

31 March 2020

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# SMSF Update – Accessing benefits process and SMSF investment relief

The Government and their Regulators continue to act in response to COVID-19 and as a result more and updated information is now available to SMSF Trustees and Members, particularly in response to how the financial impact may affect existing SMSF investments. Below is an update on the rules about obtaining early access to superannuation and a summary on the latest superannuation updates as they impact SMSF investments.

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## Early access to superannuation

As stated previously, eligible individuals will be able to apply for up to \$10,000 from their superannuation fund both in the 2019/20 financial year and again in the 2020/21 financial year.

As it currently stands, eligible individuals must satisfy the following criteria:

- They must be unemployed; or
- They must be eligible to receive a job seeker payment, youth allowance for jobseekers, parenting payment (which includes the single and partnered payments), special benefit or farm household allowance; or
- On or after 1 January 2020:
  - o they were made redundant; or
  - o their working hours were reduced by 20 per cent or more; or
  - o if they are a sole trader – their business was suspended or there was a reduction in their turnover of 20 per cent or more.

### APPLICATION PROCESS:

Eligible SMSF Members, like all members, will be able to apply from mid-April and MUST apply via [my.gov.au](https://my.gov.au).

**Note:** the ATO are developing a manual application process for APRA fund members who cannot apply online, so we expect this option to be available for SMSF members as well. Unlike APRA Funds, for SMSFs the ATO will only send the determination to the member who is responsible for providing it to the Trustee, given in most cases the member will be the trustee.

Applications for the 2019/20 Financial Year must be made by 30 June. The payment can be made after that date but not the application. Members that apply by 30 June will then be eligible to apply for a second payment between 1 July 2020 and 24 September 2020.

Only one application per year is allowed, so if a member doesn't apply for the full \$10,000 or has multiple funds, they must nominate all funds in the one application up to the amount they wish to take.

**WARNING:** We repeat the warning that this is not a self-assessment, and based on the information provided, a fund can only act on receipt of a determination from the ATO. The ATO have indicated they will undertake post-issue compliance to follow up false or misleading declarations.

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## Temporary rent reduction

Many people have asked whether there will be an issue if an SMSF reduces the current rent for property owned by the fund. Often these properties, if business in nature, are leased to related parties.

Whilst the ATO have stopped short of encouraging SMSFs to reduce their rent, they have indicated that they are aware that landlords are providing a reduction or waiver of rent due to the financial impact of COVID-19 and as such they will not take action where an SMSF gives a tenant a temporary rent reduction during the 2019/20 and 2020/21 financial years. Obviously it is incumbent on SMSF trustees to make an appropriate assessment as to whether a reduction is warranted based on each individual set of circumstances.

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## In-house asset restrictions

One area that we highlighted from the outset was the relief the ATO provided during the global financial crisis where a fund held in-house assets that exceeded 5% of the asset value of the fund, and whether such relief would be considered under the current circumstances.

For reference, an in-house asset includes:

- an investment in a related party of the fund;
- an investment in a related trust (exclusions apply for certain non-geared trusts that hold property and trusts that were established prior to 12 August 1999);
- loans to related parties (excluding loans to members and relatives which are prohibited); and
- assets subject to a lease, or lease arrangement to a related party, other than collectable and personal use assets as identified in the SIS Regulations.

The ATO have confirmed that if an SMSF has in-house assets that exceed the 5% valuation as at 30 June 2020, then the SMSF **MUST** still prepare a written plan to reduce the assets below 5% by way of disposal by the following 30 June. However, the ATO have indicated that they will not take compliance action if the plan was not implemented under the following circumstances:

- Plan unable to be executed because the market had not recovered; or
- Plan unnecessary to be implemented due to market recovery i.e. asset now below 5%.

**WARNING:** As stated above, it is still a requirement under the law to prepare the written plan. Further compliance action is likely if a fund ignores this requirement.

Xpress Super will continue to keep you up to date on the latest announcements as they occur.

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