

Super Update

Edition 9 | December 2025

Below is a round-up of some superannuation changes and key developments that may be relevant to you, as trustee of your SMSF. It is important that you know what changes are coming, so you can effectively understand how they may affect you and the members of your SMSF. We intend to regularly provide you with these updates as a way of helping you plan for your retirement and identify any opportunities that can assist you to grow your superannuation savings.

Reminder

TBAR Lodgement reminder

The ATO has reminded SMSF trustees that Transfer Balance Account Reports (TBARs) for the December quarter are due by 28 January 2026.

Importantly, if no TBA event has occurred during the quarter, no TBAR lodgement is required.

10 December 2025

ATO releases 2023–24 SMSF Annual Statistics Overview

We are pleased to see the ATO publish the 2023–24 SMSF annual statistics overview earlier than in previous years, providing the sector with timely and valuable insights.

The latest figures confirm continued growth and maturity across the SMSF population. SMSFs now represent 24% of all superannuation assets, with total assets reaching \$1.051 trillion.

The ATO has also released new infographics alongside this data including, a detailed snapshot of the Top 100 SMSFs, which offers a valuable window into the upper end of the sector. These visual insights complement the broader statistics, and we will explore them more closely over the coming days.

View the SMSF annual statistical overview [here](#).

28 November 2025

Disqualified trustee register: Year-to-date snapshot

The ATO's latest update to its disqualified trustee register confirms that 128 individuals have been disqualified for the quarter ending 30 September 2025, with approximately a further 73 individuals having been disqualified since 1 October 2025 based on notices published on the Federal Register of Legislation.

By way of comparison, the Federal Register of Legislation shows that in 2024, the Commissioner disqualified approximately 280 trustees over the same period.

While the current year-to-date figures indicate the number of disqualifications has eased slightly when compared to last year, disqualification remains a key compliance lever the ATO continues to use with confidence.



26 November 2025

ART Case: Illegal early release of super

The Administrative Review Tribunal (ART) handed down its decision in [Santavas and Commissioner of Taxation](#), involving a couple who rolled over \$380,000 into a newly established SMSF before withdrawing the funds to complete a stalled personal property development.

While the trustee(s) argued they had relied upon professional advice, and were unaware that it was unlawful to use their superannuation benefits in this way, the ART confirmed the withdrawals constituted unlawful early access and upheld the amended tax assessments under s304-10 ITAA 1997.

Notwithstanding the ART set aside the penalty decisions and fully remitted the administrative penalties, this case reinforces that neither financial hardship nor a genuine belief that one is acting on professional advice, prevents early access amounts from being taxed at marginal rates.

14 November 2025

ATO: End-of-year shutdown and SMSF impact



The ATO's end-of-year shutdown may cause delays for new SMSF registrants.

The shutdown will begin from 12:00 pm (AEDT) 24 December 2025, and re-open from 8:30 am (AEDT) 2 January 2026.

During this time, ATO services – including SMSF registration processing, correspondence, and support will be temporarily unavailable.

ATO online services will continue to be available – however any applications, lodgements, reports, or payments made won't be actioned/visible until systems come back online.

14 November 2025

ATO: Lodgement reminder

The ATO has reminded SMSF trustees and professionals that not all SMSFs have the same SMSF annual return (SAR) lodgement due date.

- For SMSFs that held assets at 30 June 2025, where the trustee(s) will be self-preparing, they will typically need to lodge their SAR by 28 February 2026.
- Newly registered SMSFs, and SMSFs with overdue SARs for prior financial years, should have already lodged by 31 October 2025.
- While SMSFs may have up to 15 May 2026 if lodging their SAR through a tax agent.

12 November 2025

ATO: Winding up an SMSF

The ATO published some information for trustees who have decided to wind up their SMSF, to help ensure a smooth process and avoid errors or delays.

5 November 2025

Division 293 Tax: ART Case

The recent case of Uddin and FCT [2025] ARTA 2365 has highlighted that where salary and super are paid as a lump sum for prior years, the taxpayer can be pushed over the Div 293 threshold in the year of receipt, with no discretion to reallocate income or contributions.

In this case:

- Mr Uddin, an employee of the University of Sydney, performed additional duties between 2015–2022 without payment at the time.
- He commenced Fair Work proceedings, which were settled by deed.
- In 2022–23, he received:
 - \$106,646.07 in back-paid salary, and
 - \$10,664.61 in superannuation contributions.

As a result, his total income for Div 293 purposes exceeded \$250,000 triggering a tax assessment.

4 November 2025

Payday Super: Legislation passed

Treasury Laws Amendment (Payday Superannuation) Bill 2025 was passed by both houses of parliament and is now law.

The new law will require employers to ensure superannuation contributions are received by an employee's fund within seven business days of payday, with penalties applying under the superannuation guarantee charge where this obligation is not met.

To prepare, SMSF trustees should:

- Confirm their fund is set up to receive more frequent contributions, including checking that their electronic service address (ESA), bank account details and SuperStream arrangements are current.
- Ensure that any employer contributing to their SMSF is aware of the new payment requirement that will apply from 1 July 2026.
- Review cashflow and reconciliation processes, as more frequent contribution payments may affect investment planning, pension payments and record-keeping.

The ATO has also released support materials to support trustees with this change.

16 October 2025

ATO and AHPRA: Compassionate release of superannuation

The ATO and the Australian Health Practitioner Regulation Agency (Ahpra) issued a joint media release announcing they will be combining their efforts to stamp out business models and inappropriate practices that seek to use superannuation to pay for overly expensive or unnecessary medical treatments.

The ATO also released data (QC 103148) showing significant growth in applications for compassionate release of super – particularly for dental services where the number of requests has more than doubled in two years.

Simultaneously, Ahpra and the Dental and Medical Boards of Australia also released new guidance for doctors and dentists in response to ongoing concerns of inappropriate conduct.

14 October 2025

ATO: Release authority non-compliance

The ATO has identified a rise in SMSF trustees failing to comply with release authorities – and at the same time, has reminded trustees that failure to meet these obligations may result in significant penalties for the fund.

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13 October 2025

Division 296 Tax

The Treasurer issued a [media release](#) confirming that the government will be making changes to the design and implementation of the Better Targeted Superannuation Concessions policy in response to stakeholder feedback.

The announced changes mean that from **1 July 2026**:

- A 15% tax will be applied to earnings on balances **between** \$3 million and \$10 million (in addition to the existing tax on fund income),
- A further 10% tax (in addition to the 15% mentioned above) will be applied to earnings on balances over \$10 million,
- Both the \$3 million and \$10 million thresholds **will be indexed**.

The Government has also committed to adjusting the earnings calculation to ensure this new tax will only apply to future realised earnings (i.e. not to **unrealised gains**).

Treasury will be undertaking further consultation in relation to the implementation of this new tax. While some additional detail was provided in a [Treasury Fact Sheet](#), at the time of writing no legislation is currently available. It is expected that Exposure Draft legislation will be issued for consultation toward the end of 2025.

Note: In the same media release, the Treasurer also flagged plans to refine the operation of the [Low-Income Superannuation Tax Offset](#) (LISTO) which benefits lower income earners.

2 October 2025

ATO: Education Directions – Draft PSLA

The ATO released [Draft PS LA 2025/D2](#) – Self-managed superannuation funds: education directions for consultation.

This draft practice statement will, once finalised, provide guidance to ATO staff around whether to give a trustee, or a director of a corporate trustee, an education direction.

The ATO's education direction powers – in place since 1 July 2014 – play an essential role in cases where the person's lack of knowledge or understanding of their obligations contributed to the contravention(s).

The ATO has recently developed its own trustee education course. The ATO's suite of education products can be accessed [here](#).

26 September 2025

Legacy pensions: Asset-test exemption

The Minister for Social Services released [Social Security \(Asset-test Exempt Income Stream Guidelines\) Determination 2025](#) – which took effect 30 September 2025.

Relevantly, this determination provides guidelines which broadly enable the Secretary to determine that a legacy pension:

- which was an asset-test exempt income stream immediately prior to the commencement of the legacy pension amnesty period, and,
- where the only reason the pension is no longer an asset-test exempt income stream is due to the ability for it to be commuted under the amnesty period,

is still an asset-test exempt income stream for the purposes of the Act.

This ensures the Secretary has the ability to determine that certain legacy pensions continue to be asset-test exempt where the commencement of the Treasury Amendment Regulations caused those income streams to inadvertently lose their asset-test exemption from 7 December 2024.

26 September 2025

ATO Quarterly SMSF Statistics – June 2025

The ATO's released "Self-managed super funds: quarterly statistical report June 2025," which highlighted the ongoing growth of the SMSF sector.

As of June 2025, the total number of SMSFs had surpassed 653,000, comprising over 1.2 million members.

The report also highlighted the continued demographic trend toward a larger proportion of younger members engaging with their superannuation via an SMSF.

While most SMSF members were still aged 50 and above, individuals in the 35-44 age group made up 37% of new entries in the June quarter – while only representing 12% of the total SMSF membership.

Conversely, older age groups (i.e. 60 and above) were joining at much lower rates (less than 10% in the June 2025 quarter) compared to their overall presence in the SMSF membership (over 50% at June 2025).

24 September 2025

NALE LCR and TR 2010/1

The ATO released the long-awaited updates to LCR 2021/2 (Non-Arm's Length Income) and TR 2010/1 (Superannuation contributions) – along with their respective Compendiums providing some insights into the Commissioner's rationale.

Pleasingly, the ATO has made it clearer that when dealing with the provision of services, the NALI provisions do not apply to services that relate to complying with, or managing, the SMSF's income tax affairs and obligations – which are ordinarily deductible under section 25-5 (to the extent that they would not also satisfy the requirements of section 8-1).

These final rulings also provide some additional clarity in relation to the interaction between contributions arising through value shifting arrangements and the NALI provisions.

Unfortunately, the compendium to LCR 2021/2 makes it clear that the Commissioner does not consider there is room for rectification nor reimbursement to fix a transaction that gives rise to NALE – resulting in a potentially small trustee oversight leading to significant tax penalties for the fund.

WHAT'S NEXT?

Navigating your way through the evolving superannuation rules can be very complex, especially in the lead up to a member's retirement. If you have any questions, require assistance, or would like to discuss any of the above changes, please feel free to give me a call to arrange a time to discuss.

The contents of this Super Update are taken to be correct at the time of publication on 16 December 2025.

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