

BA Tax News Update

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NOVEMBER 2023

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Grants are generally treated as assessable income, and taxpayers may be able to claim deductions if they use these payments to:

- ✓ purchase replacement trading stock or new assets;
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- ✓ pay for other business expenses.

However, some grants are declared non-assessable, non-exempt ('NANE') income. This means taxpayers don't need to include them in their tax return if they meet certain eligibility requirements.

NANE grants include but are not limited to:

- ✓ COVID-19 business support payments;
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- ✓ water infrastructure payments.

Taxpayers can only claim deductions for expenses associated with NANE grants if they relate directly to earning their assessable income, including wages, dividends, interest and rent.

Taxpayers cannot claim expenses related to obtaining the grant, such as accountant's fees.

Care required in paying super benefits

Generally, before SMSF trustees pay a member's super benefits, they need to ensure that:

- ✓ the member has reached their preservation age;

- ✓ the member has met one of the conditions of release; and
- ✓ the governing rules of the fund (e.g., the trust deed) allow it.

Benefit payments to members who have not met a condition of release are not treated as super benefits. Instead, they will be taxed as ordinary income at the member's marginal tax rate.

If a benefit is unlawfully released, the ATO may apply significant penalties to:

- ✓ the SMSF trustee;
- ✓ the SMSF; *and*
- ✓ the recipient of the early release.

The ATO may also disqualify the trustee(s) involved.

Investment restrictions and other rules that apply to SMSFs in the accumulation phase continue to apply when members begin receiving a pension from the SMSF.

Where a member has met a condition of release, the trustee can either pay the benefit as a lump sum or super income stream (i.e., a pension). If a member has died, the trustee will generally pay a death benefit to a dependant or other beneficiary of the deceased, subject to the applicable rules.

Notice of visa data-matching program

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- ✓ active visas meeting the relevant criteria, and all visa grants;
- ✓ visa grant status by point in time;
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The ATO estimates that records relating to approximately nine million individuals will be obtained each financial year.

The objectives of this program are to (among other things) help ensure that individuals and businesses are fulfilling their tax and super reporting obligations, and identify potentially new or emergent approaches to fraud and those entities controlling or exploiting the visa framework.

ATO says: "Be cyber wise, don't compromise"

Throughout the 2022 income year, one cybercrime was reported every seven minutes. The ATO encourages taxpayers to implement the following four quick steps to protect themselves.

Step 1: Install updates for your devices and software

Regular updates ensure taxpayers have the latest security in place which can help prevent cyber criminals from hacking their devices. They should also make sure they are downloading authorised and legitimate programs.

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Passphrases use four or more random words and can include symbols, capitals and numbers. A password manager can help generate or store passphrases.

Losses in crypto investments for SMSFs

Over the last few income years, the ATO has seen some instances of SMSF trustees losing their crypto asset investments.

These losses have been caused by:

- ✓ crypto scams, where trustees were conned into investing their superannuation benefits in a fake crypto exchange;
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Trustees thinking of investing in crypto need to be aware of the ways that crypto can be lost, including through scams, and how these scams can be avoided.

Many crypto assets are not commonly considered to be financial products, which means the platform where crypto is bought and sold may not be regulated by ASIC.

Therefore, trustees may not be protected if the platform fails or is hacked. When a crypto platform fails they will most likely lose all of their crypto.

Investing in crypto can be complex and risky, and so the ATO recommends that trustees seek financial advice before investing.

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NANE grants include but are not limited to:

- ✓ COVID-19 business support payments;
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Taxpayers can only claim deductions for expenses associated with NANE grants if they relate directly to earning their assessable income, including wages, dividends, interest and rent.

Taxpayers cannot claim expenses related to obtaining the grant, such as accountant's fees.

Care required in paying super benefits

Generally, before SMSF trustees pay a member's super benefits, they need to ensure that:

- ✓ the member has reached their preservation age;

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- ✓ the SMSF trustee;
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The ATO may also disqualify the trustee(s) involved.

Investment restrictions and other rules that apply to SMSFs in the accumulation phase continue to apply when members begin receiving a pension from the SMSF.

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The ATO estimates that records relating to approximately nine million individuals will be obtained each financial year.

The objectives of this program are to (among other things) help ensure that individuals and businesses are fulfilling their tax and super reporting obligations, and identify potentially new or emergent approaches to fraud and those entities controlling or exploiting the visa framework.

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These losses have been caused by:

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