What's changing?

New trustee penalties

From 1 July 2014, the ATO has greater powers to enforce the superannuation rules by levying financial penalties directly on trustees. Under these new powers, the ATO can:

- Issue a rectification direction - requiring the SMSF's trustee/director to take specific action to rectify the contravention within a specific timeframe. A fine of up to $1,700 per breach applies for non-compliance.
- Issue an education direction - require the trustee/director to complete an ATO approved education course within a specific timeframe (costs payable by the trustee not the SMSF). A fine of up to $1,700 and an administrative penalty of $850 applies for non-compliance.
- Impose an administrative penalty - penalties from $850 to $10,200 apply to specific breaches. Each individual trustee is liable for the penalty and directors of a corporate trustee are jointly and severally liable. The penalties are payable by the trustee/ director and not refunded by the SMSF.

Restrictions on insurance inside your SMSF

From 1 July 2014, superannuation funds will only be able to offer or take out new insurance cover where the definitions are consistent with the death, terminal illness, permanent incapacity and temporary incapacity conditions of release under SIS.

This requirement will largely impact on own occupation total and permanent disability (TPD) definitions, which are unlikely to meet the new definitions, and also on income protection policies where these policies provide a number of ancillary benefits.

Superannuation guarantee changes

From 1 July 2014, the minimum rate for superannuation guarantee (SG) contributions will increase from 9.25% to 9.5%.

As announced in the 2014/2015 Federal Budget, the intention is for the SG rate to remain at 9.5% until 30 June 2018 and then increase by 0.5% each year until it reaches 12%.

Year	Superannuation guarantee charge %
1 July 2013 - 30 June 2014	9.25%
1 July 2014 - 30 June 2018	9.5%
1 July 2018 - 30 June 2019	10%
1 July 2019 - 30 June 2020	10.5%
1 July 2020 - 30 June 2021	11%
1 July 2021 - 30 June 2022	11.5%
1 July 2022 onwards	12%

Superannuation contribution caps

There are changes to both the concessional and non-concessional contribution caps from 1 July 2014.

The concessional superannuation contribution cap for those aged 49 years or over on 30 June 2014 has increased to $35,000. The general concessional contribution cap for everyone else has increased to $30,000.

Contribution cap	2013/2014	2014/2015
Concessional	$25,000	$30,000
Aged 49 years or over on 30 June 2014	$25,000	$35,000
Aged 59 years or over on 30 June 2013	$35,000	$35,000

The non-concessional contribution cap has increased to $180,000. For those aged under 65, you can now make up to three years, or $540,000, in non-concessional contributions in a year using the 'bring forward' rule.

Contribution cap	2013/2014	2014/2015
Non concessional cap	$150,000	$180,000
Bring forward over 3 years	$450,000	$540,000

Be careful however if you plan on contributing large amounts to superannuation. If you exceed the concessional contributions cap, any excess concessional contributions will be included in your assessable income and taxed at your marginal tax rate. In addition, an excess concessional contributions charge will apply. If you exceed the non-concessional cap limit any amount over the cap will be taxed at 46.5% (47% for 2014/2015 – plus the debt tax if you are subject to it). There are proposed changes to allow excess non-concessional contributions to be refunded and taxed at marginal tax rates but this change is not yet law.

Centrelink & account based pensions

From 1 January 2015, new account based income streams will be subject to the deeming provisions under the Centrelink (DHS) income test. Account based income streams held by income support recipients will be assessed under the same deeming rules that apply to other financial assets. This could result in an increased level of income from the superannuation pension being assessed for Centrelink's income test, reducing the level of Government support for some clients.

Under current rules, a portion of the income received from a superannuation pension is excluded from Centrelink's income test as this portion is considered to reflect a return of capital to the income stream recipient.

If you are in receipt of Government income support payments **and** an account based pension prior to 1 January 2015, you are not assessed under these new rules unless there is a change to the terms of the pension or a change of provider.

Housekeeping

Deductibility of superannuation

To claim a tax deduction for super contributions as an employer or as an individual, the payment needs to be **received** by the fund before 30 June. Merely incurring a liability will not work.

If you are making a personal superannuation contribution that you want to claim as a tax deduction, you need to write to your fund in their approved form and advise them of the amount you intend to claim as a deduction. The superannuation fund then needs to acknowledge your notice of intent and agree to the amount you intend to claim as a deduction. This will normally be in the form of a notice or certificate from the fund and this should be provided to us to confirm the tax deductibility of the contribution.

Review and rectify any outstanding compliance issues

If your auditor has highlighted any breaches or issues in previous year fund audits, you should review and rectify these issues by 30 June. SMSF compliance is coming under increased ATO scrutiny and all trustees should ensure that their funds are compliant.

Valuing SMSF assets

Since 1 July 2012, SMSFs have been required to value its assets at market value. Depending on the situation, a market valuation may be undertaken by a:

- Registered valuer
- Professional valuation service provider
- Member of a recognised professional valuation body, or
- A person without formal valuation qualifications but who has specific experience or knowledge in a particular area.

For real property, the valuation may be undertaken by anyone as long it is based on objective and supportable data. A valuation undertaken by a property valuation service provider, including online services or a real estate agent is acceptable.

However, where the value of the asset represents a significant proportion of the fund's value or where the nature of the asset indicates that the valuation is likely to be complex, a qualified independent valuer should be used.

Review superannuation strategy

Trustees are required to 'regularly review' the fund's investment strategy. We recommend that trustees review the strategy at least annually or when the circumstances of the fund change, and document this review.

SMSF trustees need to consider the need for insurance cover for the fund members when formulating and reviewing the fund's investment strategy. This has been the case since 2012.

Where a SMSF has entered into a borrowing arrangement to acquire an asset, trustees should consider the need for any insurance cover inside the fund to assist in meeting the on-going obligations of the debt repayments. The fund's ability to meet the on-going debt repayments can be severely jeopardised where one member of the fund dies, as the fund may have needed to utilise contributions that were being made for that member to meet the repayments. Such a scenario could result in the fund having to sell the property.