



SELF MANAGED SUPER FUNDS

WHAT SMSF ACTIVITIES CAN I DO WITHOUT LICENSING?

Many accountants are under the impression that they will need to become licensed after 1 July 2016 if they have any SMSF clients. This is simply not true.

While the exemption that relates to advising on establishing and winding up an SMSF is being removed (Regulation 7.1.29A), exemptions still remain that allow accountants to perform many 'arranging' activities in relation to an SMSF (Regulation 7.1.29). There are also several activities undertaken by SMSF administration businesses that fall completely outside the licensing regime. You therefore need to look closely at the services you

are offering your clients to determine if licensing is required.

Accountants need to assess their SMSF work and determine the following for each activity:

- Does it require licensing?
- Is it covered by an existing exemption (no licensing required)?
- Does it fall completely outside licensing (no licensing required)?

The following chart provides a snapshot of SMSF activities and licensing requirements:

	Can continue because it:		Requires licensing
	falls completely outside licensing	is covered by an exemption*	

SMSF establishment

Advice to establish and wind up SMSFs			X
General advice comparing SMSFs with other super structures			X
Prepare or arrange to have paperwork done (deeds, corporate trustee)		✓ R7.1.29(3)(f)	
Recommend rollovers			X
Prepare rollover paperwork		✓ R7.1.29(3)(g)	

	Can continue because it:		Requires licensing
	falls completely outside licensing	is covered by an exemption*	

SMSF administration

Maintenance of trustee and member records	✓		
Monitor compliance with trust deed	✓		
Monitor compliance with legislation	✓		
Capital gains tax maintenance	✓		
Track member account balances and investment valuations	✓		
Expense allocation	✓		
Prepare annual returns, tax returns, audit	✓		

Contributions

Contributions advice (concessional and non-concessional, including salary sacrifice)			X
Managing contribution limits	✓		

Pensions and withdrawals

Recommend a TTR strategy with the same take home pay – purely from a taxation perspective		✓ R7.1.29(4)	
Recommend pensions and transition to retirement strategies			X
Recommend pension amounts			X
Recommend ad hoc lump sum withdrawals			X
Pension limit monitoring	✓		
Prepare paperwork for commencing varying pensions		✓ R7.1.29(3)(g)	

Investments

Document an investment strategy to ensure compliance with the SIS Act		✓ R7.1.29(5)(c)	
In specie transfer		✓ R7.1.29(3)(f)	
Investment sales		✓ R7.1.29(3)(f)	
Recommend Limited Recourse Borrowing arrangements (LRBA)			X
Implement a LRBA strategy for a client *		✓ R7.1.29(3)(f)	
Recommend basic deposit products and cash management accounts			X

Implementation

Strategy implementation services		✓ R7.1.29(3)(g)	
Product placement services (client directed)*		✓ R7.1.29(3)(g)	

As the table above illustrates, there are still many activities that an accountant can perform regarding SMSFs without licensing.

A WORD OF WARNING

It is not recommended that any accountant offer SMSF administration services that are covered by an exemption unless the client has obtained advice in a written Statement of Advice (SOA) that was provided by someone who is licensed (that could be yourself or a referral partner) – and you are acting on that advice.

For example, it is not recommended that an accountant set up an SMSF at the client's request, unless the client has an SOA supporting that recommendation. Without

that written advice, it will be very difficult to prove to the regulators/courts that the client did not seek advice from you. Even the act of agreeing to set up an SMSF will be seen by most clients as a form of endorsement/recommendation, regardless if an actual recommendation was given or not.

Also, be aware that in most instances, your expertise and value will come from the activities that do require licensing. If possible, consider licensing someone in your business, so that you can add this value to your clients.

IMPORTANT INFORMATION:

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