acts & Regulations
Superannuation Guarantee Contributions	Further Relief for Late Payment of SG Contributions
Temporary Residents’ Benefits	If permanently departed Australia for 6 months, unclaimed benefits to be paid to ATO
2007	
Simpler Super/Better Super	Commenced 1 July 2007
Contributions Splitting	Limited to Concessional Contributions. Non-Concessional Contributions no longer able to be ‘split’ between Spouses
Tax on Benefits	No tax on benefits paid to individuals over age 60 - part of Simpler Super
Transferring Super	Transferring between Funds made easier

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Pensions and Annuities	New Minimum Standards as part of Simpler Super
Account Based Pensions	Introduced - Deeds must be updated to permit payment
Transition to Retirement Income Streams	Changed from Transition to Retirement Pensions - Deeds must be updated to permit payment
Market Linked Pensions	Only able to commence in SMSFs from 20 September 2007 if rolled over from another Complying Pension
Allocated Pensions	Unable to commence from 20 September 2007
Contributions Caps	Introduced as part of Simpler Super. Penalty for exceeding Contributions Caps
Superannuation Balance Components	Streamlined as part of Simpler Super. Calculation of Tax Free Component comprising pre 1983 amount & other redundant Components
Government Co-Contribution	Extended to Self-Employed
Terminal Illness	Tax Free Benefits able to be paid to those with a Terminal Illness
Superannuation Death Benefits	Changes to tax treatment if paid to Non-Dependants
Transfers from Overseas Superannuation Funds	Changes to treatment. Generally included under Non-Concessional Contributions Cap
SMSF Borrowing	SMSFs able to borrow under 'Instalment Warrant Arrangement'