MGR ACCOUNTANTS

YOUR BUSINESS ADVISERS FOR LIFE

SMSF NEWSLETTER

February 2016

SPECIAL POINTS OF INTEREST:

1. **Ensure you regularly review your investment strategy**
2. **Some SMSF loan arrangements in the firing line**
3. **When is my SMSF tax return due?**

INSIDE THIS ISSUE:

REVIEWING YOUR INVESTMENT STRATEGY

An important trustee obligation is to design, implement and then regularly review your SMSF's investment strategy. In this article, we discuss some key points to remember when preparing or reviewing the strategy.

Background - why have an investment strategy?

Whilst an SMSF allows you control over investment choice, you must ensure your SMSF invests solely to save for your retirement.

To keep you on track with this objective, the superannuation laws require you to prepare, implement and regularly review your fund's investment strategy. In designing your strategy, you need to take the following into account:

- the financial situation, needs and circumstances of the members;
- diversification of investments;
- the risk and likely returns from investments;
- the 'liquidity' of your fund's assets (being how easily they can be converted into cash to pay expenses); and
- the fund's ability to pay retirement benefits and other expenses.

Some of these points are discussed in detail below.

> **INFO**–You are still responsible for your SMSF's investment strategy, even though you may seek investment advice from a suitably qualified advisor (such as a financial planner).

Issues to consider when developing a strategy

Some questions for each fund member to ask when developing an investment strategy are:

(a) what are your SMSF's annual expenses? You need to check how easily your fund assets can be converted into cash to meet these expenses.

(b) are any investments 'off-limits' for you? Some investments may be outside of your risk tolerance, and therefore would not be appropriate.

> **INFO**–We generally find investment strategies become more conservative as members get older.

(c) are you drawing down a pension? Your fund's assets will need to provide you with a regular income.

(d) do you have assets outside of superannuation? This may influence the type of investments you hold in your SMSF.

> **INFO**–By law, you need to regularly review your investment strategy to ensure that it remains appropriate for the members of your SMSF. This also includes considering the insurance needs of members.

Importance of diversification

As part of designing or reviewing your SMSF's investment strategy, you need to consider how 'diversified' your fund's assets are. Diversification basically means that you do not put all your eggs in the one basket.

Different asset classes typically perform differently, and picking the best performing investments can be difficult. Sometimes the best performing asset class or investment one year can be one of the worst performing the following year.

A diversified investment portfolio may help smooth out market ups and downs as returns from better performing assets help to offset those that are not performing so well.

ATO CLAMPS DOWN ON SMSF BORROWING

"The ATO is concerned that features of some related party loans are more generous than loans from external lenders (e.g. a bank)."

SMSFs with permitted borrowings in place are on notice that the ATO expects fund trustees to ensure the arrangement is on commercial terms from 30 June 2016, or wound up.

What are the ATO's concerns?

SMSFs can borrow to buy an asset, on the proviso that strict conditions are met.

Although external lenders (e.g. banks) do lend to SMSFs, the superannuation laws also allow a member of the family group to act as lender (i.e., a fund member, relative or structures in the family group). These are **related party loans**.

The ATO is concerned that features of some related party loans are **more generous** than loans from external lenders (e.g. a bank). Examples include:

- related party loans with a higher 'loan to value ratio', compared to a bank loan. In simple terms, this means some related party loans are higher than the amount a bank would lend for the same asset.
- related party lenders charging a lower interest rate compared to the prevailing market rate.

Reasons for the ATO concerns

Superannuation funds (including SMSFs) are concessionally taxed. The law is designed to prevent superannuation funds being used to shelter income that would be taxed at normal tax rates. **Non-commercial arrangements** that shelter (i.e. increase) fund income may be taxed at 47%, instead of 15% (or zero in pension phase).

The ATO's view is that the related party loans with the features outlined above are **non-commercial arrangements** for the following reasons:

- related party loans with a higher LVR allow the fund to buy a higher value property - which **increases** fund income (e.g. a higher value property earns more rent).
- related party loans with a lower interest rate reduce the fund's expenses, thereby **increasing** the overall asset income.

INFO–Although the ATO considers related party loans with the features outlined above to be non-commercial, SMSFs have until 30 June 2016 to put these arrangements on a commercial footing.

What does my fund need to do?

"SMSF trustees need to review any permitted borrowing arrangements with related party loans."

SMSF trustees need to review any permitted borrowing arrangements with **related party loans**.

If these loans are not on commercial terms, the arrangement needs to be put on commercial terms by 30 June 2016. If this is not possible, the arrangement needs to be wound up by this time.

UPCOMING DUE DATES - SMSF TAX RETURNS

We have listed below the due dates for SMSF tax returns (2015 income year) lodged through a registered tax agent:

- **28 February 2016** – **new** SMSFs must lodge and pay by this time.
- **31 March 2016** – due date for lodgment and payment of SMSF tax return if your SMSF income exceeds $2 million (per latest income year lodged).
- **15 May 2016** – due date for SMSF tax return unless required to lodge earlier or eligible for 5 June concession.
- **5 June 2016** – special concessional date for lodgement of SMSF annual return by a registered tax agent where:

(a) the tax return would otherwise be due by 15 May 2016;

(b) the SMSF is non-taxable or received a refund per the latest income year lodged; and

(c) the SMSF is non-taxable or will receive a refund in the current income year.

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