



Monthly Information Newsletter – Tax & Super

August 2022

COVID-19 relief for SMSF trustees now at an end

The ATO has reminded SMSF trustees that the COVID-19 relief and support offered to SMSFs ended on 30 June 2022. At the peak of the COVID-19 pandemic, SMSF trustees that were financially or otherwise impacted by the recurring and prolonged lockdown periods were granted relief by the ATO.

The relief was offered to SMSFs for the 2019/20, 2020/21 and 2021/22 financial years where certain situations beyond their control may have caused SMSF trustees to contravene superannuation law.

For example, an SMSF trustee may have given tenant/s (including a related party tenant) a reduction in rent if they were financially impacted due to COVID-19. As charging a price that is less than market value will usually give rise to contraventions under the superannuation laws, the relief measures avoided this outcome if the arrangement met certain criteria (i.e. the relief was offered on commercial terms and the arrangement was documented, etc.).

The relief measures that were available

The table below shows the types of relief SMSF trustees were offered by the ATO.

COVID-19 relief available	Examples of how superannuation laws could have been breached
SMSF residency relief	If SMSF trustees were stranded overseas due to COVID-19 and this caused them to be out of Australia for more than two years, this may have affected the fund's residency status for tax purposes.
Rental relief	Rental relief provided by a SMSF to a tenant in the form of a reduction, waiver or deferral may have breached the superannuation laws.
Loan repayment relief	The superannuation laws could have been breached where: <ul style="list-style-type: none"> • The SMSF was the lender and provided loan relief to a related or unrelated party, or • Where the SMSF was the borrower and received relief due to the financial impacts of COVID-19.
In-house asset relief	Where an SMSF exceeded the 5% in-house asset threshold at 30 June of a financial year due to the financial impacts of COVID-19 and could not execute a plan by 30 June of the following financial year to reduce the market value of the fund's in-house assets to below 5% because: <ul style="list-style-type: none"> • The market has not recovered in some areas, or • It may be unnecessary to implement the plan as the market has recovered.

Actions required for SMSF trustees

As the ATO's COVID-19 support has ended, the ATO expects:

- SMSF trustees to now comply with their obligations under the income tax and superannuation laws previously covered by the relief
- Approved SMSF auditors to report contraventions to the ATO via the Auditor/actuary contravention report (ACR) where the reporting criteria is met.

The ATO has also reminded SMSF trustees to ensure they document any relief they accessed and to provide their approved SMSF auditor with evidence to support their case for the purposes of their annual SMSF audit.

SMSF trustees have also been encouraged to take advantage of the ATO voluntary disclosure service and formulate a plan of rectification should any contraventions occur.

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