

SMSF Working Group

Issues paper on Investment in Collectables and Personal Use Assets

March 2011

PROPOSED REFORM

On 30 July 2010, the Government announced that from 1 July 2011 it would tighten legislative restrictions on SMSF investment in collectables and personal use assets. Any existing collectables and personal use assets held by SMSFs that cannot meet the new requirements will be required to be disposed of by 1 July 2016.

This measure is in response to the Super System Review's recommendation to prohibit SMSF investment in collectables and personal use assets and to require that existing holdings of the assets be disposed of within five years.

The legislative restrictions are intended to prevent SMSFs making, holding and realising investments involving assets that are in the nature of collectables or assets commonly used for personal use or enjoyment. The restrictions are to prevent SMSF assets from giving rise to current day benefits for SMSF members.

These assets, by their nature, involve more risk of members obtaining current day benefit from an investment than other assets. SMSFs are a closely-held entity where members have direct control over the investment of their superannuation savings and have the capacity to invest their money for their own current day benefit.

Compliance with the legislative restrictions will be enforced as part of the ATO's existing compliance program for SMSFs. It will, therefore, rely on SMSF approved auditors to check compliance when conducting the annual audit and report any contraventions to the ATO.

ISSUES

Possible legislative restrictions¹ to be placed on SMSF investment involving collectables and assets ordinarily used or kept mainly for personal use or enjoyment include that the investment must be:

1. part of the SMSF's investment strategy;

¹ Suggested legislative requirements are based on the SMSF Professionals' Association of Australia's (SPAA) Best Practice Guidelines for Acquiring and Holding Artwork in SMSFs.

Publication

2. acquired at a price accompanied by an independent valuation from an appropriately qualified valuer;
3. where leased or exhibited, on terms and conditions that are of a commercial nature;
4. not acquired from or leased to a related party of the SMSF;
5. not stored or maintained in any premise owned, occupied or otherwise used by a related party; and
6. valued by an appropriately qualified valuer prior to disposal and sold at or above that valuation.

Questions

Will the suggested legislative restrictions prevent SMSF members obtaining current day benefit out of an investment involving a collectable or an asset of a kind ordinarily used or kept mainly for personal use or enjoyment?

Will SMSF approved auditors have the capacity and knowledge to ensure compliance with the suggested legislative restrictions?

Are any other legislative restrictions necessary?

What compliance costs will be incurred by SMSFs in complying with the suggested legislative restrictions? Are these reasonable?