



[WWW.ROGERSONKENNY.COM.AU](http://WWW.ROGERSONKENNY.COM.AU)

## Self Managed Super Fund News

### Year End Super Planning

The following items should be reviewed in the lead up to the 30 June 2010:

- Please ensure your minimum pension payment has been made for each member and under each pension. If you are in a Transition to Retirement Pension, please note there is also a maximum limit. Please refer to your minimum and maximum letters you should receive after your fund is completed. If you are unsure of your minimum and / or maximum requirement, please contact Mark Rogerson 03 9802 2533.
- Please review your contributions to the fund and ensure they fall within each member's contribution caps. The penalty for excess contribution is severe, so best to double check this. If you are under 50, your limit is \$25,000 which can be claimed as a concessional (deductible) contribution (you must pass the 10% income test). If you are 50 or over on at least the last day of the financial year, you can claim \$50,000 as a concessional (deductible) contribution (once again subject to the 10% income test). Please note there is also a non concessional (un deducted) contribution limit of \$150,000 per year or \$450,000 over three years (you must be under age 65 to contribute more than \$150,000 non concessional in a year).  
Keep in mind, that employer contributions and salary sacrifice count toward your concessional contribution cap.
- If the fund has any investment in a unit trust that has an unpaid present entitlement as at 30 June 2009, seek to have this amount paid by 30 June 2010. Also, should an interim distribution be paid before 30 June 2010?
- In House asset rules allow for 5% of the funds value. Given the market value of assets, has this increased the in house percentage in your fund?
- Review the fund's investment strategy and revise as appropriate with any changes in your asset class holdings.
- If your fund leases an asset to a related party (i.e. business real property), ensure all rents and expenses have been paid on time and everything is conducted at arm's length.
- Consider any expenses or payments which need to be made prior to the 30 June 2010, including any tax payments, insurance premiums or other costs

“ACCOUNTANTS  
YOU CAN TALK  
TO...”

ADDRESS:  
SUITE 13,  
241 BLACKBURN ROAD  
MOUNT WAVERLEY, VIC

CORRESPONDENCE:  
PO BOX 323  
MOUNT WAVERLEY VIC 3149

T (03) 9802 2533  
F (03) 9802 0590

MAIL@ROGERSONKENNY.COM.AU  
WWW.ROGERSONKENNY.COM.AU

## **Proposed Changes to Self Managed Super Fund Borrowing Rules**

The government has proposed changes for the rules relating to super funds borrowing with a Bill announced on the 26<sup>th</sup> of May 2010. The key changes in summary are:

- Refinancing of limited recourse borrowing arrangements will now be allowed.
- Only a single asset may be acquired per borrowing. Practically, 2,000 ANZ shares are counted as a single asset. 1,000 BHP, 4,000 NAB and 2,000 ANZ shares are not counted as a single asset, nor are a collection of similar buildings even though they may be basically the same with the same cost.
- The borrowing by a super fund can include all associated expenses related to the borrowing operation
- Personal guarantees being required have been hotly debated with the ATO having concerns on this practice. The new law clarifies this and seeks to protect the assets of the super fund, where by the lender or any other person (someone giving a personal guarantee) will be limited to recourse only against the asset being acquired.

**Borrowing in your Self Managed Super Fund is typically at an LVR 5% under market rates. Did you know you can acquire a property to operate your business from? Call Mark Rogerson for more information 03 9802 2533**

### **A Concerning Trend...**

Brett Kenny, a Partner with Rogerson Kenny, is Chairman of the Victorian Chapter of SPAA (Self Managed Super Fund Professionals Association of Australia.)

In this role he has been contacted by a number of members whose clients are experiencing delays in receiving benefits due to be rolled over from large industry/retail funds into newly established SMSFs..

The delay is caused by the outgoing superannuation fund refusing to release benefits until the A.T.O. has confirmed the status of the new fund as "Complying".

The current practice of the ATO is to classify newly registered SMSFs as "Registered – status not determined" until such time as their first Annual Return based on Audited Financial Accounts, has been lodged.

Obviously for a fund commencing early in the new financial year (say July) it will be at least until the following July before it can lodge such accounts and can therefore have its status updated to "Complying".

There exist workarounds for this problem and the grounds for delaying the rollover are dubious, however despite this it has resulted in delays. In one case brought to our attention the delay

may cause a fund to have insufficient funds to settle a property purchase resulting potential penalty interest or worse breach of contract issues.

For those contemplating establishing a Self Managed Super Fund with a view to making some form of purchase of assets predicated on release of funds from a large industry or retail fund, you need to be aware of the possibility of a delay in release of such funds

One such approach adopted by a client of ours is to establish a fund by 30<sup>th</sup> June 2010, even with minimal assets, to enable an audit to be performed and an SMSF Annual Return to be lodged for 2010.

This will enable a prompt change in status from “Registered – status not determined” to “Complying” and help avoid delays in receiving benefits to be rolled over.

Though as with any other decisions on superannuation, expert advice should be sought before commencing a self managed superannuation fund.

