



**NORTHERN
BUSINESS CONSULTANTS**

SMSF Newsletter – February 2010

Common Mistakes Made By Trustees

Late last year the ATO announced that it will be stepping up its compliance program for trustees of self managed superannuation funds (SMSF's). Accordingly trustees should check their policies and procedures to make sure they are not inadvertently in breach of the rules. Trustees that are found to be in breach may be fined or the fund could lose its favourable tax status and be taxed at the top marginal rate.

While here at NBC we try to ensure all of our super funds are in line with all current legislation it is not always possible to check every transaction so it is important that as trustee you are also aware of your obligations to help avoid any problems.

75% of all SMSF contraventions fall into six categories:

Loans to members or relatives (19%)

SMSF's are prohibited from lending money or providing any financial assistance using the fund's resources to a member or a member's associate. For example, payment of personal expenses by the fund.

Breaches of in-house asset rules (16%)

In simple terms, an in-house asset is a loan, investment, or lease arrangement with a related party. If a fund has in-house assets, a review is required on a yearly basis to determine if the assets remain below e 5% of the market value of the funds total assets.

Assets not in the name of the trustee (14%)

The fund's assets cannot be held in the name of individual or corporate trustees in their own capacity, but must be held in their capacity as the trustee of the fund.

Documents requested by auditor not provided (11%)

If the auditor requests a document in writing from the trustees, each trustee must ensure that the document is given to the auditor within 14 days of the request being made. This applies only to documents that are relevant to the preparation of the audit report.

Breaches of sole purpose test (8%)

A SMSF must be maintained solely for the purpose of:

- each member on or after their retirement; or
- a member's legal personal representative or the member's dependants after the death of the member.

The fund is not permitted to provide any benefits to a member or their associate (e.g. renting a residential property owned by the fund to a member, or hanging artwork owned by the fund on the member's wall).

Unauthorised borrowings (7%)

A SMSF is generally prohibited from borrowing money or maintaining an existing borrowing of money. An exception is instalment warrants, and even with these, trustees must ensure they comply with the very strict rules.

The material and contents provided in this publication are informative in nature only. It is not intended to be advice and you should not act specifically on the basis of this information alone. If expert assistance is required, professional advice should be obtained.



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**Suite 2, Level 2, Homemaker City
825 Zillmere Road (PO Box 333)
ASPLEY QLD 4034
Ph: 07 3862 8777
Fax: 07 3862 8444
mail@nbc.com.au
www.nbc.com.au**

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