



THE TRUSTEE FOR FREEMAN FAMILY SUPER FUND
C/O- CLEAR ACCOUNTING SOLUTIONS
PO BOX 4454 ASHMORE PLAZA
ASHMORE QLD 4214

Our Reference: 1051461927734
Contact Officer: Kellee Gulliver
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14 December 2018

We have finished our audit of your super fund

Dear Trustees,

We have finished our audit of the FREEMAN FAMILY SUPER FUND for the period from 1 July 2013 to 30 June 2017.

We have looked at the information you gave us and we recognise you:

- › lodged all overdue Self-Managed Superannuation Fund (SMSF) Annual Returns
- › repaid the loan, including interest
- › rolled all SMSFs' assets into an APRA fund
- › closed the fund bank account
- › intend to wind up the fund in the 2019 financial year

We're satisfied that you've rectified the contraventions and we won't take any further action at this time.

What you need to do

We have decided not to disqualify you from acting as a trustee or responsible officer of a corporate trustee of a super fund at this time. However, because of your behaviour you shouldn't manage an SMSF again. If you do, we will consider disqualifying you. This means you wouldn't be able to act as a trustee or as a responsible officer of a corporate trustee, of a super fund and your disqualification will be on public record.

What you need to know

1. All self-managed super funds (SMSFs) need to lodge an SMSF annual return with us by the due date each year.

We have found that your fund has regularly failed to lodge SMSF annual returns. If this continues, we may take compliance action such as:

- › charge administrative penalties
- › disqualify individuals – this means they can't act as a trustee, or as a responsible officer of a corporate trustee, of a superannuation fund
- › remove the SMSF's complying status, which may lead to significant tax consequences for the SMSF
- › raise default assessments for the years of non-lodgment and charge penalties of 75%
- › take legal action.

We can charge the fund a failure to lodge on time penalty for SMSF annual returns that are lodged late or are overdue.

If we charge this penalty, we will send you a notice including the amount and due date of the penalty.

NEED HELP?

If you have any questions, you can phone us on **13 28 69** between 8.00am and 5.00pm, Monday to Friday and ask for Kellee Gulliver on extension **33214**.

If you have trouble paying the amount you owe, we may be able to work with you to set up a payment plan. Phone us on **13 11 42** between 8.00am and 6.00pm, Monday to Friday.

You can find information about other payment options on our website ato.gov.au/howtopay

FIND OUT MORE

You can find more information about self-managed super funds on our website ato.gov.au/smsf

We encourage you to subscribe to SMSF News to get information about regulatory and administrative topics as well as important changes for super funds.

You can subscribe on our website ato.gov.au by searching for 'Subscribe to SMSF News'.

2. A super fund is only able to make a payment to a member (or on the request of a member) if that member meets a condition of release. You must run an SMSF for the sole purpose of providing retirement benefits to members. If you give financial assistance to members, or their relatives, without meeting a condition of release, we may charge you, the fund and the person who received the payment penalties.

Your obligation for the payment of super benefits is to make sure that:

- › the member has met a condition of release
- › the benefit can be taken as an income stream or lump sum payment
- › you meet your withholding tax obligations.

If a member of a fund has withdrawn super benefits which don't meet a condition of release, they need to report the full amount withdrawn on their personal tax return for that year. If we find that this hasn't happened, we will amend the person's tax return and may charge penalties.

3. Disqualified persons must not act as trustee of SMSF's. It is not necessary that the disqualified person performs any active role as trustee, their mere existence in the role is enough to meet this requirement.

A person commits an offence if:

- (a) the person is a disqualified person; and
- (b) the person knows he or she is a disqualified person; and
- (c) the person is or acts as a trustee, investment manager or custodian of a superannuation entity; and
- (d) for a person who is an individual and who is a disqualified person only because he or she was disqualified under section 126H - the person is disqualified from being or acting as a trustee of that superannuation entity.

The penalty for this offence is 2 years imprisonment.

Your rights and obligations

Finishing this audit doesn't mean we can't take further action if we need to. If you gave us all of the information we needed, we'll respect any decisions and agreements we've already made if we look into your fund's super and tax affairs again.

Yours faithfully,

James O'Halloran

Deputy Commissioner of Taxation