

SMSFR 2009/2A1 - Addendum - Self-Managed Superannuation Funds: the meaning of 'borrow money' or 'maintain an existing borrowing of money' for the purposes of section 67 of the Superannuation Industry (Supervision) Act 1993

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Addendum

Self-Managed Superannuation Funds Ruling

Self-Managed Superannuation Funds: the meaning of ‘borrow money’ or ‘maintain an existing borrowing of money’ for the purposes of section 67 of the *Superannuation Industry (Supervision) Act 1993*

This Addendum amends Self Managed Superannuation Funds Ruling SMSFR 2009/2 to prevent self-managed superannuation funds from using a limited recourse borrowing arrangement to acquire real property unless that real property is business real property. This change applies to arrangements entered into on or after 10 August 2026. Existing arrangements are grandfathered.

SMSFR 2009/2 is amended as follows:

1. Preamble

Omit the preamble; substitute

❗ Relying on this Ruling

This publication represents the Commissioner's view about the way in which provisions of the *Superannuation Industry (Supervision) Act 1993*, or regulations under that Act, apply to superannuation funds that the Commissioner regulates – principally, self-managed superannuation funds.

Self Managed Superannuation Funds Rulings are not legally binding on the Commissioner. However, if the Commissioner later takes the view that the law applies less favourably to you than this Ruling indicates, the fact that you acted in accordance with this Ruling would be a relevant factor in your favour in the Commissioner's exercise of any discretion as to what action to take in response to a breach of that law. The Commissioner may, having regard to all the circumstances, decide that it is appropriate to take no action in response to the breach.

2. Table of Contents

Omit the Table of Contents; substitute:

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3. Paragraph 1

Omit footnote 1.

4. Paragraph 2

(a) Omit 'self managed'; substitute 'self-managed'.

(b) After subsection 67(1), insert 'of the SISA'.

(c) After the paragraph, insert new paragraph 2A:

2A. All further legislative references in this Ruling are to the SISA, unless otherwise indicated.

5. Paragraph 3

In the heading, omit 'provision(s)'; substitute 'provisions'.

6. Paragraph 14

Omit the wording of the heading; substitute:

When an arrangement contravenes subsection 67(1)

7. Paragraph 15

(a) After 'limited to', insert ', a'.

(b) At the start of each of the 3 dot points, omit 'a'.

8. Paragraph 17

(a) Omit 'in section 67'.

(b) In footnote 5, omit 'subsection 67(4A)'; substitute 'subsection 67A(1)'.

9. Paragraph 19

In the second sentence, after 'former SMSFs', insert a comma.

10. Paragraph 20

Omit 'However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling.'

11. Paragraph 21

In the heading, omit 'Appendix 1'; substitute 'Appendix'.

12. Paragraph 22

(a) In the first dot point, omit 'section 62. All'; substitute 'section 62 (all)'.

- (b) In the first dot point, after 'this test', insert a closing bracket.
- (c) In footnote 9, omit 'SMSFR 2008/2 :'; substitute 'Self Managed Superannuation Funds Ruling SMSFR 2008/2'.
- (d) In the third dot point, after 'for example', insert a comma.
- (e) In the third dot point, omit 'in relation to a member's benefits,'; substitute 'in relation to, a member's benefits'.
- (f) In footnote 10, omit 'SMSFR 2008/1 :'; substitute 'Self Managed Superannuation Funds Ruling SMSFR 2008/1'.
- (g) In footnote 11, omit 'SMSFR 2008/D5 :'; substitute 'Self Managed Superannuation Funds Ruling SMSFR 2009/4'.

13. Paragraph 24

In footnote 15, omit 'PS LA 2006/17, PS LA 2006/18 and PS LA 2006/19'; substitute 'PS LA 2006/17 *Self-managed superannuation funds – disqualification of individuals to prohibit them from acting as a trustee of a self-managed superannuation fund*, PS LA 2006/18 *Self-managed superannuation funds – enforceable undertakings* and PS LA 2006/19 *Self-managed superannuation funds – issuing a notice of non-compliance*'.

14. Paragraph 26

After 'subsection 67(2) to 67(6)', insert ', and section 67A'.

15. Paragraph 28

After '*Legal Dictionary*¹⁸', insert a comma.

16. Paragraph 30

After 'subsection 67(1)', insert a comma.

17. Paragraph 33

Omit the wording of footnote 19; substitute:

Commissioner of Taxation v Firth [2002] FCA 413 at [73].

18. Paragraph 34

After '*Legal Dictionary*²⁰', insert a comma.

19. Paragraph 37

- (a) Omit the wording of footnote 22; substitute:

QX95b and Qx95c and Insurance and Superannuation Commissioner [1996] AATA 81.

- (b) In footnote 23, omit 'further'.

20. Paragraph 39

- (a) After 'features are that', insert 'there is'.
- (b) At the start of both dot points, omit 'there is'.
- (c) Omit the wording of footnote 25; substitute:

Re Darcy Norman Gordon and Department of Social Security [1992] AATA 174.

21. Paragraph 40

- (a) Omit 'noted earlier'; substitute 'noted in paragraphs 29 to 31 of this Ruling'.
- (b) Omit footnote 27.

22. Paragraph 43

- (a) Omit 'in the diagram below'; substitute 'in Diagram 1 of this Ruling'.
- (b) Omit 'borrower/purchaser'; substitute 'borrower or purchaser'.
- (c) In footnote 29, omit 'further'.
- (d) After the paragraph, insert caption 'Diagram 1: illustration of constructive payment'.

23. Paragraph 44

Omit the wording of footnote 30; substitute:

See paragraphs 69 and 70 of Self Managed Superannuation Funds Ruling SMSFR 2009/3
*Self Managed Superannuation Funds: application of the Superannuation Industry
(Supervision) Act 1993 to unpaid trust distributions payable to a Self Managed
Superannuation Fund.*

24. Paragraph 45

Omit the wording of footnote 31; substitute:

R v New Queensland Copper Co Ltd [1917] HCA 34.

25. Paragraph 50

In footnote 34, omit 'at paragraphs 78 and 79'.

26. Paragraph 51

Omit the wording of footnote 35; substitute:

Beconwood Securities Pty Ltd v Australia and New Zealand Banking Group Limited [2008]
FCA 594 at [40], [42] and [43].

27. Paragraph 52

- (a) Omit '*Prime Wheat Association Ltd v. Chief Commissioner of Stamp Duties*'; substitute '*Prime Wheat Association Ltd v Chief Commissioner of Stamp Duties* (1997) 42 NSWLR 505 (*Prime Wheat*)'.
- (b) Omit footnotes 36 and 37.
- (c) Omit both instances of '20 year period'; substitute '20-year period'.
- (d) After 'Gleeson CJ concluded', insert 'at [512]'.

28. Paragraph 53

- (a) Omit '*Eastern Nitrogen Ltd v. Federal Commissioner of Taxation*'; substitute '*Eastern Nitrogen Ltd v Commissioner of Taxation*'.
- (b) Omit 'loan Carr J stated'; substitute 'loan, Carr J stated'.
- (c) Omit the wording of footnote 38; substitute:
[2001] FCA 366.
- (d) Omit the wording of footnote 39; substitute:
At [512].

29. Paragraph 56

- (a) Omit 'The following examples focus'; substitute 'The examples in this Ruling focus'.
- (b) After 'subsections 67(2) to 67(6)', insert 'and section 67A'.

30. Paragraph 57

- (a) In the first sentence, after 'given in an example', insert 'in this Ruling'.
- (b) In the third sentence, after 'provisions to the examples', insert 'in this Ruling'.

31. Paragraphs 59 and 61

Omit '*paragraph 67(1)(a) unless one of the exceptions apply*'; substitute '*paragraph 67(1)(a), unless one of the exceptions applies*'.

32. Paragraph 60

After '*full value of the cheque*', insert a comma.

33. Paragraph 64

- (a) In the second sentence, after '*investment strategy*', insert a comma.
- (b) In the fourth sentence, after '*part of the arrangement*', insert a comma.

34. Paragraph 65

In the third sentence, omit '*account unless one of the exceptions apply*'; substitute '*account, unless one of the exceptions applies*'.

35. Paragraph 66

- (a) After '*investment strategy*⁴⁰', insert a comma.
- (b) In footnote 40, omit 'investment products such as contracts for difference'; substitute 'investment products, such as contracts for difference,'.

36. Paragraph 67

Omit the wording of footnote 41; substitute:

See *Prime Wheat* at [512].

37. Paragraph 68

Omit the wording of footnote 42; substitute:

See Taxation Ruling TR 2010/1 *Income tax: superannuation contributions*.

38. Paragraph 72

- (a) After '*agreement with Sarah*', insert a comma.
- (b) After '*In turn*', insert a comma.

39. Paragraph 73

- (a) After '*Example 7*', insert '*of this Ruling*'.
- (b) After '*Sarah to the SMSF*', insert a comma.
- (c) Omit '*paragraph 67(1)(a) unless one of the exceptions apply*'; substitute '*paragraph 67(1)(a), unless one of the exceptions applies*'.

40. Paragraph 75

- (a) Omit '*and in return*'; substitute '*and, in return,*'.
- (b) In footnote 43, after 'of the fund', insert a comma.

41. Paragraph 76

- (a) After '*Instead*', insert a comma.
- (b) Omit the wording of footnote 45; substitute:

See paragraphs 52 to 54 of this Ruling, in particular *Prime Wheat* at [512].

42. Paragraph 77

- (a) Omit 'whilst'; substitute 'while'.
- (b) Omit both instances of 'subsection 67(4A)'; substitute 'subsection 67A(1)'.
- (c) In footnote 46, omit 'subsection 67(4A)'; substitute 'subsection 67A(1)'.

43. Paragraph 79

- (a) Omit 'of the SISA'.
- (b) Omit 'financier to the SMSF,' substitute 'financier to the SMSF'.

44. Paragraph 80

Omit 'defined in *The Macquarie Dictionary*⁴⁸ as: coin or certificate (as banknotes, etc.) generally accepted in payment of debts and current transactions'; substitute 'defined in *The Macquarie Dictionary*⁴⁸ as 'coin or certificate (as banknotes, etc.) generally accepted in payment of debts and current transactions'.

45. Paragraph 83

Omit the wording of footnote 50; substitute:

Burrill, J v The Commissioner of Taxation of the Commonwealth of Australia [1996] FCA 534; (1996) 67 FCR 519 at [525]; 96 ATR 4629 at [4634]; (1996) 33 ATR 133 at [138].

46. Paragraph 84

- (a) After 'For SISA purposes', insert a comma.
- (b) After 'their face value', omit the comma.
- (c) Omit the wording of footnote 51; substitute:

Moss v. Hancock [1899] 2 QB 111 at [116]; *Cusack v Commissioner of Taxation* [2002] FCA 1012.

47. Paragraph 86

Omit the wording of footnote 52; substitute:

BHP Billiton Iron Ore Pty Ltd v The National Competition Council [2006] FCA 1764 at [117–118], per Middleton J.

48. Paragraph 92

Omit the wording of footnote 55; substitute:

See Taxation Rulings TR 95/25 *Income tax: deductions for interest under section 8-1 of the Income Tax Assessment Act 1936 following FC of T v. Roberts; FC of T v. Smith*, in particular paragraph 42, and TR 2000/2 *Income tax: deductibility of interest on moneys drawn down under line of credit facilities and redraw facilities*, in particular paragraphs 46 and 47.

49. Paragraph 93

Omit the wording of footnote 56; substitute:

See TR 2000/2, in particular paragraph 39.

50. Paragraph 96

In footnote 57, after 'Consequently', insert a comma.

51. Paragraph 99

- (a) Omit 'The following is'; substitute 'Paragraphs 100 to 105 of this Ruling are'.
- (b) In the second sentence, omit 'It is'; substitute 'They are'.

52. Paragraph 102

- (a) In the heading, omit '*subsection 67(4A)*'; substitute '*subsection 67A(1)*'.
- (b) Omit '*subsection 67(4A)*'; substitute '*subsection 67A(1)*'.
- (c) After 'satisfies the following conditions, insert new footnote 58:

⁵⁸ For the Commissioner's view on limited recourse borrowing arrangements, see Self Managed Superannuation Funds Ruling SMSFR 2012/1 *Self Managed Superannuation Funds: limited recourse borrowing arrangements – application of key concepts*.

53. Paragraph 104

Omit '2004-2005 financial year'; substitute '2004–05 financial year'.

54. Paragraph 106

Omit the paragraph, including heading.

This Addendum applies:

- for changes to the rules for limited recourse borrowing arrangements introduced by *Treasury Laws Amendment (Tax Reform No.1) Act 2026* – from 10 August 2026
- for other currency updates, that do not affect the substantive application of the Ruling, before and after issue.

Commissioner of Taxation

14 October 2026

ATO references

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