

## Superannuation Q&A

By Andrew Quinn  
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### This week:

- Has the minimum drawdown been halved?
- SMSF and a property venture.
- Calculating SMSF income.
- Selling an SMSF-owned property.

### Minimum drawdown

**I heard or read recently a suggestion that the government was going to amend or suspend the current requirement to withdraw a minimum annual amount out of one's allocated pension due to the sharemarket meltdown and GFC. Can you advise if this is so, and where details may be found?**

Yes, the federal government has announced that you can reduce the minimum pension payment amount that you are required to draw by 50% for the 2008-09 financial year. For example, an investor aged under 65 who is drawing an allocated pension will only have to draw down 2% of their account balance as at July 1, 2008, rather than the normal 4%.

This policy announcement is designed to ease concerns that the minimum drawdown rules are forcing some retirees to sell assets and realise losses in a depressed market.

The temporary suspension of the minimum payment requirements applies to account-based annuities and pensions, allocated annuities and pensions, market-linked (term allocated) annuities and pensions, and pensions paid from Retirement Savings Accounts.

Those who have already taken more than half of the current minimum payment for 2008-09 will not be required to take another payment until the end of 2009-10.

But you should be aware that this is currently only a press release on the government's intentions. No new regulations have been issued and it is not yet law.

You can find further information in **Joint Media Release No.013** which is on the treasury.gov.au website.

### Property venture

**I have been asked whether I want to invest in a small commercial building on the CBD fringe. It would be owned by a unit trust of three partners having equal shares. The partners would fund 30% with their own money, and a mortgage set up to fund the remaining 70%. Can I use an SMSF to fund my portion of the equity? The building will be leased with a good commercial yield.**

Based on what you have described, it seems that you are effectively setting up a new, geared, unlisted trust to buy business real property. If this is the case, then you will not be able to finance your share of the purchase cost via your self-managed super fund.

However, if the other partners can arrange their loans outside the trust (that is, it remains ungeared) then your super fund may be able to buy units. There might be other options open to you if the unit trust has already been in existence for some time but these matters are complex and should be discussed with a professional adviser.

You should also check that this type of investment is permissible under your fund's trust deed and is consistent with the investment strategy. Other legal aspects concerning your ownership rights and your partners' loan documents also need to be reviewed.

### **Calculating income**

**In calculating the proportion of taxable income for an SMSF when some members are on a pension and others are not, do the calculations take into account non-deductible contributions of the pension members? Or are these balances excluded and only deductible balances used to determine the percentage of fund income that is exempt?**

Most self-managed super funds are effectively an aggregation of member accounts. Each member's account will either have assets that are specifically allocated to it or, more commonly, be entitled to a proportion of the fund's overall assets. The earnings and expenses of the fund will be divided up in a similar way.

The fund's income tax calculations are based on the characteristics of each account – whether it is a pension or accumulation account – and the earnings and expenses which are relevant in each case.

If a member has a pension account and an accumulation account, the contribution amounts and tax calculations will be determined for each one separately.

### **Property sale**

**Can an SMSF sell its residential property (purchased 10 years back from an unrelated party) to a member at market price?**

An SMSF can sell its investment to a member, provided that the transaction is done at arm's length, as specified in Section 109 of Superannuation Industry (Supervision) Act 1993.

This requires that the terms and conditions of the transaction are no more favourable to the other party than those which it is "reasonable to expect would apply if the trustee or investment manager, as the case may be, were dealing with the other party at arm's length in the same circumstances".

Needless to say, you will need reliable written evidence that the transaction was completed on commercial terms.



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