Fix these SMSF mistakes before June 30

DIY super

Sam Henderson

We've all been distracted by the federal budget over the past few weeks, but don't let all the political wrangling distract you from the main game.

With the end of the financial year looming there are a few traps that need to be avoided to escape the scrutiny of the Australian Taxation Office in the event of an SMSF audit, and you've got just four weeks to get yourself sorted.

Remember, as trustees and members of a self-managed super fund, the burden of compliance lies ultimately with you and not your adviser or accountant. So you need to be switched on just in case your accountant isn't. Barely a day goes by where I don't see concerns with the way a trustee has run a fund and I'm genuinely concerned that trustees are too casual and, well, too trusting!

Remember also that a good understanding of your SMSF will reduce your tax bills and boost your net wealth, so vigilance pays – literally.

Here are the top seven issues:

When was your trust deed last updated?

Too often, trust deeds don't allow for the changes in legislation to income streams, and specifically transition-to-retirement income streams and account-based pensions. Anecdotal evidence suggests there are trustees operating transition-to-retirement income streams with trust deeds that don't allow for them.

Have you even read your trust deed?

I know it sounds like a bit of a yawn, but you really should read it so you know how the fund works and check if it's signed and dated, just in case. You should also download those wonderfully informative booklets such as *Running a Self Managed Super Fund* from the ATO website (ato.gov.au/super).

No written investment strategy that considers insurance

This is simply the biggest problem across the spectrum of SMSF administrators and hopefully your accountant is across it.

Your SMSF must have a regularly updated investment strategy (reviewed at least annually is recommended) and it must consider insurance (but not necessarily purchase insurance if it's not needed).

Your investment strategy will need to cover the topics of liquidity, risk and return, diversification, meeting liabilities and, importantly, insurance.

Also note that an investment strategy that suggests an asset allocation of between zero and 100 per cent in cash and zero and 100 per cent in Australian shares, etc, is not adequate in the eyes of the ATO.

Binding death nominations out of date

It's always a good idea to have your binding death nominations up to date. God forbid you take an early visit to the Pearly Gates and one of your aggrieved children is put in charge of your estate and skips off with the assets. It's happened before (see classic legal case Katz v Grossman). As the name suggests, a binding nomination binds the trustees (executors) to pay out your nest egg to your desired beneficiaries, ensuring your wishes are carried out as intended.

Legislation suggests a binding death nomination is only good for three years but newer trust deeds (see point 1) are now providing for perpetual binding death nominations to save you the effort. You should also allow for the operation of the SMSF in your wills, and particularly powers of attorney.

Transition-to-retirement pension not being utilised

Unless you're able to maximise both your concessional contributions ($30,000 or $35,000 a year, depending on your age) as well as your non-concessional contributions ($180,000 a year or up to $540,000 over three years), a transition-to-retirement income stream is probably for you if you're still working and aged 55 to 64.

Tempus fugit . . . just four weeks away!

You see, the assets that are invested in the pension are free from capital gains tax and earnings tax, and the income is tax-free when you're over 60 or taxable under 60 but with a 15 per cent rebate. In years when your fund is making 12 per cent, the tax savings alone will guarantee you better returns. Not to mention having the ability to reduce your mortgage, increase your tax-free contributions or even up your member balances with your partner.

Minimum pension not drawn

June 30 is four weeks away, so if you want to be in pension mode and pay no capital gains tax and no earnings tax, and no income tax if over 60, then make sure you draw your pension. If you don't, your fund will be deemed to be in accumulation mode and thus subject to 15 per cent earnings tax and 10 to 15 per cent capital gains tax. In a year where you may have earned 10 15 per cent returns, that's a big difference!

Contributions not being optimised

If you were 49 on June 30 last year, you're eligible to put $35,000 into super and claim a tax deduction (under that age your limit is $30,000). If you're self-employed (10 per cent or more of your income from self-employment), you can make a lump sum but if you're employed under a salary arrangement, you need to have salary-sacrificed that amount throughout the year. You may have the option of putting a larger portion of your next pay packet or two into super before June 30. Remember, if you can do this, and you can afford it (it's not called salary sacrifice for nothing), it will reduce your taxable income and boost your super.

Are your SMSF tax returns ever late?

If your tax returns are late, it's a sign you or your accountant is not organised. If it's you that's not organised, it may be worth considering if an SMSF is right for you and if you're cut out for the work required to run a compliant fund. In the first instance, I'd recommend you download the two books from the ATO website, *Running a SMSF* and *Thinking About Setting up a SMSF.*

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