

# SUPERANNUATION BULLETIN

*An update publication for our clients*

May 2014

## Superannuation Update

### Self-Managed Funds – New ATO Penalties

The ATO have been given a new range of administrative penalties that can be imposed on self-managed superannuation fund trustees for a range of breaches of the law, including breaches that may be inadvertent and/or accidental. The new penalties are available to the ATO for breaches that occur on or after 1 July 2014.

The new penalties are designed to make it easier for the ATO to impose a monetary penalty on trustees who breach the law and range from \$850 to \$10,200 depending on the breach. The monetary penalty will apply to the trustees personally and cannot be paid or reimbursed from the super fund's assets. Examples include:

Breach	Penalty
Loan to a member of the fund	\$10,200
Super fund borrowing*	\$10,200
Loan to, or an investment in a related party in excess of 5% of assets*	\$10,200
Breach of prescribed standards, e.g. contribution standards	\$3,400
Failure to prepare accounts and statements in a year of income	\$1,700
Failure to keep minutes and records	\$1,700

*\*exclusions apply*

Note that where a fund's trustees are individuals the penalty will be imposed on each trustee. For example if there are two individual trustees they may both be fined \$10,200 for a breach of the borrowing provisions resulting in an overall penalty of \$20,400. Where the fund has a corporate trustee, the penalty will only be imposed once.

The new penalties represent a significant change for self-managed fund trustees. The ATO's practical ability to issue monetary penalties in the past has been restricted due to the severity of the penalties available to them. Under the new rules we expect to see the ATO adopt a standard practice of imposing administrative penalties and requiring trustees to demonstrate that the imposition of the penalty is unwarranted or unjust. A trustee will have to lodge an objection for a penalty decision to be reviewed.

The new rules also provide the ATO with:

- the power to issue rectification directions mandating certain actions trustees must take to rectify/resolve breaches of the law; and
- the power to issue education directions requiring trustees to complete specified training/education courses.

The changes increase the risk that trustees will be exposed to financial penalties if breaches of the law occur. We also expect the new rules will result in a further shift by the ATO towards the use of enforcement powers as a first response for compliance issues that may eventuate. Accordingly, trustees need to be more vigilant in ensuring they meet all compliance requirements. If you are in any doubt you should discuss your plans with us before implementing.

## Contribution Limits Indexation – 2014/2015

Indexation of the superannuation contribution limits will apply with effect from 1 July 2014. The new contribution limits are set out below:

### Concessional Contribution Limits

Age on last day of the preceding financial year	2013/2014	2014/2015
Under age 49	\$25,000	\$30,000
49 years but less than 59	\$25,000	\$35,000
59 years or over	\$35,000	\$35,000

### Non-Concessional Contribution Limits

Age at any time in the financial year	2013/2014	2014/2015
Under age 65	\$150,000*	\$180,000*
65 years and over	\$150,000	\$180,000

\* Individuals under age 65 at any time in the financial year may bring forward contributions of up to three times the standard non-concessional contribution limit across a fixed three year period.

Note: if you trigger the bring forward rule in 2013/2014, the fixed three year limit will remain at \$450,000 (three times the 2013/2014 standard non-concessional contribution limit) despite the indexation that applies in 2014/2015 and 2015/2016.

Careful planning of contributions should be undertaken, particularly if larger non-concessional contributions are being considered.

## Further information

Please ask your regular Pitcher Partners contact or one of the superannuation experts in our network for further details on the issues raised in this Bulletin.

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