Legislative Instrument

Self Managed Superannuation Funds (COVID-19 Rental income deferrals – In-house Asset Exclusion) Determination 2020

I, Louise Clarke, Deputy Commissioner of Taxation, make this determination under paragraph 71(1)(f) of the Superannuation Industry (Supervision) Act 1993.

Louise Clarke
Deputy Commissioner of Taxation
Policy, Analysis and Legislation
Law Design and Practice

1. Name of instrument
This determination is the Self Managed Superannuation Funds (COVID-19 Rental income deferrals – In-house Asset Exclusion) Determination 2020.

2. Commencement
This instrument commences the day after it is registered on the Federal Register of Legislation.

3. Application
This instrument applies to the trustee(s) of a self managed superannuation fund (fund) where the fund acquires an In-house asset from a deferral of rental income under a lease (on arm’s length terms) described in the two situations below in paragraph 4 being provided during the 2019-20 and 2020-21 financial years.

4. Determination
For the purposes of paragraph 71(1)(f) of the Superannuation Industry (Supervision) Act 1993, where during the 2019-20 or 2020-21 financial years the fund:

(a) allows a related party tenant a deferral of rental income under a lease (on arm’s length terms) due to the financial impacts of the coronavirus known as COVID-19, or

(b) holds an interest in a related party which is exempt from being an In-house asset due to the operation of regulation 13.22B or regulation 13.22C of the Superannuation Industry (Supervision) Regulations 1994, and that related party allows a tenant a deferral of rental income under a lease (on arm’s length terms) due to the financial impacts of the coronavirus known as COVID-19

the resulting asset is not an In-house asset of the fund.
5. Definitions
Expressions used in this determination have the same meaning as in the Superannuation Industry (Supervision) Act 1993 and Superannuation Industry (Supervision) Regulations 1994 unless otherwise stated.