



# Self-managed superannuation funds illegal early access

Learn about the self-managed super funds (SMSFs) illegal early access (asset gap) estimate.

**Published** 19 February 2025

## Latest estimate and trends for SMSF illegal early access >

Compare the 2021–22 SMSF illegal early access (asset gap) estimate with previous years.

## ATO action to address the risk of SMSF illegal early access >

How we support our self-managed super fund (SMSF) clients to meet their superannuation obligations.

## Methodology for estimating SMSF illegal early access >

How we calculate the self-managed super fund (SMSF) illegal early access (asset gap) estimate.

## Reliability of SMSF illegal early access estimate >

How we make sure the self-managed super fund (SMSF) illegal early access (asset gap) estimate is reliable.

QC 103831

## Latest estimate and trends for SMSF illegal early access

Compare the 2021–22 SMSF illegal early access (asset gap) estimate with previous years.

**Published** 19 February 2025

### On this page

[SMSF illegal early access estimate](#)

[SMSFs estimate](#)

[About the estimate](#)

[Comparison with previous years](#)

[Findings](#)

## SMSF illegal early access estimate

Self-managed super fund (SMSF) 'illegal early access' refers to assets being removed from an SMSF early without a condition of release being met.

Superannuation savings are important to the community. They provide funds for people's retirement. Even a small amount of illegal early access can have a significant impact on an individual's retirement savings.

For 2021–22, we estimate the SMSF illegal early access (asset gap) to be **\$250.1 million**.

## SMSFs estimate

An SMSF is a way of saving for retirement. The members run it for their own benefit. They make the investment decisions for the fund and are held responsible for complying with the tax and superannuation laws.

An SMSF must be run for the sole purpose of providing retirement benefits for the members. Additionally, all decisions made by members as trustee of their fund must be in the best financial interests of the members.

For 2021–22 (as at December 2024), there were **585,696 SMSFs**, with total estimated assets of **\$843.7 billion**.

## About the estimate

The SMSF illegal early access estimate combines estimates for both non-lodging and lodging funds. It forms part of our overall tax and super performance program, and measures the ‘asset gap’ between:

- what should be held in super, and
- what is held in super.

We calculated the illegal early access estimate in a similar way to other gap estimate amounts of taxes that are not collected. See **Australian tax gaps – overview**.

## Comparison with previous years

The 2021–22 SMSF illegal early access estimate of **\$250.1 million** has decreased compared to the 2020–21 estimate of **\$256.1 million**. Most of the decline has occurred in non-lodging funds.

This may be attributable to a range of factors, including:

- economic factors
- possible changes in compliance
- ATO actions.

[Table 1](#) below shows that:

- Compared to the 2020–21 estimate, the 2021–22 estimate has reduced slightly by about **\$6 million**, mainly due to a reduced estimate for the non-lodgers.

- The estimate as a percentage of total SMSF assets has remained stable at **0.03%**.
- Over these 2 years, the total assets have increased by **\$7.0 billion**.

**Table 1: SMSF illegal early access of super estimates**

Element	2019– 20	2020– 21	2021– 22
<b>Non-lodger population size</b>	14,964	24,955	25,627
<b>Non-lodger population illegal early access estimate (\$m)</b>	283.0	174.4	167.7
<b>Lodger population illegal early access estimate (\$m)</b>	97.5	81.7	82.3
<b>Combined illegal early access estimate (\$m)</b>	380.5	256.1	250.1
<b>Combined total assets (\$b)</b>	720.5	836.7	843.7
<b>Combined estimate as percentage of combined total assets</b>	<b>0.05%</b>	<b>0.03%</b>	<b>0.03%</b>

## Findings

Illegal early access is the most significant regulatory risk impacting the SMSF sector.

The estimate in both lodging and non-lodging funds is likely driven by a wide set of circumstances, such as:

- financial stress

- promoters and schemes
- lack of knowledge
- community attitudes to super.

The estimate for lodging funds is less than for non-lodging funds. This reflects enhanced controls, with these SMSFs being reviewed by approved auditors prior to lodgment.

The calculation estimates that 14.9% of the assets of SMSFs that never lodge have been early accessed. This contrasts with lapsed lodgers and lodgers, where the analysis showed only 0.44% and 0.01% respectively of assets leaving the system through illegal early access.

Total early access of \$257 million consists of:

- estimated illegal early access of \$250.1 million
- \$6.9 million of legal early access, from
  - compassionate release
  - first home super saver (FHSS) scheme.

Therefore, illegal early access is estimated to comprise around **97%** of total early access.

For more information, go to [Self-managed superannuation funds illegal early access](#).

QC 103831


## ATO action to address the risk of SMSF illegal early access

How we support our self-managed super fund (SMSF) clients to meet their superannuation obligations.

**Published** 19 February 2025



**On this page**




How we reduce the gap

Illegal early access

Investigations and sanctions

## How we reduce the gap

We have a range of strategies and activities in place to reduce illegal early access to super for self-managed super funds (SMSFs), including:

- support and guidance products
- new registrant reviews
- removing SMSFs that fail to comply from [SuperFund Lookup](#) .

When new SMSFs are established, we engage with new trustees to:

- discuss their understanding of the obligations required as a trustee
- provide educational resources.

## Illegal early access

Where the risk of illegal early access cannot be mitigated, we withhold the ABN from SuperFund Lookup. This stops rollovers from occurring and prevents illegal early access.

Individuals who illegally access their retirement savings can expect to:

- be audited
- be disqualified, as this is a serious breach of their trustee obligations
- pay additional tax, penalties and interest.

## Investigations and sanctions

We also:

- have a strong focus on promoters of illegal early access schemes
- work with other law enforcement agencies to share intelligence and investigate inappropriate practices.

Sanctions can be severe, and include:

- the loss of professional licences
- civil penalties up to \$750,000
- criminal prosecution which can result in imprisonment of up to 5 years.

For more information, go to [Self-managed superannuation funds illegal early access](#).

QC 103831

## Methodology for estimating SMSF illegal early access

How we calculate the self-managed super fund (SMSF) illegal early access (asset gap) estimate.

**Published** 19 February 2025

### On this page

How we calculate the estimate

Step 1: Determine if illegal early access occurred

Step 2: Sum up individual illegal early access amounts

Step 3: Multiply average illegal early access by population

Step 4: Estimate non-detection

Step 5: Combine population estimates

Limitations

## How we calculate the estimate

### Non-lodging SMSFs

We use a random enquiry program to calculate the estimate for non-lodging self-managed super funds (SMSFs).

The non-lodging funds' population for a financial year is based on the date of last lodgment and rollovers from other super funds.

We drew separate random samples from SMSFs that had:

- previously lodged but failed to lodge in 2021–22 (lapsed-lodgers)
- a rollover in 2021–22, but never lodged (never-lodgers).

We calculated the estimate for each of these sub-populations.

## **Lodging SMSFs**

We based the estimate for lodging funds on analysis of auditor contravention reports (ACRs) received from approved auditors for the corresponding financial year. The analysis focuses on identifying the most common illegal early access types (payment standard breaches and loan-to-member contraventions). We added an audit non-detection amount to address the risk that approved auditors may not fully identify all instances of illegal early access.

## **Combining sub-population estimates**

We step through the non-lodging funds method we applied below, and:

- combine the estimates from the sub-populations in [Table 2](#)
- lay out the method application for the lodging funds in [Table 3](#).

## **Step 1: Determine if illegal early access occurred**

We conduct audits on the sample of SMSFs to determine if illegal early access occurred. We review bank statements to identify specific payments. We compare assets in the fund to previous known values to identify unexplained reductions.

## **Step 2: Sum up individual illegal early access amounts**

For lapsed-lodgers and never-lodgers, we separately add up the individual illegal early access amounts where they are greater than



zero. We then calculate the average.

### Step 3: Multiply average illegal early access by population

For both lapsed-lodgers and never-lodgers, we multiply the sample average illegal early access amount from Step 2 by the annual populations.

### Step 4: Estimate non-detection

For lapsed-lodgers, we apply the other non-detection percentage to the result of Step 3.

### Step 5: Combine population estimates

We add the lapsed-lodger and never-lodger population estimates (Step 3) and non-detection (Step 4). This gives us the total non-lodger population estimate.

The following tables show the dollar values at steps 1 to 5.

**Table 2: Applying the non-lodging funds methodology**

Step	Description	2019–20	2020–21	2021–22
2.1	Lapsed-lodgers sample average illegal early access	\$4,322	\$2,688	\$2,63
2.2	Never-lodgers sample average illegal early access	\$65,074	\$31,666	\$25,34
3.1	Lapsed-lodgers multiply	\$50.0m	\$58.5m	\$58.9r

	sample average illegal early access by population (\$m)			
<b>3.2</b>	Never- lodgers multiply sample average illegal early access by population	\$220.5m	\$100.9m	\$83.2r
<b>4</b>	Lapsed- lodgers non- detection	\$12.4m	\$15.0m	\$25.6r
<b>5.1</b>	Lapsed- lodgers estimated population illegal early access	\$62.5m	\$73.5m	\$84.5r
<b>5.2</b>	Never- lodgers estimated population illegal early access	\$220.5m	\$100.9m	\$83.2r
<b>5.3</b>	Non-lodgers estimated population illegal early access (5.1 plus 5.2)	\$283.0m	\$174.4m	\$167.7r
<b>n/a</b>	Non-lodgers theoretical total assets	\$9,073.3m	\$17,304.1m	\$19,950.9r
<b>n/a</b>	Non-lodgers estimate	3.1%	1.01%	0.84%

	ratio to total assets		
--	-----------------------	--	--

Note: The never-lodgers sample average illegal early access is lower in 2022 due to sample illegal early access amounts typically being smaller than in 2021.

**Table 3: Applying the lodging funds methodology**

Item	Description	2019–20	2020–21	2021–22
<b>1</b>	Estimated illegal early access from benefit payment contraventions	\$35.8m	\$30.0m	\$23.9m
<b>2</b>	Estimated illegal early access from loans to members contraventions	\$39.5m	\$26.1m	\$33.7m
<b>3</b>	Addition for non-detection	\$21.9m	\$25.6m	\$24.7m
<b>4</b>	Lodgers estimate (1 plus 2 plus 3)	\$97.5m	\$81.7m	\$82.3m
<b>n/a</b>	Lodgers theoretical total assets	\$711.5b	\$826.4b	\$823.7b
<b>n/a</b>	Lodgers estimate ratio to total assets	0.01%	0.01%	0.01%

Find out more about our research methodology, data sources and analysis for measuring gap estimates.

## Limitations

The following caveats and limitations apply when interpreting this estimate:

- ACRs provide limited information on the events reported as contraventions.
- Unrectified contraventions that occurred in previous financial years can be reported in the 2022 ACR. The methodology included a calculation to exclude payments that occurred in previous years from the 2022 estimate.
- Approved auditors may not detect or not report contraventions (or both).
- The methodology of the non-lodger estimate calculation excludes from the population SMSFs that ceased lodging prior to 2020.
- ATO audits may not detect all instances of illegal early access.
- Estimated non-detection amounts have been included to address identified limitations of the methodology.
- Non-reporting in ACRs may also occur because only contraventions that meet the reporting criteria need to be reported.

For more information, go to [Self-managed superannuation funds illegal early access](#).

QC 103831

## Reliability of SMSF illegal early access estimate

How we make sure the self-managed super fund (SMSF) illegal early access (asset gap) estimate is reliable.

**Published** 19 February 2025

We have sought feedback and advice from our external and internal subject matter experts about how we calculate the self-managed super fund (SMSF) illegal early access (asset gap) estimate. Based on the advice and assessment, the reliability rating for this estimate is **medium** with a score of **16**.

We have stratified the sampling process to ensure it is representative of the wider population.

We also engaged with former Deputy President of the Administrative Appeals Tribunal, Mr Stephen Frost, for further assurance. Mr Frost verified the accuracy and quality of a sample of the audit results that underpin our estimate.

**Figure 1: Reliability rating scale from very low to very high – SMSF illegal early access estimate**

 **The self-managed super fund illegal early access gap reliability rating is 16, which is medium in the ratings scale**

For more information, go to [Self-managed superannuation funds illegal early access](#).

QC 103831

## **Our commitment to you**

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

## **Copyright notice**

© Australian Taxation Office for the Commonwealth of Australia

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).