

SMSF Rental Income Deferrals are not Being Treated as In-house Assets

SMSF Loan Experts Monday, February 1st, 2021

Effective 27th November 2020, the [SPR 2020/2 Determination](#) and Explanatory Statement relating to rental income deferrals in response to COVID-19 are now registered.

The economic flow-on effect and financial hardship following COVID-19 have meant some self-managed super funds have needed to defer rent for their tenants. If the tenant happens to also be a related party, the rent deferral is treated as a loan in the eyes of the law and brings about an in-house asset. Ordinarily, in-house assets cannot make up more than 5% of the SMSFs total asset value. Normally, when in-house assets exceed 5% of the total value, the SMSF is required to dispose of the in-house assets before the next financial year. However, the SPR 2020/2 Determination has set out certain criteria, which if satisfied, means that related party rent deferrals will not be counted as in-house assets for the 2019-20 and 2020-21 financial years.

If your [SMSF](#) is invested in a related party company or unit trust covered by the 13.22B and 13.22C regulations, and the entity needs to provide a rent deferral for tenants, the would-be in-house asset is also covered by this new Determination; The interest in a related party — such as a company or unit trust — is made exempt by regulations 13.22B and 13.22C, and the loan arising from this entity offering rent deferrals to the tenant are exempt from becoming an in-house asset under the SPR 2020/2 Determination.

While this Determination covers the deferral of rent for related party tenants (on arm's-length terms), it does not cover rent waivers or reductions; this type of rent relief doesn't bring about an in-house asset. However, it does go against the superannuation law that states that rent must not be lower than market value. The Australian Taxation Office (ATO) has declared that they will not be taking compliance action against SMSFs offering rent relief of this nature that has arisen due to financial hardship related to COVID-19 for the 2019-20 and 2020-21 financial years.

“Our compliance approach for the 2019-20 and 2020-21 financial years is that we will not take action where an SMSF gives a tenant — who is also a related party — a temporary rent reduction during this period.” — The ATO.

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SMSF Loan Experts

Headquartered in Melbourne, VIC, SMSF Loan Experts offers finance solutions for SMSFs. Expert limited recourse borrowing arrangement (LRBA) knowledge has made SMSF Loan Experts the recommended finance provider for many financial advisers and SMSF administrators. Ensuring you have the right lending structure is how SMSF Loan Experts helps you get the best results for your SMSF.

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