

Self-managed superannuation fund annual return instructions 2010

To help you complete the self-managed superannuation fund
annual return for 1 July 2009 – 30 June 2010



For more information visit
www.ato.gov.au



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If you feel that this publication does not fully cover your circumstances, or you are unsure how it applies to you, you can seek further assistance from us.

We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at www.ato.gov.au or contact us.

This publication was current at **May 2010**.

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ABOUT THESE INSTRUCTIONS

The 2010 instructions will help you complete the *Self-managed superannuation fund annual return 2010* (NAT 71226).

In these instructions, we refer to a self-managed superannuation fund as an SMSF.

When we refer to 'annual return' in these instructions, we are referring to the *Self-managed superannuation fund annual return 2010*.

When we refer to 'you' in these instructions, we are referring to you either as the trustee of the SMSF or as the registered tax agent or trustee responsible for completing the annual return.

These instructions cover:

- the member information that must be reported at section F and section G on the annual return
- the schedules you must complete and attach to the annual return, and
- record keeping requirements.

Seek help from us or a registered tax adviser if this publication does not fully cover your circumstances.

Funds that meet the definition of an SMSF, and only those funds, must use the *Self-managed superannuation fund annual return 2010*. All other superannuation funds must use the *Fund income tax return 2010* (NAT 71287) and, where required, a separate *Super member contribution statement* (NAT 71334).

This publication is not a guide to income tax or superannuation law.

PUBLICATIONS AND SERVICES

To find out how to get a publication referred to in these instructions and for information about our other services, see the inside back cover.

RECORD KEEPING

SMSFs must keep records, in English, in writing or electronically. The records must be in a form that we can access and understand. Generally, SMSFs must keep all relevant records for at least five years but this period may be longer in certain circumstances.

See **Record keeping requirements** on page 57 for further details and references.

INTRODUCTION

WHAT'S NEW

TAXATION OF FINANCIAL ARRANGEMENTS (TOFA)

New rules have been introduced, the TOFA rules, which modernise the tax treatment of gains and losses on financial arrangements. The key provisions of the TOFA rules are found in Division 230 of the ITAA 1997 which generally provides for:

- methods of taking into account gains and losses from financial arrangements, being accruals and realisation, fair value, foreign exchange retranslation, hedging, reliance on financial reports and balancing adjustment, and
- the time at which the gains and losses from financial arrangements will be brought to account.

When will the TOFA rules affect the SMSF's annual return?

The TOFA rules will apply to financial arrangements that an affected SMSF starts to have in their income year commencing on or after 1 July 2010. However, an affected SMSF can elect to have the TOFA rules apply early, so that TOFA applies to financial arrangements it starts to have in an income year commencing on or after 1 July 2009.

NOTE

This means that the TOFA rules will not affect an SMSF's taxable income for 2009–10 or how an SMSF's 2010 annual return is completed unless it makes an election for the TOFA rules to apply to its financial arrangements early.

Transitional election for existing financial arrangements

Although the TOFA rules generally apply only to new financial arrangements, an affected SMSF can make a further election to have the TOFA rules apply to its existing financial arrangements. Where this election is made the rules will also apply to financial arrangements that were entered into before the time that the TOFA rules first apply to the SMSF if those financial arrangements are held at that time.

In order for the TOFA rules to apply to existing financial arrangements a SMSF must provide a transitional election for existing financial arrangements to the Commissioner by the following dates:

Income year that the TOFA rules first apply to the SMSF's financial arrangements	Date transitional election must be made by
2009–10	lodgment date of SMSF's 2009 annual return
2010–11	lodgment date of SMSF's 2010 annual return

NOTE

Elections under Division 230 are irrevocable, and therefore should be carefully considered before being made. For more information, see *Making elections under the TOFA rules in Taxation of financial arrangements (TOFA)* on our website www.ato.gov.au/tofa

Which SMSFs are affected?

The TOFA rules will apply to an SMSF in an income year where the value of the SMSF's assets is \$100 million or more at the end of its last income year or, if it came into existence during the income year, at the end of the income year. However an SMSF can elect to have the TOFA rules apply to its financial arrangements where it does not meet this requirement. Once the TOFA rules apply to an SMSF's financial arrangements they will continue to do so in all future periods.

Even if this threshold is not met nor an election made, the TOFA rules will apply to qualifying securities that have a remaining life of more than 12 months after the SMSF starts to have them.

TOFA rules and capital gains tax (CGT)

Capital gains tax (CGT) will remain the primary code for calculating an SMSF's gains and losses from financial arrangements that are presently taxed under the CGT regime, provided the TOFA rules do not apply to those financial arrangements. Where a CGT event happens to those types of financial arrangements, the relevant capital gain or loss will continue to be brought to account under the CGT provisions, and not the TOFA rules.

More information

For more information, see *Guide to the taxation of financial arrangements (TOFA) rules in Taxation of financial arrangements (TOFA)* available on our website www.ato.gov.au/tofa

Loss roll-over for merging superannuation funds

This change allows the roll-over of capital and revenue losses (including losses realised under the merger and previously realised losses) and applies to transfers of losses made between 24 December 2008 to 30 June 2011 inclusive. The loss roll-over will be available for a complying superannuation fund that merges with another complying superannuation fund with five or more members. The loss roll-over will operate by way of a transfer of losses and asset roll-overs.

You can find further information about this change on our website at www.ato.gov.au

Extending tax file number (TFN) withholding to closely-held trusts

In the 2009–10 Federal Budget the Government announced it would extend the current TFN withholding arrangements to closely-held trusts, including family trusts. This is to ensure that the assessable distributions to beneficiaries of the trusts align with the amounts included by the beneficiaries in their tax returns. These changes will apply to assessable distributions made after 1 July 2010.

Closely-held trusts, including family trusts, will have to withhold tax amounts from assessable distributions to beneficiaries who have not supplied their TFN. The trusts will then remit to us amounts they withhold.

When the beneficiaries lodge their tax return, the tax withheld from their trust distribution will be treated as a tax credit.

This measure will not, however, apply to a complying SMSF.

For more information, and any updates, go to our website www.ato.gov.au

Forestry managed investment scheme (FMIS) amendment to the four year holding rule

Certain deductions that relate to an FMIS are subject to a four year holding rule. An amendment to this four-year holding rule is currently before Parliament and has not yet been passed. Broadly, the amendment will mean that a deduction is still allowed if a disposal occurs within the four year period due to circumstances that are outside of the SMSF's control and the SMSF could not have reasonably foreseen the disposal happening when it acquired the interest.

Information on this is also provided at **U Forestry managed investment scheme deduction** on page 25.

Income tax treatment of instalment warrants

In the 2010–11 Budget the Government announced the intention to amend the income tax treatment of qualifying instalment warrants to provide certainty for investors by treating them as the owner of the underlying asset for income tax purposes. This will have effect from 1 July 2007.

At the time of printing these instructions the changes had not become law. For more information visit www.ato.gov.au

Deductibility to funds of cost of providing terminal medical condition benefits

In the 2010–11 Budget the Government announced the intention to extend the range of benefits that are deductible by complying super funds and retirement savings account (RSA) providers to include terminal medical condition (TMC) benefits. The measure will have effect from 16 February 2008, the date the TMC condition of release was introduced into the superannuation legislation.

At the time of printing these instructions the changes had not become law. For more information visit www.ato.gov.au

COMPLETING AND LODGING THE ANNUAL RETURN

You must answer all questions which apply to you and all questions which require a **yes** or **no** answer.

Where a question does not apply to you, leave the answer box blank.

Where a question requires a **yes** or **no** answer, print **X** in the relevant box.

Print neatly in BLOCK LETTERS, using a black pen.

Print one character per box and do not write outside the boxes provided.

Do not use correction fluid or tape: if you make an error on the annual return you will need to get a new annual return and start again.

You may photocopy the annual return for the SMSF's records, but you must send us the original.

SELF-MANAGED SUPERANNUATION FUNDS

The ATO regulates SMSFs that have elected to be regulated superannuation funds and that satisfy the requirements set out under the *Superannuation Industry (Supervision) Act 1993* (SISA) to be SMSFs.

Generally a superannuation fund with more than one member is an SMSF if:

- it has four or fewer members
- no member of the fund is an employee of another member of the fund unless they are related
- each member of the fund is a trustee and each trustee is a member of the fund, and
- no trustee of the fund receives any remuneration for their services as a trustee.

Alternatively, an SMSF with more than one member can have a company as a trustee (known as a corporate trustee) if:

- the fund has four or fewer members
- each member of the fund is a director of the company and each director of the company is a member of the fund
- no member of the fund is an employee of another member of the fund unless they are related
- the company does not receive any remuneration for its services as a trustee, and
- no director of the company receives any remuneration for their services as a director in relation to the fund.

A superannuation fund with only one member is an SMSF if:

- the member of the fund is a trustee and there is second trustee who is either a relative of the member, or is not the member's employer; or
- a company is the trustee of the fund and the member is the sole director of the company or there is a second director of the company and that other director is a relative of the member, or is not the member's employer, and

- no remuneration is received by a trustee or director for services in relation to the fund.

An SMSF at 30 June 2010, or an SMSF that wound up during the 2009–10 income year, must lodge information relating to income tax, member contribution and regulatory details with us by completing a *Self-managed superannuation fund annual return 2010*. SMSFs must pay an annual supervisory levy (which is \$150 for 2009–10).

FUNDS THAT ARE NOT SMSFS

Funds that are not SMSFs at 30 June 2010 must use the *Fund income tax return 2010* to lodge their tax return.

LODGING THE ANNUAL RETURN, SCHEDULES AND OTHER DOCUMENTS

The only postal address for lodgment of this annual return is:

**Australian Taxation Office
GPO Box 9845
IN YOUR CAPITAL CITY**

The address must appear as shown above.

Only the following schedules may be attached to the annual return if required:

- *Capital gains tax (CGT) schedule 2010* (NAT 3423)
- *Capital allowances schedule 2010* (NAT 3424)
- *Family trust election, revocation or variation 2010* (NAT 2787)
- *Interposed entity election or revocation 2010* (NAT 2788)
- *Losses schedule 2010* (NAT 3425)
- *Non-individual PAYG payment summary schedule 2010* (NAT 3422)
- elections required by *Taxation Ruling IT 2624 – Income tax: company self assessment; elections and other notifications; additional (penalty) tax; false or misleading statement*
- a SCHEDULE OF ADDITIONAL INFORMATION – ITEM C2 to claim the entrepreneurs tax offset on a distribution of business income from a trust.

You may have to complete other schedules or documents which are to be kept with your records and should **not** be sent with the annual return. These are described further on pages 55–6. Keep these with the SMSF's tax records.

LODGMET DUE DATE

The requirement to lodge an annual return together with the due date and acceptable method for lodging returns, statements and schedules are set out in the 'legislative instrument' which is registered on the *Federal Register of Legislative Instruments*. This can be viewed at www.frli.gov.au For SMSFs, the due date for lodgment is 31 October 2010. Most SMSFs will have a different due date if the return is lodged by a tax agent as part of their tax agent lodgment program or as otherwise advised by us.

Each year, SMSFs are sent a reminder letter notifying them of their actual lodgment and payment due dates. If you do not lodge the SMSF's annual return by the due

date, it may be subject to a failure to lodge on time penalty. A general interest charge (GIC) will begin to accrue from the due date for payment on any amount that is due until the amount is paid in full – see **Penalties and interest charges** below.

If we receive annual returns without all the required information schedules attached, we may not consider them to have been lodged in the approved form. Unless all information and schedules are lodged by the due date, we may apply a penalty for failure to lodge on time.

Keep records so the information reported on the annual return can be verified at a later date, if required – see **Record keeping requirements** on page 57.

Do not attach any payments to the annual return. Payment options are on page 70–1.

PENALTIES AND INTEREST CHARGES

The law imposes penalties on the trustee of an SMSF for:

- failing to lodge the annual return on time and in the approved form
- making a false or misleading statement in the approved form
- having a tax shortfall or over-claiming a credit that is caused by taking a position that is not reasonably arguable
- refusing to provide an annual return from which the Commissioner can determine a liability
- failing to keep and produce proper records
- preventing access to premises and documents, and
- failing to retain or produce declarations.

The trustee of an SMSF is liable for the general interest charge (GIC) where:

- tax remains unpaid after the due date for payment, or
- a variation of a pay as you go (PAYG) instalment rate or amount is less than 85% of the amount or rate, which would have covered the SMSF's actual liability for the year.

The trustee of an SMSF is liable for shortfall interest charge (SIC) where the SMSF's income tax assessment is amended and its liability increased. Generally, the SIC accrues on the shortfall amount from the due date of the original assessment until the day before the assessment is amended.

! NOTE

Knowingly answering a question incorrectly will be treated as a more serious matter than voluntarily disclosing a breach of the legislation.

SECTION A: FUND INFORMATION

This section deals with general identification issues and the current status of the SMSF.

1 TAX FILE NUMBER (TFN)

Write the TFN of the SMSF in the boxes provided on page 1 of the annual return, and also in the boxes at the top of pages 3 and 5.

2 NAME OF SELF-MANAGED SUPERANNUATION FUND (SMSF)

Show the current name of the SMSF exactly as it appears on the SMSF's trust deed or other constituent document.

For subsequent annual returns, the name of the SMSF should be consistent from year to year unless the name changes.

If the name of the SMSF is legally changed, you must advise us of the change by either updating online at **www.abr.gov.au** or completing a *Change of details for superannuation entities* (NAT 3036) at the time the change is made.

3 AUSTRALIAN BUSINESS NUMBER (ABN)

Write the ABN of the SMSF in the boxes provided. If the SMSF does not have an ABN, leave this blank.

We strongly encourage SMSFs without ABNs to apply for one, either online at **www.abr.gov.au** or by lodging an *Application for ABN registration for superannuation entities* (NAT 2944) with us.

The ABN is a single, unique business identifier which will ultimately be used for all dealings with the Australian Government. It is also available to state, territory and local government regulatory bodies. Identification for taxation law purposes is only one of the objects of the ABN.

We are authorised by the *A New Tax System (Australian Business Number) Act 1999* to collect certain information relating to your SMSF. We may use details supplied on your annual return to update your name, wind up date, public officer, and email address on the ABR. We may also use postal address details from your annual return if we cannot contact you through your ABR postal address.

Where authorised by law, selected information on the ABR may be made publicly available and some may be passed to a wide range of government agencies, including Australian Government, state and local government agencies.

You can find details of agencies that regularly receive information from the ABR at **www.abr.gov.au** You can also phone us on **13 28 66** between 8.00am and 6.00pm Monday to Friday and ask for a list of the agencies to be sent to you.

These agencies may use ABR information for purposes authorised by their legislation or for carrying out other functions of their agency. Examples of possible uses include registration, reporting, compliance, validation and updating databases.

In addition to the publicly available information, these agencies can also access the:

- name of the SMSF's associates, such as directors of the trustee company, public officer or trustees
- SMSF's address for service of notices
- SMSF's email address.

4 CURRENT POSTAL ADDRESS

We will use this address to send you correspondence. Abbreviate 'care of' to 'C/-' only.

5 ANNUAL RETURN STATUS

Print **X** in the appropriate box.

We will use this information when updating records. We will contact you if you answer 'yes' and we do not have an original annual return for the 2009–10 income year.

By answering 'yes' you are indicating that this return is an amendment. You will need to complete the annual return in its entirety.

Currently, amendments to the 2010 annual return cannot be lodged electronically and must be lodged using a paper annual return.

6 FUND AUDITOR

Title: print **X** in the appropriate box to indicate the title of the approved auditor who has completed the audit report, or print a different title in the **Other** box.

Name: print the full name of the approved auditor, that is, family name and given names in the separate rows of boxes.

Professional body: print the appropriate code from **table 1** below which best describes the approved auditor's professional body and status. If more than one code applies to the approved auditor, select the first applicable code.

Membership number: print the approved auditor's membership number of the professional body. Leave no blank spaces (for example, CPA1234 not CPA 1234).

TABLE 1: Professional body codes

Code	Approved auditor's professional status
1	Registered company auditor
2	Member of Certified Practising Accountants (CPA) Australia Limited
3	Member of the Institute of Chartered Accountants in Australia (ICAA)
4	Member of the National Institute of Accountants (NIA)

5	Member or fellow of the Association of Taxation and Management Accountants (ATMA)
6	Fellow of the National Tax and Accountants Association Ltd (NTAA)
7	An SMSF specialist auditor of the SMSF Professionals' Association of Australia Limited (SPAA)

Auditor's phone number: print the 10 digit phone number, including the area code, of the approved auditor.

Postal address: print the complete postal address of the approved auditor.

Not providing the SMSF's approved auditor details, or providing invalid details, could indicate that the compulsory SMSF audit has not been undertaken. Consequently we might consider that you have not lodged this annual return. We may contact the approved auditor to obtain professional body membership details.

Date audit was completed

Write at **A** the date the audit was completed. SMSFs are required to be audited every income year that they operate, even if no contributions or payments were made in that income year.

If the audit has not been completed, we will not accept the annual return. You will be contacted and requested to have the audit completed prior to re-lodging the annual return. If the requirement to re-lodge causes the annual return to be lodged late, we may penalise the SMSF for failure to lodge on time.

Was the audit report qualified?

If the auditor has qualified the audit report print **X** in the **Yes** box at **B**. Otherwise, print **X** in the **No** box.

If you answer **No** to this question and the audit report has been qualified at the time of lodgment of the annual return, penalties may be imposed on the SMSF trustees for making a false or misleading statement.

8 STATUS OF SMSF

Australian superannuation fund

For the SMSF to be a complying superannuation fund it must be an 'Australian superannuation fund'.

An SMSF is an Australian superannuation fund if it satisfies all three of the following tests:

- the SMSF was established in Australia, or at least one of the SMSF's assets is located in Australia, and
- the central management and control of the SMSF is ordinarily in Australia, and
- either
 - the SMSF has no **active members**,
 - or**

- it has active members who are Australian residents and who hold at least 50% of
- the total market value of the SMSF's assets attributable to superannuation interests held by active members, or
- the sum of the amounts that would be payable to or in respect of active members if they voluntarily ceased to be members.

Provided the SMSF satisfies these tests at the same time at any point in the income year then, for income tax purposes, it is an Australian superannuation fund for the entire income year.

A member is considered to be an **active member** of an SMSF if:

- they are a contributor to the SMSF, or
- contributions to the SMSF have been made on their behalf.

However, a member is not an active member if contributions have been made to the SMSF on their behalf, and:

- they are not a resident of Australia, and
- they have ceased to be a contributor, and
- the only contributions that were made on their behalf after they ceased to be an Australian resident were made in relation to the time they were an Australian resident.

The central management and control of an SMSF is ordinarily in Australia if the fund's strategic and high level decisions are regularly made in Australia. These decisions are generally made by the trustees of the fund.

The fund will continue to meet the central management and control requirement in cases where the fund's central management and control is temporarily outside Australia. However, if the central management and control of the fund is permanently outside Australia at a time, it will not meet this requirement.

In general, provided all other aspects of the definition are satisfied, the fund continues to be an Australian superannuation fund where its central management and control is temporarily outside Australia for up to two years.

Print **X** in the **No** box at **A** if the SMSF does not meet the above definition of Australian superannuation fund at any time during the income year. The SMSF will lose its complying superannuation fund status, and a tax rate of 45% will apply to the SMSF's assessable income for the income year.

If you are the trustee of an SMSF and you are planning on going overseas, we suggest that you seek professional advice regarding the residency of the SMSF.

For more information on superannuation fund residency rules, see Taxation Ruling TR 2008/9 – *Income tax: meaning of 'Australian superannuation fund' in subsection 295-95(2) of the Income Tax Assessment Act 1997* available on our website.

Fund benefit structure

Print at **B** the appropriate code from **table 2** that best describes the 'benefit structure' of the SMSF.

TABLE 2: Fund benefit structure

Code	Definition of SMSF benefit structure
A	<p>An SMSF is an accumulation fund if the SMSF provides its members with a benefit which is the total of:</p> <ul style="list-style-type: none"> ■ specifically defined contributions to the SMSF <i>plus</i> ■ earnings on those contributions <i>minus</i> ■ any costs borne by the member. <p>This SMSF is considered an accumulation fund even if the SMSF or any of its accounts is paying a superannuation income stream benefit.</p>
D	<p>An SMSF is a defined benefit fund if the SMSF provides its members with a benefit which is calculated from a formula based on a combination of factors, including the years of membership in the SMSF and average salary level over a specific time.</p>

Print **D** if the SMSF's benefit structure is a mixture of accumulation and defined benefit (that is, a hybrid fund).

Does the SMSF trust deed allow acceptance of the Government's Super Co-contributions?

Print **X** in the appropriate box. If the SMSF trust deed allows the SMSF to accept super co-contributions for all eligible members select **Yes**, otherwise select **No**.

9 WAS THE FUND WOUND UP DURING THE INCOME YEAR?

Print **X** in the appropriate box.

Date on which the fund was wound up

If you answered **Yes**, write the date the SMSF ceased operations.

The date must be the date between the first day of the income year and the last day of the income year of this lodgment. The date must not be a date in the future.

Have all tax lodgment and payment obligations been met?

If the SMSF was wound up during the income year, print **X** in the **Yes** box only if the trustees:

- paid all outstanding debts
- paid out or transferred all member benefits
- lodged all previous year annual returns.

For more detailed information about your obligations when winding up an SMSF see *Winding up a self-managed superannuation fund* (NAT 8107) available at www.ato.gov.au/superfunds

SECTION B: INCOME

This section deals with all income the SMSF received, or was entitled to receive, during the 2009–10 income year. You do not show cents for any amount you write at this section on your annual return.

Is the SMSF a complying or non-complying fund?

The compliance status of the SMSF affects how you report income and the tax rates that apply. An SMSF is a complying superannuation fund unless we issue the SMSF with a **Notice of non-compliance**. If the SMSF is a regulated SMSF and you have not received a notice of non-compliance, then the SMSF is a complying fund.

How GST affects the annual return

If the SMSF is registered for GST purposes, exclude the GST amount from the income you show on the annual return. The deductions you show are also reduced by the GST amount.

If the SMSF is not registered for GST purposes or is not entitled to an input tax credit, the deductions you show are the GST-inclusive amounts that the SMSF incurred. Special rules apply to GST adjustments. To register for GST apply online at www.abr.gov.au

10 INCOME

The taxable income of complying superannuation funds is split into a non-arm's length component and a low tax component.

The **non-arm's length component** (previously referred to as special income) is the SMSF's non-arm's length income less any deductions that are attributable to that income. See **Net non-arm's length income** on page 19.

The **low tax component** (previously referred to as standard component) is any remaining part of the SMSF's taxable income.

Ensure that you show the correct income components against the corresponding income labels as different rates of tax apply to different income components. A concessional rate applies to the low tax component, while the non-arm's length component is taxed at the highest marginal tax rate. The rates are set out in **appendix 3: Tax rates**.

G Did you have a capital gains tax (CGT) event during the year?

An SMSF makes a capital gain or capital loss if certain events or transactions happen. These are called CGT events. CGT events usually happen to assets, such as, the disposal of an asset. However, some CGT events relate directly to capital receipts.

If the SMSF ceases to hold or to use a depreciating asset that was used for both taxable and non-taxable purposes,

a CGT event may happen in respect of the asset. A capital gain or capital loss may arise to the extent that the asset was used for a non-taxable purpose. For more information, see the *Guide to depreciating assets 2010* (NAT 1996).

The capital gain or capital loss can be disregarded for some SMSF CGT events. For example, a capital gain or capital loss in relation to segregated current pension assets of a complying superannuation entity is disregarded.

For more information about CGT events, see the *Guide to capital gains tax 2010* (NAT 4151). That publication includes:

- a capital gain and capital loss worksheet for calculating a capital gain or capital loss for each CGT event
- a CGT summary worksheet for calculating the SMSF's net capital gain or capital loss
- a *Capital gains tax (CGT) schedule 2010*.

The *Guide to capital gains tax 2010* also explains special CGT rules that apply to foreign residents and trustees of foreign trusts.

The worksheets will help you calculate the net capital gain or capital loss for the income year and complete the CGT questions on the annual return. You do not have to complete the worksheets; but if you do, do not attach them to the annual return; keep them with the SMSF's tax records.

If the SMSF had a CGT event happen during the 2009–10 income year or if the SMSF received a distribution of a capital gain from a trust, print **X** in the **Yes** box at **G**. Otherwise print **X** in the **No** box.

If you selected **Yes**, you must complete a *Capital gains tax (CGT) schedule 2010* and attach it to the SMSF's annual return if:

- total current year capital gains are greater than \$10,000, or
- total current year capital losses are greater than \$10,000.

Z Did the CGT event relate to a forestry managed investment scheme interest that you held other than as an initial participant?

DEFINITIONS

The SMSF is an **initial participant** in an FMIS if:

- the SMSF obtained its forestry interest in the FMIS from the **forestry manager** of the scheme, and
- the SMSF's payment to obtain the **forestry interest** in the FMIS results in the establishment of trees.

The SMSF is a **subsequent participant** if it is not an initial participant.

The **forestry manager** of an FMIS is the entity that manages, arranges or promotes the FMIS.

A **forestry interest** in an FMIS is a right to the benefits produced by the FMIS (whether the right is actual, prospective or contingent, and whether it is enforceable or not).

Print **X** in the appropriate box. If you selected **Yes** you must complete a *Capital gains tax (CGT) schedule 2010* and attach it to the SMSF's annual return.

A Net capital gain

The SMSF's net capital gain is the total current year capital gains less the current year capital losses, prior year net capital losses and any other relevant concession.

Show at **A** the amount of net capital gain calculated or transferred from:

- **G** at **part H** of the CGT summary worksheet, or
- **G** at **part H** of the CGT schedule, if one is required.

For more information on how to calculate the SMSF's net capital gain or for special CGT rules that apply to foreign residents and trustees of foreign trusts, see the *Guide to capital gains tax 2010*.

! NOTE

The SMSF may need to complete a *Losses schedule 2010*. For more information, see **Schedules** on pages 55–6 and see the *Losses schedule instructions 2010* (NAT 4088).

B Gross rent and other leasing and hiring income

Show at **B** all the rental income from land and buildings, and all income from leasing and hiring. This amount cannot be a loss.

Do not include any rental, leasing or hiring income derived from foreign sources. This should be included at **D Net foreign income** and **D1 Gross foreign income**.

Do not include any rental income distributed from a trust as this should be shown at **M Gross trust distributions**.

C Gross interest

Show at **C** all the SMSF's interest income. This amount cannot be a loss.

Even if the TOFA rules apply to the SMSF, show at **C** all interest paid or credited to it from any source in Australia. This includes interest from financial arrangements subject to the TOFA rules.

! NOTE

If what you show at **C** includes an amount brought to account under the TOFA rules, also complete **Section I: Taxation of financial arrangements**.

For more information, see *Guide to the taxation of financial arrangements (TOFA) rules in Taxation of financial arrangements (TOFA)* available on our website www.ato.gov.au/tofa

Do not include any interest income derived from foreign sources. This should be included at **D Net foreign income** and **D1 Gross foreign income**.

Do not include non-share dividends received from holding a non-share equity interest. If the SMSF holds such an interest, the issuer is obliged to forward a dividend statement with details of the dividends, which should be shown at **J**, **K** and **L** as applicable. See *Debt and equity tests: guide to the debt and equity tests* available on our website for further information on non-share dividends and non-share equity interests.

Do not include any interest distributed from a trust. This should be shown at **M Gross trust distributions**.

Record keeping

Keep a record of the following:

- name and address of the borrowers
- amounts received or credited.

X Forestry managed investment scheme income

Show at **X** the **total** income from the activities listed on the next page for all FMIS's in which the SMSF holds a forestry interest. The amount you show at **X** will depend on the points raised on the next page.

Harvests and sales are CGT events because these events result in the SMSF no longer holding some or all of its forestry interest.

DEFINITIONS

The SMSF is an **initial participant** in an FMIS if:

- the SMSF obtained its forestry interest in the FMIS from the **forestry manager** of the scheme, and
- the SMSF's payment to obtain the **forestry interest** in the FMIS results in the establishment of trees.

The SMSF is a **subsequent participant** if it is not an initial participant.

The **forestry manager** of an FMIS is the entity that manages, arranges or promotes the FMIS.

A **forestry interest** in an FMIS is a right to the benefits produced by the FMIS (whether the right is actual, prospective or contingent and whether it is enforceable or not).

The amount of the SMSF's **total forestry scheme deductions** is the total of all the amounts that it can deduct or has deducted for each income year that it held its forestry interest. See **U Forestry managed investment scheme deduction** at item **11** for further information on amounts that you can deduct.

The amount of the SMSF's **incidental forestry scheme receipts** is the total of all the amounts that it has received from the FMIS in each income year that it held its forestry interest, other than amounts received because of a CGT event, that is, a sale or a harvest.

For an initial participant in an FMIS

Thinning receipts

If the SMSF received thinning proceeds from its forestry interest, include at **X** the actual amount received.

Sale and harvest receipts – forestry interest no longer held

If the SMSF ceased holding its forestry interest as a result of a CGT event (because it sold its interest or it received harvest proceeds), include at **X** the market value of the forestry interest at the time of the CGT event.

Sale and harvest receipts – forestry interest still held

If a CGT event happened and the SMSF still held its forestry interest (because it sold part of its interest or there was a partial harvest), include at **X** the amount by which the market value of the forestry interest was reduced as a result of the CGT event.

For a subsequent participant in an FMIS

Thinning receipts

If the SMSF received thinning proceeds from its forestry interest, include at **X** the actual amount received.

Sale and harvest receipts – forestry interest no longer held

If the SMSF ceased holding its forestry interest as a result of a CGT event (because it sold its interest or it received harvest proceeds), include at **X** the lesser of the following two amounts:

- the market value of the forestry interest at the time of the CGT event, or
- the amount (if any) by which the total forestry scheme deductions exceeded the incidental forestry scheme receipts.

Sale and harvest receipts – forestry interest still held

If a CGT event happened and the SMSF still held its forestry interest (because it sold part of its interest or there was a partial harvest), work out the following two amounts:

- the market value of the forestry interest at the time of the CGT event, and
- the amount (if any) by which the total forestry scheme deductions exceeded the incidental forestry scheme receipts.

Use the lesser of the two amounts above in the following formula:

$$\text{amount worked out above} \times \frac{\text{the decrease (if any) in the market value of the forestry interest (as a result of the CGT event)}}{\text{the market value of the forestry interest just before the CGT event}}$$

Include at **X** the amount calculated using the formula.

To complete this item

Add up all the amounts you worked out for the SMSF's FMIS income and write the total at **X**.

See **examples 1** and **2** for how to calculate the amount you show at **X**.

For more information on the CGT treatment of the SMSF's forestry interest, see *Guide to capital gains tax 2010*.

EXAMPLE 1

Cedar Superannuation Fund is an SMSF and a subsequent participant in an FMIS. It sold its forestry interest at the market value of \$20,000. The sale of the forestry interest is a CGT event. The original cost base was \$14,000.

In the time that the SMSF held the forestry interest, it claimed \$4,000 in deductions (its total forestry scheme deductions) for lease fees, annual management fees and the cost of felling that it paid to the forestry manager. In the same period, it received \$1,500 from thinning proceeds (its incidental forestry scheme receipts).

Cedar Superannuation Fund will need to include **\$2,500** (that is, \$4,000 – \$1,500) at **X**, because this amount is less than the market value of its forestry interest at the time of the CGT event.

EXAMPLE 2

Oakey Superannuation Fund is an SMSF and a subsequent participant in an FMIS. It received harvest proceeds over two income years. It received the first harvest payment of \$5,000 in the 2009–10 income year.

The market value of its forestry interest was \$20,000 just before it received its payment for the first harvest (which is a CGT event). After it received this first harvest payment, the market value of its forestry interest was reduced to \$15,000. Its original cost base was \$14,000.

In the time that it held its interest, Oakey Superannuation Fund claimed \$4,000 in deductions (its total forestry scheme deductions) for lease fees, annual management fees and the cost of felling that it paid to the forestry manager. In the same period, it received \$1,500 from thinning proceeds (its incidental forestry scheme receipts).

STEP 1 The market value of the forestry interest (at the time of the CGT event) was \$20,000.

The amount by which the total forestry scheme deductions exceeded the incidental forestry scheme receipts was \$2,500 (that is, \$4,000 minus \$1,500). The amount used in step 2 is \$2,500.

STEP 2 Using the formula above:

$$\$2,500 \times \frac{\$5,000}{\$20,000} = \$625$$

STEP 3 The Oakey Superannuation Fund will need to include **\$625** at **X** on its 2010 annual return.

STEP 4 In the 2010–11 income year, the Oakey Superannuation Fund received \$15,000 in payment for the final harvest (which is a CGT event). It has not paid any other fees in the 2010–11 income year.

Oakey Superannuation Fund will need to include the remainder from step 2 of **\$1,875** (that is, \$2,500 minus \$625) at **X** in its 2011 annual return.

D Net foreign income

Show at **D** assessable income which the SMSF derived from foreign sources, including New Zealand dividends and supplementary dividends, and:

- add the foreign tax paid on that assessable income to give the 'gross' or pre-tax value, and
- subtract expenses, including attributed foreign income.

Do not show net foreign source capital gains here; show them at **A Net capital gain**.

If the total amount at **D** is **negative**, print **L** in the loss box.

If the SMSF received franked distributions directly or indirectly from a New Zealand franking company, see **Trans-Tasman imputation** on page 59.

Do not take converted foreign losses into account at **D**. Converted foreign losses are taken into account at **M Tax losses deducted**, in accordance with the instructions for that label.

For more information see the *Foreign income return form guide* (NAT 1840) available on our website.

Do not subtract debt deductions in calculating net foreign income at **D**, except where they are attributable to an overseas permanent establishment of the SMSF. Show the debt deductions, which are not attributable to an overseas permanent establishment, at item **11**, as appropriate:

- **A Interest expenses within Australia**
- **B Interest expenses overseas**
- **I Investment expenses**
- **J Management and administration expenses**
- **L Other deductions.**

! NOTE

Complete and attach a *Losses schedule 2010* if the SMSF has:

- total tax losses and net capital losses carried forward to the 2010–11 income year greater than \$100,000
- convertible foreign losses
- an interest in a controlled foreign company (CFC) that has convertible CFC losses
- an interest in a CFC that has deducted or carried forward a loss to later income years greater than \$100,000.

Even if the TOFA rules apply to the SMSF, show at **D** all net foreign income received by it.

! NOTE

If what you show at **D** includes an amount brought to account under the TOFA rules, also complete **Section I: Taxation of financial arrangements**.

For more information, see *Guide to the taxation of financial arrangements (TOFA) rules in Taxation of financial arrangements (TOFA)* available on our website www.ato.gov.au/tofa

D1 Gross foreign income

Show at **D1** the gross assessable income derived by the SMSF from foreign sources, including New Zealand dividends and supplementary dividends. Do not include any Australian franking credits attached to New Zealand dividends. Show these at **E Australian franking credits from a New Zealand company**.

If the SMSF received a distribution of foreign source income from a partnership or trust, show the foreign source income at **D1**. Do not include this amount at:

- **I Gross distributions from partnerships**
- **M Gross trust distributions.**

An Australian superannuation fund makes a capital gain if a CGT event happens to any of its worldwide assets.

An SMSF that is not an 'Australian superannuation fund' makes a capital gain, generally speaking, if the asset is taxable Australian property just before the CGT event happens. Do not show at **D1** any capital gains made from these assets. Show the capital gains at **A Net capital gain**. For more information, see the *Guide to capital gains tax 2010*. A definition of **Australian superannuation fund** is on page 5.

! NOTE

The SMSF may also need to complete a *Losses schedule 2010*.

Even if the TOFA rules apply to the SMSF, show at **D1** all gross foreign income received by it.

! NOTE

If what you show at **D1** includes an amount brought to account under the TOFA rules, also complete **Section I: Taxation of financial arrangements**.

For more information, see *Guide to the taxation of financial arrangements (TOFA) rules in Taxation of financial arrangements (TOFA)* available on our website www.ato.gov.au/tofa

E Australian franking credits from a New Zealand company

In 2003, rules were enacted to allow New Zealand companies to join the Australian imputation system. From 1 October 2003, dividends paid by New Zealand resident companies that have chosen to join the Australian imputation system may also carry franking credits.

Did the SMSF receive assessable franked distributions from a New Zealand franking company directly, or indirectly through a partnership or trust?

NO Go to **F Transfers from foreign funds**.

YES Show at **E** the amount of Australian franking credits attached to the distributions that are included in assessable income adjusted as follows.

To work out whether the distribution is assessable, see the *Foreign income return form guide*, available on our website.

You must reduce the Australian franking credits that the SMSF received directly or indirectly from a New Zealand company by

- the amount of a supplementary dividend, or
 - the SMSF's share of a supplementary dividend
- if:
- the supplementary dividend is paid in connection with the franked dividend, and
 - the SMSF is entitled to a foreign income tax offset because the franked dividend is included in assessable income.

Show the amount of Australian franking credits included in assessable income at

- **C2 Credit: Rebates and tax offsets** if the SMSF is a non-complying superannuation fund, or
- **F4 Credit: Refundable franking credits** if the SMSF is a complying superannuation fund.

! NOTE

A dividend from a New Zealand franking company may also carry New Zealand imputation credits. An Australian resident cannot claim any New Zealand imputation credits.

F Transfers from foreign funds

Show at **F** all assessable amounts transferred to an Australian superannuation fund from a foreign superannuation fund that were in excess of what was vested in the member at the time of transfer (section 295-200 of the ITAA 1997).

Include at **F** so much of amounts transferred to an Australian superannuation fund from a foreign fund as is specified in written choices made by members (former members of the foreign fund) under section 305-80 of ITAA 1997.

Print in the **number box** the number of transfers received from foreign funds for the current income year.

H Gross payments where ABN not quoted

Show at **H** the gross value of all payments made to the SMSF that had amounts withheld because an ABN was not quoted. 'Gross payments' include both the amounts paid to the SMSF and the amounts withheld from these payments.

- Complete and attach a *Non-individual PAYG payment summary schedule 2010*. For instructions on completing this schedule, see **Schedules** on pages 55–6.
- Show at **H** the 'gross payment' amount for any corresponding credit you show at **F3 Credit: ABN/TFN not quoted (non-individual)** item 12.

Keep a record of the following:

- full name of the payer
- TFN of the payer if known
- amount of income.

I Gross distribution from partnerships

Show at **I** the gross distributions from all partnerships. If the distribution includes an amount of foreign income, including New Zealand franking company dividends and supplementary dividends, show that portion of the distribution at **D1 Gross foreign income** and take it into account to calculate **D Net foreign income**.

If the amount calculated is a loss, print **L** in the box at the right of the amount.

Include any amounts subject to foreign resident withholding that were distributed to the SMSF from a partnership. Also include the SMSF's share of credit from foreign resident withholding. A credit can be claimed for the SMSF's share of credit from foreign resident withholding in the calculation statement at **F2 Credit: foreign resident withholding** item 12.

If a distribution includes franked dividends (including franked non-share dividends), determine the SMSF's entitlement to a franking tax offset.

The SMSF is not entitled to a franking tax offset if:

- the relevant interest is not held at risk as required under the holding period and related payment rules, or
- there is some other manipulation of the imputation system, or
- the gross distribution from the partnership is exempt income or non-assessable non-exempt income (other than because of certain provisions mentioned in section 207-110 of the ITAA 1997).

If the SMSF is entitled to a franking tax offset, 'gross up' the distribution to include the attached franking credits in the amount at **I**.

If the SMSF is a complying superannuation fund, show the amount of franking credit attached to such dividends at **F4 Credit: refundable franking credits** item 12.

If the SMSF is a non-complying superannuation fund, show the amount of franking credits attached to such dividends at **C2 Credit: rebates and tax offsets** item 12.

If the SMSF is not entitled to a franking tax offset, simply record at **I** the amount of franked dividend received and do not record the franking credit attached to the dividend anywhere in the annual return.

To the extent that family trust distribution tax (FTDT) has been paid on income received by the SMSF from partnerships, exclude that amount from the assessable income of the SMSF (section 271-105 of Schedule 2F to the ITAA 1936).

If the SMSF's share of partnership income includes an amount received indirectly from a closely held trust on which Trustee beneficiary non-disclosure tax (TBNT) has been paid, you do not need to include the amount in the SMSF's assessable income.

Any losses or outgoings incurred in deriving an amount which is excluded from assessable income because FTDT or TBNT has been paid are not deductible. A tax offset cannot be claimed by the SMSF for any franking credits attributable to the whole or a part of a dividend that is excluded from assessable income under these provisions.

Keep a record of the following:

- full name of the partnership
- TFN of the partnership if known
- amount of income.

Notes for completing J Unfranked dividend amount, K Franked dividend amount, L Dividend franking credit and M Gross trust distributions

Dividends and **non-share dividends** that the SMSF receives from Australian payers may carry **franking credits**. Such dividends are called **franked dividends**, and the franking credits they carry reflect the amount of tax paid by the payer.

Dividends and non-share dividends where no tax has been paid are called **unfranked dividends**.

Add all the franked and unfranked dividend amounts received and all the franking credits to determine the SMSF's assessable income from these dividends.

Non-share dividends are treated in the same way as dividends. Show the amount of the non-share dividends, whether franked or unfranked, and any amount of franking credit attached to those dividends, at the appropriate place on the annual return as if they were for shares.

- Non-share dividends are returns paid on non-share equity interests. These interests are not shares in legal form but are treated in the same way as shares under the debt and equity rules. The publication *Debt and equity tests: guide to the debt and equity tests*, available on our website, provides an overview of the debt and equity rules and explains what a non-share equity interest is.

To the extent that **FTDT** has been paid on a dividend (including a non-share dividend) paid or credited to the SMSF by a company that has made an interposed entity election, do not include that amount in the assessable income of the SMSF (section 271-105 of Schedule 2F to the ITAA 1936).

- Any losses or outgoings that the SMSF incurred in deriving an amount that is excluded from assessable income under section 271-105 of Schedule 2F are not deductible.
- The SMSF cannot claim a credit (nor a tax offset) for any franking credit attributable to the whole or a portion of a dividend that is excluded from assessable income under section 271-105 of Schedule 2F.

If the SMSF received a dividend from a private company, you must establish whether the dividend can be classified as **non-arm's length income**. For more information, see *Taxation Ruling TR 2006/7 Income Tax: special income derived by a complying superannuation fund, a complying deposit fund or a pooled superannuation trust in relation to the year of income*. If such a dividend is considered non-arm's length income, show the amount at

U1 Net non-arm's length private company dividends.

J, K and L refer to dividends derived from investments in resident entities (including listed investment companies). Dividends that form part of a trust distribution must be shown at **M**.

J Unfranked dividend amount

Show at **J** the total amount of unfranked dividends and unfranked non-share dividends that the SMSF received. Do not show here:

- unfranked distributions from a New Zealand franking company, show them at **D1 Gross foreign income** and **D Net foreign income**
- the unfranked part of a distribution from a pooled development fund (PDF). The unfranked part of the distribution is exempt from income tax and is not included in the SMSF's assessable income. However, this amount of exempt income must be taken into account when working out the amount of your tax loss at **M Tax losses deducted**.

Even if the TOFA rules apply to the SMSF, show at **J** all unfranked dividends that were paid or credited to it by Australian companies. This includes unfranked dividends in respect of financial arrangements subject to the TOFA rules.

NOTE

If what you show at **J** includes an amount brought to account under the TOFA rules, also complete **Section I: Taxation of financial arrangements**.

For more information, see *Guide to the taxation of financial arrangements (TOFA) rules in Taxation of financial arrangements (TOFA)* available on our website www.ato.gov.au/tofa

K Franked dividend amount

Show at **K** the total amount of franked dividends and franked non-share dividends that the SMSF received, but do not show here franked amounts that the SMSF received from a New Zealand franking company (show them at **D1 Gross foreign income** and **D Net foreign income**).

The franked part of a distribution from a PDF is exempt from income tax unless you elect to include the amount in the SMSF's assessable income. In that case, the franked part of the distribution and the franking credit on the distribution worked out in accordance with Subdivisions 207-B and 207-D of the ITAA 1997 are included in the SMSF's assessable income.

If the SMSF qualifies for a venture capital franking tax offset, so much of the franked part of the distribution that is franked with a venture capital credit is exempt from income tax. You cannot elect to include this amount in the SMSF's assessable income. However, you may claim a tax offset in relation to a distribution franked with a venture capital credit even though the distribution is exempt from income tax. The tax offset is included at **C2 Credit: rebates and tax offsets** item **12**. This amount of exempt income must

also be taken into account when working out the amount of your tax loss at **M Tax losses deducted**.

L Dividend franking credit

Show at **L** the amount of the franking credits attached to dividends and non-share dividends that the SMSF received.

Do not show the franking credits if the SMSF did not satisfy the holding period rule and the related payments rule in relation to the dividend.

Franking credits reduce the amount of tax that the SMSF owes. Franking credits in excess of the tax payable will be refunded if the SMSF is a complying superannuation fund. Show the amount of franking credits attached to dividends and non-share dividends that the SMSF received at **F4 Credit: refundable franking credits** item 12.

If the SMSF is a non-complying superannuation fund, show the amount of franking credits attached to dividends and non-share dividends that the SMSF received at **C2 Credit: rebates and tax offsets** item 12.

If the franking credit is attached to a dividend considered as non-arm's length income, show this at **U1 Net non-arm's length private company dividends**.

Do not show at **L** any franking credits attached to assessable dividends received directly or indirectly from a New Zealand franking company. Show these at **E Australian franking credits from a New Zealand company**.

! NOTE

If you elect to include the franked part of a distribution from a PDF in your assessable income, you must also include the franking credit on the distribution worked out in accordance with subdivisions 207-B and 207-D of the ITAA 1997 in your assessable income. Otherwise, a franking credit on a distribution from a PDF is not included in your assessable income.

If you qualify for a venture capital franking tax offset, a venture capital credit on a distribution from a PDF is not included in the assessable income of the SMSF.

M Gross trust distributions

Show at **M Gross trust distributions** the total amount of gross distributions from trusts to the SMSF. Gross distributions from trusts may include unfranked dividends, franked dividends, franking credits (where entitled) attached to these dividends, and other assessable distributions.

The SMSF is not entitled to a franking tax offset if:

- the relevant interest is not held at risk as required under the holding period and related payment rules, or
- there is some other manipulation of the imputation system, or
- the gross distribution from the trust is exempt income or non-assessable non-exempt income (other than because of certain provisions mentioned in section 207-110 of the ITAA 1997).

If the SMSF is entitled to a franking tax offset, the amount you show here is the 'grossed up' amount. That is, you add the attached franking credit amounts to the franked amounts.

- If the SMSF is a complying superannuation fund, show the amount of franking credits attached to such dividends at **F4 Credit: refundable franking credits** item 12.
- If the SMSF is a non-complying superannuation fund, show the amount of franking credits attached to such dividends at **C2 Credit: rebates and tax offsets** item 12.

If the SMSF is not entitled to a franking tax offset, simply record at **M** the amount of the franked dividend received and do not record the franking credit attached to the dividend anywhere in the annual return.

If the distribution includes an amount of foreign income, including New Zealand franking company dividends and supplementary dividends, include that portion of the distribution at **D1 Gross foreign income** and take it into account in calculating **D Net foreign income**.

Include at **M** any amounts subject to foreign resident withholding that were distributed to the SMSF from a trust. Also include the SMSF's share of credit from foreign resident withholding. A credit can be claimed for the SMSF's share of credit from foreign resident withholding in the calculation statement at **F2 Credit: foreign resident withholding**.

All income received from stapled securities should be shown as trust distributions at **M**.

The amount at **M** cannot be negative.

Consider whether any distributions received from a trust are from a trust in which the SMSF does not have a fixed entitlement to income or part of a non-arm's length arrangement and whether the distribution received is greater than what might otherwise have been expected had the parties been dealing with each other at arm's length. See *Taxation Ruling TR 2006/7* for further information. If the distributions received are from a trust in which the SMSF does not have a fixed entitlement to income or are at non-arm's length amounts, do not show the distribution at **M**. Show these distributions at **U2 Net non-arm's length trust distributions**. See **Net non-arm's length trust distributions** on page 19.

Do not show capital gains received from a trust at **M**. Show them at **A Net capital gain**. For information on how to include a capital gain received from a trust, for example, how to gross-up a capital gain for a trust distribution, see the *Guide to capital gains tax 2010*.

Do not include distributions from pooled superannuation trusts (PSTs) at **M**.

To the extent that FTDT has been paid on income or capital of a trust to which the SMSF is presently entitled or which has been distributed to the SMSF, exclude that income or capital from the assessable income of the SMSF (section 271-105 of Schedule 2F to the ITAA 1936).

If the SMSF's share of trust income includes an amount received indirectly from a closely held trust on which TBNT has been paid, you do not need to include the amount in the SMSF's assessable income.

Any losses or outgoings incurred in deriving an amount which is excluded from assessable income because FTDT or TBNT has been paid are not deductible. A tax offset cannot be claimed by the SMSF for any franking credit attributable to the whole or part of a dividend that is excluded from assessable income under these provisions.

In the **Code** box print the letter from **table 3** below that best describes the type of trust for the amount of income shown at **M**. If this amount is from more than one type of trust, print the letter that represents the trust with the greatest amount of income. **Table 4** defines the types of trusts listed in **table 3**.

If you cannot identify the type of trust that made the distribution, contact the trustee of that trust.

TABLE 3: Trust type codes

Code letter	Type of trust
D	Deceased estate
F	Fixed trust – other than the fixed unit trusts and public unit trusts described at codes U , P and Q
H	Hybrid trust
S	Discretionary trust – where the main source of income of the trust is from service and management activities
T	Discretionary trust – where the main source of income of the trust is from trading activities
I	Discretionary trust – where the main source of income of the trust is from investment activities
M	Cash management unit trust
U	Fixed unit trust – other than a public trust described in codes P or Q
P	Public unit trust (listed) – other than a cash management unit trust
Q	Public unit trust (unlisted) – other than a cash management unit trust

TABLE 4: Definition of trust types

Fixed trust A trust in which persons have fixed entitlements (as defined in section 272-5 of Schedule 2F to the ITAA 1936) to all of the income and capital of the trust at all times during the income year
Hybrid trust A trust which is not a fixed trust but in which persons have fixed entitlements (as defined in section 272-5 of Schedule 2F to the ITAA 1936) to income or capital of the trust during the income year
Discretionary trust A trust which is neither a fixed trust nor a hybrid trust, and under which a person or persons benefit from income or capital of the trust upon the exercise of a discretion by a person or persons, usually the trustee
Cash management unit trust A unit trust which pools the funds of separate unit holders and primarily invests in a range of short term securities
Fixed unit trust A fixed trust in which interest in the income and capital of the trust are represented by units
Public unit trust A fixed unit trust which is a widely held unit trust (as defined in section 272-105 of Schedule 2F to the ITAA 1936) at all times during the income year
Public unit trust – listed A public unit trust in which any of its units were listed for quotation in the official list of a stock exchange in Australia or elsewhere during the income year
Public unit trust – unlisted A public unit trust in which none of its units were listed for quotation in the official list of a stock exchange in Australia or elsewhere during the income year

Keep a record of the following:

- full name of the trust
- TFN of the trust, and
- amount paid by the trust to the SMSF.

R Assessable contributions

Show at **R** the total assessable contributions received by the SMSF for the year. The amount shown at **R** for assessable contributions is calculated by adding the amounts at:

- **R1 Assessable employer contributions**
- **R2 Assessable personal contributions**
- **R3 No-TFN quoted contributions**

and then deducting:

- **R6 Transfer of liability to life insurance company or PST.**

Do not include at **R** the following contributions because they do not form part of the SMSF's assessable income:

- super co-contributions made under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*

- contributions for a person under 18 which are not made by, or on behalf of, the person's employer
- in relation to splitting a superannuation interest of a member due to marriage or relationship breakdown, payments by a member to a regulated SMSF to be held for the benefit of their former spouse (sometimes referred to as 'member spouse contributions')
- eligible spouse contributions for which the contributor cannot claim a deduction.
- a payment made directly from a First Home Saver Account (FHSA) where the holder of the FHSA is the member of the SMSF for whom the contribution was made, or a Government FHSA contribution
- a contribution made by an entity that was a trustee of a complying superannuation fund, a complying ADF or a PST, or the trustee of an exempt life assurance fund, when the contribution was made.

A member's spouse includes another person (whether of the same sex or opposite sex) who:

- the member was in a relationship with that was registered under a prescribed state or territory law,
- although not legally married to the member, lived with the member on a genuine domestic basis as a couple.

Generally, the liability for tax on contributions lies with the trustee of an SMSF receiving the contributions. Australian superannuation funds are entitled to deduct the costs of collecting all contributions. The deductions for expenditure incurred by an Australian superannuation fund are not reduced because it received non-taxable contributions, for example, non-deductible employee contributions. However, foreign superannuation funds are only entitled to a deduction for the cost of collecting assessable contributions.

Show deductions allowable against assessable contributions at the appropriate entries in **Section C: Deductions**.

NOTE

Only the *Fund income tax return 2010* contains **R4 Contributions excluded by trustee** and **R5 Pre 1 July 1988 funding credits**. They are not included in the *Self-managed superannuation fund annual return 2010*.

R1 Assessable employer contributions

Show at **R1** the amount of total assessable income comprising contributions and payments received by the SMSF in the income year. Include here:

- all contributions or payments to provide superannuation benefits for a member paid by an employer (including amounts contributed under effective salary sacrifice arrangements) to a complying SMSF, or to a non-complying SMSF where that SMSF is an Australian superannuation fund
- all contributions to provide superannuation benefits for a member paid by an employer (including amounts contributed under effective salary sacrifice arrangements) to a non-complying SMSF that is not an Australian superannuation fund that relate to a period when the member was an Australian resident, or was a foreign resident deriving salary and wage income assessable in Australia

- shortfall amounts paid to a complying SMSF under the provisions of the *Superannuation Guarantee (Administration) Act 1992*
- amounts transferred from the Superannuation Holding Account special account to a complying SMSF under the provisions of the *Small Superannuation Accounts Act 1995* other than amounts which represent super co-contributions.

Do not show at **R1** contributions received for a member who has not quoted their TFN. Include these contributions at **R3 No-TFN quoted contributions**.

R1 is used to determine **R Assessable contributions**.

R2 Assessable personal contributions

Show at **R2** the total assessable amount of personal contributions. The trustee of an SMSF is to treat personal contributions as assessable contributions only if the contributor has provided a valid notice stating their intent to claim a deduction for their contributions.

From 1 July 2007, a self-employed person and other eligible individuals can claim a full deduction for superannuation contributions provided the following conditions are met.

- The contribution is made to a complying superannuation fund
- Less than 10% of the sum of the person's assessable income, reportable employer superannuation contributions and reportable fringe benefits are attributable to employment as an employee. This means a person can deduct personal contributions even if they receive some income as an employee. (The test is no longer determined by the level of employer superannuation support a person receives or was entitled to have received.)
- If the person has turned 75, the contributions were made on a day that was on or before 28 days after the end of the month in which they turned 75.
- If the person was under 18 years old on 30 June 2010, the person must have derived income in 2009–10 from the carrying on of a business or from employment as an employee.
- The person has given a valid notice to the trustee of an SMSF of their intention to claim a deduction before lodging their tax return for the income year in which the contribution was made or otherwise before the end of the income year following the year the contribution was made.
- The person has received an acknowledgment from the trustee of receipt of the notice.

The self-employed person can claim a deduction only in the income year in which the contribution is made.

Other personal contributions that are included in the SMSF's assessable income include:

- the untaxed element of a roll-over superannuation benefit that a member is taken to receive under section 307-15 of the ITAA 1997 to the extent that it is not an excess untaxed roll-over amount (An amount will be an excess untaxed roll-over amount if it exceeds \$1.1 million.)

- the untaxed element of roll-over superannuation benefits of a complying superannuation fund that arose as a result of the complying superannuation fund ceasing to be a constitutionally protected superannuation fund during the income year or at the end of the previous income year
- the taxable component of a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*.

R2 is used to determine **R Assessable contributions**.

NOTE

Contributions caps

From 1 July 2007, caps apply to contributions made to a member's superannuation account. Amounts shown at **R1** and **R2** are taken into account in calculating whether the relevant caps have been exceeded. Contributions that exceed the cap amounts are subject to extra tax. The member will receive an 'excess contributions tax assessment' which will detail how much extra tax the member must pay.

The amount of the cap and how much extra tax the member must pay on the amount in excess of the cap depends on the age of the member (such that certain transitional arrangements can apply) and whether the contributions are concessional or non-concessional contributions.

For more information on the contributions caps, see the electronic publication *Super contributions – too much super can mean extra tax*. It is available on our website.

R3 No-TFN quoted contributions

Show at **R3** all employer contributions received that were for a member who has not quoted a TFN.

The SMSF will be liable for an additional tax at a rate of 31.5% on these contributions. This additional tax must be paid regardless of any tax offsets and amounts the SMSF may have transferred under **R6**.

See **example 3** in the next column for an illustration of how this additional tax must be applied.

R3 is used to determine **R Assessable contributions**.

Additional tax payable as a result of a member not quoting a TFN should be included in **B Gross tax** item **12**.

Example 3 should assist you in dealing with member contributions where the SMSF has transferred its tax liability to a life insurance company or PST. The 31.5% additional tax in respect of the no-TFN-quoted contributions must be paid by the SMSF and the liability cannot be transferred to the life insurance company or PST.

If a member provides their TFN in a subsequent year, a tax offset can be claimed at **F5 Credit: no-TFN tax offset**, but only in respect of the additional tax paid on the no-TFN quoted contributions (31.5% for complying SMSFs and 1.5% for non-complying SMSFs) in one of the most recent three income years. See instructions at **F5** for details.

EXAMPLE 3: SMSF transferring its liability

Example 3a: Complying SMSF where all members have quoted their TFNs

A complying SMSF can transfer its tax liability on assessable contributions to a life insurance company or PST in which it holds investments provided the requirements of section 295-260 of the ITAA 1997 are satisfied. The effect of the agreement is that the transferee pays the tax on the SMSF's behalf.

The Natalie Superannuation Fund is a complying SMSF which is transferring its tax liability to a life insurance company (shown at **R6 Transfer of liability to life insurance company or PST**). The SMSF has sufficient investments in the transferee life insurance company to cover the tax payable by the transferee as a result of the transfer (calculated under subsection 295-260(6) of the ITAA 1997). The SMSF has \$10,000 of assessable contributions (shown at **R Assessable contributions**).

The taxable income of the SMSF is calculated as follows:

	Amount	Rate	Tax
Income			
Employer contributions	\$10,000	15%	\$1,500
Total	\$10,000		\$1,500
<i>Less</i>			
Contributions excluded			
Transfer to life company	\$10,000	15%	\$1,500
Total	\$10,000		\$1,500
Taxable income and gross tax	Nil		Nil

Example 3b: Complying SMSF with no-TFN quoted contributions

SMSFs cannot transfer the additional tax liability caused by no-TFN-quoted contributions to a life insurance company or a PST.

The James Superannuation Fund is a complying SMSF, however it has income which is taxed at different rates.

The SMSF has \$10,000 of assessable contributions (shown at **R Assessable contributions**). Of the total employer contributions, \$2,000 was for members who had not quoted their TFN (shown at **R3 No-TFN quoted contributions**) while the remaining \$8,000 of contribution was for members who quoted their TFNs (shown at **R1 Assessable employer contributions**).

The SMSF has transferred all of its assessable contributions to a life company (shown at **R6 Transfer of liability to life insurance company or PST**). However, it must still pay the additional tax on the no-TFN quoted contributions income as the following table shows. The total rate of tax that applies to the no-TFN quoted contributions income is 46.5% (which is made up of 15% paid by the life insurance

company or PST, and an additional 31.5% paid by the SMSF). Even though the SMSF has transferred 100% of the contributions it received, it is still liable for \$630 tax for the no-TFN quoted contributions. The tax amount of \$630 is 31.5% of the \$2,000 no-TFN quoted contribution, and is shown at **B Gross tax** item 12.

	Amount	Rate	Tax
Income			
'TFN quoted' contributions	\$8,000	15%	\$1,200
<i>Plus</i>			
No-TFN quoted contributions	\$2,000	46.5%	\$930
Total	\$10,000		\$2,130
<i>Less</i>			
Contributions excluded			
Transfer to life company	\$10,000	15%	\$1,500
Total	\$10,000		\$1,500
Taxable income and gross tax	Nil		\$630

R6 Transfer of liability to life insurance company or PST

Show at **R6** the amount of income otherwise assessable for the income year under Subdivision 295-C of the ITAA 1997 that the trustee of a complying SMSF (the 'transferor') has agreed to transfer to a life insurance company or PST (the 'transferee') in which the complying SMSF holds investments. The amount of the transfer will be included in the transferee's assessable income instead. The transferor must hold sufficient investments in the transferee to cover the tax payable by the transferee as a result of the transfer. The total amount transferred cannot exceed the amount that would otherwise have been included in the assessable income of the transferor under Subdivision 295-C of the ITAA 1997.

The agreement to transfer must be in writing, signed by both parties, must be made before the lodgment of this annual return and cannot be revoked. The trustee can only make one agreement for an income year with a particular transferee.

R6 is used to determine **R Assessable contributions**.

NOTE

R6 is subtracted from the aggregate of **R1**, **R2** and **R3** to determine **R Assessable contributions**.

Keep all relevant documents as evidence of the transferee's consent to accept the transfer of assessable contributions and the associated tax liability.

S Other income

Show at **S** the assessable amount of any income received that does not fall into any of the other categories shown

at **A** to **U** at this item. Other income may include, but is not limited to, the following categories.

Foreign exchange (forex) gain

Show at **S** any assessable forex gains that have not been shown at any other category of income.

TOFA gains from financial arrangements (other than interest, dividends and foreign income)

If the TOFA rules apply to the SMSF's financial arrangements include at **S** any assessable gains and any assessable TOFA transitional balancing adjustment amount relating to existing financial arrangements.

Include here any TOFA gains (or part thereof) that you have not already included at:

- **C Gross interest**
- **J Unfranked dividend amount**, or
- **D1 Gross foreign income**.

NOTE

If you show an amount at **S** that includes an amount brought to account under the TOFA rules, also complete **Section I: Taxation of financial arrangements**.

For more information, see *Guide to the taxation of financial arrangements (TOFA) rules in Taxation of financial arrangements (TOFA)* available on our website www.ato.gov.au/tofa

Listed investment company (LIC) capital gain amount

If a complying SMSF received a distribution from a partnership or trust, and that partnership or trust claimed a deduction for a LIC capital gain amount, then the SMSF must add back as income one-third of its share of the deduction claimed by the partnership or trust and include the amount at **S**.

If a non-complying SMSF receives a distribution from a partnership or trust, and that partnership or trust claimed a deduction for a LIC capital gain amount, then the non-complying SMSF must add back as income its share of the deduction claimed by the partnership or trust and show the amount at **S**.

Assessable balancing adjustment amounts

If the SMSF ceases to hold or to use a depreciating asset, it will need to calculate a balancing adjustment amount to include at **S** as assessable income or to claim as a deduction at **L Other deductions** item 11 – see the *Guide to depreciating assets 2010* for more information.

Rebate or refund of premium paid to provide death or disability benefits

Include at **S** rebates and refunds of premiums that a complying SMSF receives and that are attributable to insurance policy premiums paid by the SMSF to provide superannuation death benefits and temporary or disability superannuation benefits. Disability superannuation benefits

and benefits payable because of a person's temporary inability to engage in gainful employment are assessable income of the SMSF where the premium payment was either allowed or is allowable in whole or in part, as a deduction.

Gross payments subject to foreign resident withholding

Show at **S** gross payments made to the SMSF that were regulated foreign resident income. Gross payments include amounts of tax withheld. Do not include at **S** gross distributions of regulated foreign resident income from partnerships and trusts. Instead, show distributions from partnerships at **I Gross distribution from partnerships** and show distributions from trusts at **M Gross trust distributions**.

Regulated foreign resident income refers to payments which are prescribed in the Taxation Administration Regulations 1976 as being subject to the foreign resident withholding measure.

Do not include payments where the amount was varied to nil under the foreign resident withholding measure because the income was not taxable under a double tax agreement.

Complete and attach a *Non-individual PAYG payment summary schedule 2010*. For instructions on completing this schedule, see **Schedules** on pages 55–6.

If you show a credit at **F2 Credit: foreign resident withholding** item **12** for tax withheld, you must show the corresponding gross payment at **S Other income** (except where the credit is from partnership or trust distributions). Show gross payment even if the credit is nil.

Gross distributions of foreign resident regulated income from a partnership or trust does not have an associated payment summary.

Print in the **Code** box the code letter from **table 5** that best describes the greatest amount shown at **S Other income**.

TABLE 5: Other income codes

Code letter	Type of income
F	Forex gains
T	TOFA gains or assessable TOFA transitional balancing adjustment
C	LIC capital gain amount
B	Assessable balancing adjustment amount
R	Rebate or refund of premium paid to provide death or disability benefits
W	Gross payments subject to foreign resident withholding
O	Other income received not listed above

T Assessable income due to changed tax status of fund

Show at **T** the amount that is to be included in the SMSF's assessable income as a result of a change in tax status of the SMSF. An SMSF that changes from complying to non-complying, or an SMSF that is not an Australian superannuation fund that becomes an Australian superannuation fund, must calculate the amount of ordinary income and statutory income from previous years and include these amounts in the assessable income of the SMSF in the year the status of the SMSF changed.

NOTE

A change in compliance or residency status for an SMSF may result in changes in tax rates.

The SMSF became a non-complying SMSF during the year

If during the income year the SMSF changed from being a complying SMSF to a non-complying SMSF, the SMSF's assessable income this year includes its ordinary income and its statutory income from previous years, as calculated using formula **A**. In effect, the SMSF loses the benefit of tax concessions that it obtained as a complying SMSF.

Formula A

$$\text{asset value} - \text{non-concessional contributions} = \text{assessable amount}$$

where:

- asset value is the sum of the market values of the SMSF's assets immediately before the start of the current income year, and
- non-concessional contributions (formerly referred to as 'undeducted contributions') are the total of:
 - the part of the crystallised undeducted contributions that relate to the period after 30 June 1983, and
 - the contributions segment for current members at the time that have not been, and cannot be, deducted.

Include at **T** the amount you calculated using **formula A**. That amount is taxed at the rate of 45%.

The SMSF was, but no longer is, a foreign fund

If the SMSF was a foreign superannuation fund which became an Australian superannuation fund during this income year, its assessable income this year includes the amount calculated using formula B below.

Formula B

$$\text{asset value} - \text{member contributions} = \text{assessable amount}$$

where:

- asset value is the sum of the market values of the SMSF's assets immediately before the start of the current income year, and
- member contributions is the total amount of current member contributions in the SMSF at the time.

Include at **T** the amount you calculated using **formula B**. When a SMSF changes status from foreign superannuation fund to:

- **complying** Australian superannuation fund, the amount is taxed at the rate of 15%
- **non-complying** Australian superannuation fund, the amount is taxed at a rate of 45%.

The SMSF is not entitled to a tax offset for the foreign income tax that was paid in the previous year where:

- a previously complying SMSF or a previously foreign SMSF includes an amount in assessable income under either **formula A** or **formula B** above, and
- the trustee of the SMSF paid foreign income tax in respect of that amount before the start of the income year.

U Net non-arm's length income

Show at **U** the net amount of income which the SMSF has received from a transaction or a series of transactions between parties not at arm's length.

This includes income such as:

- private company dividends (including non-share dividends)
- certain distributions from trusts
- other excessive non-arm's length income that is greater than might have been expected had it been derived from an arm's length dealing.

All income shown at U is taxed at 45%. Each component of non-arm's length income is reduced by any deductions attributable to that income and is then taxed at the highest marginal tax rate. Allowable deductions against that income are those that relate exclusively to the non-arm's length component of income, and so much of other allowable deductions as appropriately relate to that income.

If this amount is a loss, quarantine the loss for future deduction against income of the same class. Do not show a loss at **U**, but keep a record of the quarantined loss amount with the SMSF's tax records.

U1 Net non-arm's length private company dividends

An amount of ordinary income or statutory income is non-arm's length income if it is a dividend paid by a private company, or is reasonably attributable to such a dividend, unless the amount is consistent with an arm's length dealing.

In deciding whether the amount is consistent with an **arm's length dealing**, consideration must be given to any connection between the private company and the SMSF, as well as any other relevant circumstance. Other relevant circumstances include:

- the value of the shares held by the SMSF in the company

- the cost to the SMSF of the shares on which the dividends were paid
- the dividend rate on those shares
- whether dividends have been paid on other shares in the company and the dividend rate
- whether the company has issued shares in lieu of dividends to the SMSF and the circumstances of the issue.

Taxation Ruling TR 2006/7 provides guidance on determining when private company dividends are non-arm's length income.

If the SMSF is eligible to obtain imputation benefits as a result of receiving a franked dividend 'gross up' the private company dividends including non-share dividends. That is, add the amount of any attached franking credit to the total amount of the private company dividends that the SMSF received. Reduce this amount by any related deductions and show the amount at **U1**. If you are a complying SMSF show the amount of franking credits attached to such dividends at **F4 Credit: refundable franking credits** item **12**. If you are a non-complying SMSF show the amount of franking credits attached to such dividends at **C2 Credit: rebates and tax offsets** item **12**.

Do not show at **U1** any dividends received directly or indirectly from a New Zealand company.

Where private company dividends (including non-share dividends) are consistent with arm's length dealing, such that the amount should not be treated as non-arm's length income, the dividends received are taxed at 15%. Show these dividends at either **J Unfranked dividend amount**, or **K Franked dividend amount** and **L Dividend franking credit**.

All income shown at **U1** is taxed at 45%.

U1 is used in calculating **U Net non-arm's length income**.

U2 Net non-arm's length trust distributions

Trust distributions are non-arm's length income of a complying SMSF if they are:

- distributions where the SMSF does not have a fixed entitlement to income from the trust (generally discretionary trusts), or
- distributions where
 - the SMSF has a fixed entitlement to income from the trust and
 - the SMSF acquired the entitlement to the distribution under an arrangement where the parties were not dealing at arm's length and
 - the amount of income is more than the amount that would have been provided had the parties been dealing at arm's length.

If the SMSF received a distribution from a trust, examine the circumstances of the distribution to determine whether the income is 'non-arm's length income' as defined in section 295-550 of the ITAA 1997. If it is non-arm's length income, show it at **U2**.

If a distribution included franked dividends (including franked non-share dividends) and the SMSF is eligible to obtain imputation benefits as a result of receiving a

franked dividend, gross up the distribution by including any attached franking credits. If you are a complying SMSF show the amount of franking credits attached to such dividends at **F4 Credit: refundable franking credits** item **12**. If you are a non-complying SMSF show the amount of franking credit attached to such dividends at **C2 Credit: rebates and tax offsets** item **12**.

All income shown at **U2** is taxed at 45%.

U2 is used in calculating **U Net non-arm's length income**.

U3 Net other non-arm's length income

Show at **U3** any income (other than private company dividends or trust distributions) derived by the SMSF from a transaction that is non-arm's length income.

Income is **non-arm's length income** if the parties to a transaction or a series of transactions are not dealing at arm's length and the income derived from the transaction is greater than might have been expected had the parties been dealing at arm's length in relation to the transaction. The transactions covered may include interest on loans, rent from property, profit on sale of assets and capital gains, and franking credits on dividends.

The test for such income is a question of fact and all of the circumstances of the relationship are relevant in determining whether the amount of income derived from a non-arm's length dealing is greater than might have been expected had the parties been dealing at arm's length, including the commercial risks undertaken by the SMSF.

A **non-arm's length dealing** in these cases will include an examination of the same circumstances as those outlined above under **U1**.

See Taxation Ruling TR 2006/7 for further information.

All income shown at **U3** is taxed at 45%.

U3 is used in calculating **U Net non-arm's length income**.

V Total assessable income

Do not include any amount from the following because they would have already been included in the respective totals at **D**, **R** and **U**:

- **D1 Gross foreign income**
- **R1 Assessable employer contributions**
- **R2 Assessable personal contributions**
- **R3 No-TFN quoted contributions**
- **R6 Transfer of liability to life insurance company or PST**
- **U1 Net non-arm's length private company dividends**
- **U2 Net non-arm's length trust distributions**
- **U3 Net other non-arm's length income.**

Where there is no income, print **0** at **V**. If the amount shown is a loss, print **L** in the box at the right of the amount.

SECTION C: DEDUCTIONS

This section deals with all deductions for the 2009–10 income year. You do not show cents for any amount you write at this section on the annual return.

STOP

Do not show anywhere on the annual return any expense which the SMSF incurred in deriving exempt current pension income. This means that those expenses cannot be included as part of any deductions claimed at **A** to **L**.

11 DEDUCTIONS

K Exempt current pension income

Gross income of a complying SMSF derived from assets held to provide for current 'pension liabilities' is exempt from income tax. You would have shown this gross income amount at item **10**. To ensure the income is not taxed, it is necessary to deduct an identical amount at **K**.

Do not reduce the exempt income shown at **K** by the amount of expenses incurred in deriving that income. Doing so will understate the deductible amount of exempt current pension income and will result in some of that income being subject to tax.

Expenses incurred in gaining or producing exempt income are not deductible; those expenses should not be shown anywhere at item **11**.

For treatment of expenses incurred wholly or partly in producing assessable income, see deductions:

- **D Capital works deductions**
- **E Deduction for decline in value of depreciating assets**
- **I Investment expenses**
- **J Management and administration expenses**
- **L Other deductions.**

Pension liabilities are the SMSF's liabilities to pay superannuation income stream benefits. The exemption on current pension income applies to all SMSFs currently paying pensions. It does not provide an automatic exemption of the SMSF's total income as certain conditions must be met to obtain an exemption. There are two methods by which the trustee of an SMSF can determine the exempt income shown at **K**. Either one method or both methods may be used depending on the circumstances. Different conditions for claiming the exemption apply depending on the method used.

An SMSF is entitled to franking credits on franked dividends received, even when the dividends relate to current pension liabilities.

First method: income from segregated assets used to meet current pension liabilities

If a complying SMSF segregates its assets so that the income can be identified as derived from the segregated assets held to provide for current pension liabilities, that income is the exempt income (section 295-385 of the ITAA 1997). For the purpose of calculating exempt income under section 295-385 of the ITAA 1997, non-arm's length income and assessable contributions are excluded from the SMSF's income.

Where the only superannuation income stream benefits being paid from the segregated assets are a type prescribed by the Income Tax Assessment Regulations 1997 an actuarial certificate is not required if assets are segregated at all times during the income year. Superannuation income streams prescribed for this purpose by Income Tax Assessment Regulation 295-385.01 include allocated pensions, market linked pensions and account based pension types.

Where all SMSF fund members are receiving prescribed superannuation income streams and the combined account balances of all members is equal to the market value of the fund's total assets, in effect all assets of the fund will meet the requirement of being 'segregated' as they have the sole purpose of paying super income stream benefits. In this situation the ATO will accept that the SMSF is not required to identify individual assets as being dedicated to funding a super income stream benefit. Therefore there is no requirement for an actuarial certificate in this case.

Note that assets of a complying SMSF that are supporting a superannuation income stream benefit prescribed by the regulations (for the purposes outlined above) are not segregated current pension assets to the extent that the market value of those assets exceeds the account balance of the benefit (subsection 295-385(6) of the ITAA 1997).

If the SMSF also pays any other type of superannuation income stream, an actuarial certificate will be required for all superannuation income streams (subsection 295-385(5) of the ITAA 1997).

Where the trustee requires an actuarial certificate this must be obtained before the date of lodgment of the fund's tax return.

Second method: income from unsegregated assets used to meet current pension liabilities

SMSFs using the unsegregated assets method will need an actuarial certificate for each year they claim ECPI, regardless of the type of super income stream benefit being paid (section 295-390 of the ITAA 1997).

The actuarial certificate will provide the percentage that the tax exemption is to be based on.

For the purpose of calculating exempt income under this method, non-arm's length income, assessable contributions, income derived from segregated non-current assets and income exempted under section 295-385 are excluded from the SMSF's income (sub section 295-390(2) of the ITAA 1997).

An actuarial certificate is also required if the SMSF has segregated non-current assets (section 295-395 of the ITAA 1997).

EXAMPLE 4a

The ABC SMSF earned \$100,000 in interest and paid \$1,000 in bank fees. 100% of the fund's assets were held to provide for current pension liabilities.

The SMSF shows:

- the \$100,000 interest as income at **C Gross interest item 10**
- a deduction of \$100,000 for exempt current pension income at **K Exempt current pension income**.

The SMSF cannot claim the \$1,000 in bank fees as a deduction because they were incurred in earning the exempt current pension income.

EXAMPLE 4b

The DEF SMSF earned \$60,000 in interest and paid \$500 in bank fees. Applying the second method for calculating exempt current pension income, the SMSF has obtained an actuarial certificate stating 80% of its income is exempt current pension income.

The SMSF shows:

- the \$60,000 interest as income at **C Gross interest item 10**
- a deduction of \$48,000 (that is, 80% of \$60,000) for exempt current pension income at **K Exempt current pension income**
- a deduction of \$100 (that is, 20% of \$500) for bank fees at **A Interest expenses within Australia**.

The SMSF cannot claim the remaining bank fees of \$400 (that is, 80% of \$500) as a deduction because they were incurred in earning the exempt current pension income.

EXAMPLE 4c

The GHY SMSF earned \$30,000 in interest and paid \$200 in bank fees. Applying the second method for calculating exempt current pension income, the SMSF has obtained an actuarial certificate stating 30% of its income was exempt current pension income. It has \$10,000 in tax losses carried forward from the previous year.

The SMSF shows:

- the \$30,000 interest as income at **C Gross interest item 10**
- a deduction for \$9,000 (that is, 30% of \$30,000) of exempt current pension income at **K Exempt current pension income**
- a deduction for bank fees of \$140 (that is, 70% of \$200) at **A Interest expenses within Australia**.

The SMSF cannot claim the remaining bank fees of \$60 (that is, 30% of \$200) as a deduction because they were incurred in earning the exempt current pension income.

The \$10,000 in tax losses carried forward must be reduced by the net exempt income of \$8,940 (that is, \$9,000 of exempt income less bank fees of \$60 incurred in earning exempt income). The SMSF shows:

- a deduction for tax losses of \$1,060 (that is, \$10,000 less \$8,940) at **M Tax losses deducted**
- tax losses carried forward to later years at **U Tax losses carried forward to later income years item 13** as zero.

The losses used in this example refer to tax losses rather than capital losses. For further information see **Section E: Losses**.

A Interest expenses within Australia

Show at **A** the deductible interest incurred on money borrowed from Australian sources to:

- acquire income-producing assets
- finance operations, or
- meet current expenses.

Even if the TOFA rules apply to the SMSF, show at **A** all interest incurred on money borrowed from Australian sources. This includes interest from financial arrangements subject to the TOFA rules.

! NOTE

If what you show at **A** includes an amount brought to account under the TOFA rules, also complete **Section I: Taxation of financial arrangements**.

For more information, see *Guide to the taxation of financial arrangements (TOFA) rules in Taxation of financial arrangements (TOFA)* available on our website www.ato.gov.au/tofa

B Interest expenses overseas

Show at **B** the deductible interest incurred on money borrowed from overseas sources to:

- acquire income-producing assets
- finance operations, or
- meet current expenses.

Even if the TOFA rules apply to the SMSF, show at **B** all interest incurred on money borrowed from overseas sources. This includes interest from financial arrangements subject to the TOFA rules.

! NOTE

If what you show at **B** includes an amount brought to account under the TOFA rules, also complete **Section I: Taxation of financial arrangements**.

For more information, see *Guide to the taxation of financial arrangements (TOFA) rules in Taxation of financial arrangements (TOFA)* available on our website www.ato.gov.au/tofa

The SMSF should generally withhold an amount of tax (withholding tax) from interest paid or payable to non-residents, and from interest paid to a resident which was derived by the resident through an overseas branch. The SMSF must remit these amounts to us.

If the SMSF paid interest to non-residents, it must keep a record of the following:

- name and address of recipients
- amount of interest paid or credited
- amount of withholding tax withheld and the date it was remitted to us.

If the SMSF is required to withhold from interest paid or payable, the SMSF must register for PAYG withholding

and lodge a *PAYG withholding from interest dividend and royalty payments paid to non residents – annual report* (NAT 7187).

D Capital works deductions

Show at **D** the deduction claimed for capital expenditure on special buildings, which includes eligible capital expenditure on extensions, alterations or improvements. Exclude capital expenditure for mining infrastructure buildings and timber milling buildings.

For more information on capital works deductions, see **appendix 1**.

E Deduction for decline in value of depreciating assets

Show at **E** the deduction for decline in value of depreciating assets for tax purposes.

Complete and attach a *Capital allowances schedule 2010* if the amount you show at **E** is more than \$100,000. For more information see the *Capital allowances schedule instructions 2010* (NAT 4089). To get a copy visit our website www.ato.gov.au or to get a printed copy, see the inside back cover.

The decline in value of a depreciating asset is generally worked out using either the prime cost or diminishing value method. Both methods are based on the effective life of an asset. For most depreciating assets, the SMSF can choose whether to self-assess the effective life or to adopt the Commissioner's determination, the most recent of which can be found in *Taxation Ruling TR 2009/4 Income tax: effective life of depreciating assets (applicable from 1 July 2009)*.

The SMSF can deduct an amount equal to the decline in value for an income year of a depreciating asset that it held for any time during that year. However, the deduction is reduced to the extent the SMSF uses it or has it installed ready for use for other than a taxable purpose.

The decline in value of a depreciating asset costing \$300 or less is its cost (but only to the extent the asset is used for a taxable purpose) if the asset satisfies all of the following requirements:

- it is used predominantly for the purpose of producing assessable income that is not income from carrying on a business
- it is not part of a set of assets acquired in the same income year that costs more than \$300, and
- it is not one of any number of substantially identical items acquired in the same income year that together cost more than \$300.

The decline in value of certain assets with a cost or opening adjustable value of less than \$1,000 can be calculated through a low-value pool. Assets eligible for the immediate deduction cannot be allocated to a low-value pool.

For an explanation of the concepts and terms mentioned above, and for more information on deductions for decline in value, see the *Guide to depreciating assets 2010*.

P Small business and general business tax break

Show at **P** the deduction claimed for the small business and general business tax break.

! NOTE

It is considered that in most situations superannuation funds will not be eligible to claim the deduction. To qualify for the deduction the relevant asset must be used principally in Australia for the principal purpose of carrying on a business. Superannuation funds generally do not carry on a business, however, they will often be associated with a business which may be eligible. For further information visit our website at www.ato.gov.au

The small business and general business tax break, in the form of an investment allowance, is available for expenditure on eligible new tangible depreciating assets. The tax break provides the following deductions for:

■ small business entities

- an additional tax deduction of 50% of the cost of eligible new tangible depreciating assets is available where the business
 - committed to investing in the asset between 13 December 2008 and 31 December 2009 inclusive, and
 - first uses the asset, or installs it ready for use, or (in the case of new investment in an existing asset) brings the asset to its modified or improved state, on or before 31 December 2010

! NOTE

See *Guide to concessions for small business entities* (NAT 71874) to find out whether the SMSF is a small business entity.

■ other business entities

- an additional tax deduction of 30% of the cost of eligible new tangible depreciating assets is available where the business
 - committed to investing in the asset between 13 December 2008 and 30 June 2009 inclusive, and
 - first uses the asset, or installs it ready for use, or (in the case of new investment in an existing asset) brings the asset to its modified or improved state, on or before 30 June 2010
- an additional tax deduction of 10% of the cost of eligible new tangible depreciating assets is available where the business
 - committed to investing in the asset between 13 December 2008 and 30 June 2009 inclusive, and
 - first uses the asset, or installs it ready for use, or (in the case of new investment in an existing asset) brings the asset to its modified or improved state, between 1 July 2010 and 31 December 2010 inclusive
- an additional tax deduction of 10% of the cost of eligible new tangible depreciating assets is available where the business
 - committed to investing in the asset between 1 July 2009 and 31 December 2009 inclusive, and

- first uses the asset, or installs it ready for use, or (in the case of new investment in an existing asset) brings the asset to its modified or improved state, on or before 31 December 2010.

Generally, a business 'commits' to investing when:

- it enters into a contract under which the asset is held
- it starts to construct the asset, or
- it starts to hold the asset in some other way.

The tax break applies to new tangible depreciating assets for which a deduction is available under Subdivision 40-B of the ITAA 1997 and certain new investment in existing assets.

Cars will not be disqualified from the tax break merely because you use the 12% method.

Land and trading stock are excluded from the definition of depreciating assets, and will not qualify for the deduction.

It must be reasonable to conclude that the assets will be used principally in Australia for the principal purpose of carrying on a business.

The cost of an eligible new tangible asset includes amounts included in the first element of cost (worked out under Subdivision 40-C of the ITAA 1997), and amounts included in the second element of cost under paragraph 40-190(2) (a) of the ITAA 1997. New expenditure on existing assets may also qualify.

Small business entities will be able to claim the deduction for eligible assets costing \$1,000 or more. For other businesses, a minimum expenditure threshold of \$10,000 applies.

In order to meet the relevant threshold, a taxpayer can aggregate their investment in a set of assets, or in a group of assets where the assets in the group are identical or substantially identical.

Where assets are held jointly, a taxpayer can take into account the other business interests in the asset when determining whether the investment threshold test is satisfied. However, the taxpayer will only be able to claim the tax break on their interest in the asset.

Where a taxpayer has met the investment threshold for an asset, they can claim the additional investment in the asset as part of the tax break.

The tax break is on top of the usual capital allowance deduction able to be claimed for the asset.

Provided all of the eligibility criteria are satisfied, the deduction is claimable in the income year in which the asset is first used, or installed ready for use.

For further information, go to our website at www.ato.gov.au and enter 'Small business and general business tax break' in the 'Search for' box at the top of the page.

F Death or disability premiums

Show at **F** deductions for insurance premiums paid by a complying SMSF to provide superannuation benefits upon death or temporary or permanent disability of the member.

An SMSF may use a variety of life insurance policies to provide these benefits.

The fund can deduct the following:

- 30% of the premium for a whole of life policy if all the individuals whose lives are insured are members of the fund
- 10% of the premium for an endowment policy if all the individuals whose lives are insured are members of the fund
- for a policy that is not a whole of life or endowment policy
 - 30% of the part of a premium that is specified in the insurance policy as being for a distinct part of the policy that would have been a whole of life policy if it had been a separate policy
 - 10% of the part of a premium that is specified in the insurance policy as being for a distinct part of the policy that would have been an endowment policy if it had been a separate policy
- the part of a premium that is specified in an insurance policy as being wholly for the liability to provide certain death or disability benefits, as described in section 295-460 of the ITAA 1997, for SMSF members.

An actuarial certificate is not required in the above circumstances.

For more information on what a 'whole of life' policy is for these purposes see *ATOID 2009/100 – Complying superannuation fund: deductibility of premiums on 'whole of life policy' – subsection 295-465(1) of the ITAA 1997*.

For all other insurance policies, a complying SMSF can deduct the premium (or part thereof) that is attributable to the liability to provide death or disability superannuation benefits, as described in section 295-460 of the ITAA 1997, for SMSF members. An actuarial certificate is required to obtain this deduction.

A complying SMSF may also deduct premiums on insurance policies to replace income during periods of temporary disability. For more information, see *Taxation Determination TD 2007/3 – Income tax: is a deduction allowable to complying superannuation funds, under section 279 of the Income Tax Assessment Act 1936, for insurance premiums attributable to the provision of benefits for members in the event of temporary disability longer than two years?*

In the case of SMSFs which self-insure, the deduction is equal to a reasonable arm's length premium, rather than the lowest arm's length premium, for the cost of death and disability cover provided. An actuarial certificate is also required.

Rather than claiming a deduction for insurance premiums paid, a complying SMSF may choose to deduct (under section 295-470 of the ITAA 1997) an amount for its future liability to pay death or disability superannuation benefits. Show deductions for this amount at **F**.

G Death benefit increase

Show at **G** the increased amount of superannuation lump sum death benefits.

This deduction is available to an SMSF that has been complying since 1 July 1988 or, if established at a later date, since that date. The SMSF can deduct an amount where it increases (or does not reduce) a superannuation lump sum death benefit so that the death benefit amount is not reduced because of the tax on contributions (the 'tax saving amount'). The lump sum payment must be made to the trustee of the deceased's estate or to the deceased's dependant (an individual who was a spouse, former spouse or child of the deceased) at the time of death or payment in order to claim the deduction.

The deduction is only available to the extent that the spouse, former spouse or child of the deceased can reasonably be expected to benefit from the estate.

Spouse of the deceased is a person (whether of the same sex or opposite sex who:

- the deceased was in a relationship with that was registered under a prescribed state or territory law
- although not legally married to the deceased, lived with the deceased on a genuine domestic basis as a couple.

Child of the deceased includes:

- an adopted child, a stepchild or an ex-nuptial child of the deceased
- a child of the deceased's spouse
- someone who is a child of the deceased within the meaning of the *Family Law Act 1975* (for example, a child who is considered to be a child of the person under a state or territory court order giving effect to a surrogacy arrangement).

The deduction is available under section 295-485 of the ITAA 1997. The amount of the deduction is calculated by dividing the tax saving amount by the low tax component rate (which is generally 15%).

The SMSF can deduct the amount in the income year in which the lump sum is paid.

H Approved auditor fee

Show at **H** the amount charged for the services of the approved auditor. If there was no fee (for instance, for the first year of operation the fee is charged in the following income year) you must write **0** as you must show an amount at **H**.

I Investment expenses

Show at **I** the amount of expenses of a revenue nature incurred in deriving investment income, unless the expense is more appropriately shown at another label. Do not include any amount that is shown at **J Management and administration expenses**.

Complying SMSFs may claim deductions for expenses incurred in relation to acquiring, holding or disposing of:

- units in a PST
- life insurance policies issued by life insurance companies, and
- interests in trusts whose assets consist wholly of such life insurance policies.

You can claim the deduction if the expenditure would qualify for deduction under the deduction provisions of the ITAA 1936 or the ITAA 1997 as if any profits, gains or bonuses, from the investments listed above that are of a capital nature, were instead assessable as being of an income nature.

Our view on the application of the relevant provision, section 295-100 of the ITAA 1997, is set out in *Taxation Determination TD 1999/6 – Income tax: what is the purpose of sections 279E and 289A of the Income Tax Assessment Act 1936 (ITAA 1936)?*

Investment charges that are deducted by the PST or life insurance company from gross contributions transferred from the SMSF result in a reduced amount of contributions for investment by the PST or the life insurance company. In this case, the charges are of a capital nature as they reduce the amount of the investment, and are therefore not deductible.

The SMSF cannot deduct amounts of expenses for fees or charges incurred for 'complying superannuation/FHSA life insurance policies', exempt life insurance policies or units in a PST that are segregated current pension assets of the fund, other than amounts claimed at **F Death or disability premiums**.

J Management and administration expenses

Show at **J** the amount of expenses of a revenue nature incurred in the management and administration of the SMSF, unless the expense is more appropriately shown at another label. Do not include the expense of the approved auditor at **J**. This expense should be shown at **H Approved auditor fee**.

U Forestry managed investment scheme deduction

The SMSF may be able to claim a deduction at this item for payments made to an FMIS if:

- the SMSF currently holds a forestry interest in an FMIS, or held a forestry interest in an FMIS during 2009–10, and
- the SMSF paid an amount to a forestry manager of an FMIS under a formal agreement.

The SMSF can claim a deduction at this item only if the forestry manager has advised the SMSF that the FMIS satisfies the 70% direct forestry expenditure rule in Division 394 of the ITAA 1997.

The SMSF cannot claim a deduction if it disposed of the forestry interest in an FMIS within four years after the end of the income year in which a payment was first made. Draft Legislation has been introduced to Parliament that means where the disposal occurs because of circumstances outside your control, the deduction will be allowed, provided the you could not have reasonably foreseen the disposal happening when you acquired the interest. Disposals that would generally be outside your control include:

- compulsory acquisition
- insolvency of yourself or the scheme manager
- cancellation of the interest due to fire, flood or drought.

At the date of printing this amendment had not become law, and the existing rule continues to apply. Before completing your return and claiming a deduction affected by this amendment, please check our website at www.ato.gov.au for up to date information.

If the SMSF is a **subsequent participant** it cannot claim a deduction for the amount paid for acquiring the interest. The SMSF can only claim a deduction for ongoing payments made as a subsequent participant of the FMIS.

The SMSF is an **initial participant** in an FMIS if:

- the SMSF obtained its forestry interest in the FMIS from the forestry manager of the scheme, and
- the SMSF's payment to obtain the forestry interest in the FMIS results in the establishment of trees.

The SMSF is a **subsequent participant** if it is not an initial participant.

A **forestry manager** of an FMIS is the entity that manages, arranges or promotes the FMIS.

A **forestry interest** in an FMIS is a right to the benefits produced by the scheme (whether the right is actual, prospective or contingent and whether it is enforceable or not).

Excluded payments

The SMSF cannot claim a deduction at this item for any of the following payments:

- payments for borrowing money
- interest and payments in the nature of interest (such as a premium on repayment or redemption of a security, or a discount of a bill or bond)
- payments of stamp duty
- payments of goods and services tax (GST)
- payments that relate to transportation and handling of felled trees after the earliest of the following
 - sale of the trees
 - arrival of the trees at the mill door
 - arrival of the trees at the port
 - arrival of the trees at the place of processing (other than where processing happens in-field)
- payments that relate to processing
- payments that relate to stockpiling (other than in-field stockpiling).

Show at **U** the total amount of deductible payments made to an FMIS.

L Other deductions

Show at **L** the total amount of all other deductions that do not fall into any of the other categories in **section C: Deductions**.

Deductions that are specifically allowable for your superannuation activities include amounts in the following nine categories.

Exclusion of personal contributions

A complying SMSF can deduct an amount of personal contributions to the extent the contributor's deduction for personal contributions has been reduced by a notice under section 290-180 of the ITAA 1997.

Generally, the deduction is allowed in the year in which the notice is received. However, if the notice is received after the SMSF has lodged its annual return and the SMSF is unable to utilise the deduction fully in the year in which the notice is received (for example, if that year's taxable income is exceeded by the deduction, or the SMSF would lose the benefit of franking credits), the SMSF can amend the assessment of the earlier year in which the contribution was made (subsection 295-195(3) of the ITAA 1997).

Forex losses

Show at **L** any deductible forex losses made by the SMSF that have not been shown at any other category. See **Foreign exchange gains and losses** on page 58 for more information on the forex measures.

TOFA losses from financial arrangements (other than interest and foreign losses)

If the TOFA rules apply to the SMSF's financial arrangements include at **L** any deductible losses and any deductible TOFA transitional balancing adjustment relating to existing financial arrangements.

Include here any TOFA losses (or part thereof) that you have not already included at:

- **Section C: Deductions – A Interest expenses within Australia**
- **Section C: Deductions – B Interest expenses overseas**, or
- **Section B: Income – D Net foreign income**.

! NOTE

If what you show at **L** includes an amount brought to account under the TOFA rules also complete **Section I: Taxation of financial arrangements**.

For more information, see *Guide to the taxation of financial arrangements (TOFA) rules in Taxation of financial arrangements (TOFA)* available on our website www.ato.gov.au/tofa

Contribution that is a fringe benefit

An SMSF can claim a deduction for an amount included in its assessable income that is a fringe benefit because it will be taxed as a fringe benefit in the hands of the contributor. The amount can be deducted in the income year in which the contribution is included in assessable income.

A contribution made for an employee to a complying SMSF will not be a fringe benefit.

Return of contributions by non-complying SMSFs

An SMSF that has been non-complying since 1 July 1988, or since it was established if later, can deduct an amount which it returns to the entity which had paid the amount to it, provided the contributing entity includes the amount in its assessable income under section 290-100 of the ITAA 1997. The amount can be deducted in the income year in which it is included in the entity's assessable income.

Deductible balancing adjustment amounts

If the SMSF ceases to hold or to use a depreciating asset, it will need to calculate a balancing adjustment amount to include in its assessable income or to claim as a deduction. See the *Guide to depreciating assets 2010* for more information.

Environmental protection activities (EPA) expenditure

A deduction is allowed (under section 40-755 of the ITAA 1997) for certain capital expenditure incurred for the sole or dominant purpose of:

- preventing, combating or rectifying pollution of the environment, or
- treating, cleaning up, removing or storing waste.

Expenditure that forms part of the cost of a depreciating asset is not deductible as expenditure on EPA if a deduction is available for the decline in value of the asset.

See the *Guide to depreciating assets 2010* for more information.

Listed investment company (LIC) capital gain amount

An LIC can pay a dividend which includes an LIC capital gain amount to a complying SMSF. The complying SMSF can claim a deduction of one third of that LIC capital gain amount. The LIC's dividend statement shows the LIC capital gain amount.

A non-complying SMSF is not entitled to claim a deduction for the LIC capital gain amount included in any dividends paid to it by an LIC.

Deduction relating to foreign non-assessable non-exempt income

Certain expenses relating to foreign non-assessable non-exempt income (that is, tax-free income) are allowable deductions against the SMSF's assessable income if the expenses incurred are a cost in relation to certain

debt interests (see section 25-90 of the ITAA 1997, or subsection 230-15(3) of the ITAA 1997 for a debt interest that is a financial arrangement covered by the TOFA rules). For SMSFs, the relevant non-assessable non-exempt income is foreign income exempted from income tax under sections 23AI and 23AK of the ITAA 1936.

These deductions should not be applied against **D1 Gross foreign income** for the purpose of calculating **D Net foreign income** or a foreign loss.

Print in the **Code** box the letter from **table 6** that best describes the greatest amount shown at **L Other deductions**.

NOTE

You cannot claim a deduction against the assessable income of the SMSF for benefits paid.

There is no provision for SMSFs to transfer or pass on deductions to other entities (for example, life insurance companies or PSTs).

TABLE 6: Other deductions codes

Code letter	Deductions in respect of:
C	Exclusion of personal contributions
F	Forex losses
T	TOFA losses or deductible TOFA transitional balancing adjustment
B	Contribution that is a fringe benefit
R	Return of contributions by non-complying SMSF
A	Deductible balancing adjustment
E	Environmental protection activities (EPA) expenditure
I	LIC capital gain amount
N	Deduction relating to foreign non-assessable non-exempt income
O	Other deductions not listed above

NOTE

You cannot claim a deduction for income tax paid by the SMSF.

M Tax losses deducted

Show at **M** the tax losses the SMSF is claiming. The SMSF can claim tax losses only to the extent that its total assessable income exceeds total deductions (other than tax losses).

The SMSF's tax losses brought forward must first be deducted from the amount of the SMSF's **net exempt income** (section 36-15 of the ITAA 1997). The SMSF's net exempt income is the SMSF's gross exempt income less the expenses incurred in deriving that income (including foreign tax paid on that income). **Example 4c** on page 21 illustrates the effect of exempt current pension income on tax losses.

In calculating the tax losses the SMSF claims, only take into account the foreign loss component of a tax loss to the extent that it is deductible in 2009–10. From the 2008–09 income year foreign losses were no longer quarantined from domestic assessable income. Subject to certain restrictions, foreign losses carried forward from earlier income years to the 2008–09 income year were added to other tax losses incurred in those years. However, restrictions apply that limit the amount of the foreign loss component of any tax loss that can be deducted in the 2009–10 income year.

See Subdivision 770-A – Transitional foreign losses (common rules) of the *Income Tax (Transitional Provisions) Act 1997*.

For more information about the treatment of foreign losses carried forward from earlier years, see the *Losses schedule instructions 2010*.

Tax losses are not the same as 'capital losses' which may result from a capital gains tax event. Do not show net capital losses at **M**. See **V Net capital losses carried forward to later income years** at item 13.

NOTE

- The trust loss legislation in Schedule 2F to the ITAA 1936 affects the deductibility of prior year losses by all trusts which are not excepted trusts as defined in section 272-100 of Schedule 2F to the ITAA 1936, such as non-complying superannuation funds.
- The SMSF may need to complete and attach a *Losses schedule 2010* to the annual return. For more information, see **Schedules** on pages 55–6 and the *Losses schedule instructions 2010*.

N Total deductions

Show at **N** the total of all allowable deductions from **K** to **M**. This amount takes into account concessions and adjustments allowable for income tax purposes.

O Taxable income or loss

Show at **O** the taxable income or loss by subtracting **N Total deductions** from **V Total assessable income** item 10. If the amount calculated is an overall loss for the year, print **L** in the box at the right of the amount.

SECTION D: INCOME TAX CALCULATION STATEMENT

This section works out the tax liability where there is taxable income.

We use the information which you provide in this section to calculate the 2010–11 Commissioner's instalment rate under the PAYG income instalment system. You must complete all items as accurately as possible to ensure that the rate calculated results in a reliable estimate of tax payable for the 2010–11 income year.

12 INCOME TAX CALCULATION STATEMENT

A Taxable income

Show at **A** the amount of taxable income of \$1 or more.

This amount is the amount at **O Taxable income or loss** when the **Loss** code box is blank. Write **0** if the SMSF has no taxable income or has a tax loss.

B Gross tax

Show at **B** the amount of tax payable before applying any rebates, tax offsets and credits.

The compliance status of the SMSF affects the tax rates that apply. If the SMSF is a regulated SMSF and you have not received a notice of non-compliance, then the SMSF is a complying fund and the standard tax rate is 15%. If the SMSF is a non-complying fund the standard tax rate is 45%.

However, different tax rates apply to the following types of income and you must ensure that you apply the correct tax rate to amounts shown at any of:

- **R3 No-TFN quoted contributions** item 10
- **U Net non-arm's length income** item 10
- **T Assessable income due to changed tax status of fund** item 10.

See **Appendix 3: Tax rates** for more information on the applicable tax rates. There are special provisions for no-TFN quoted contributions; see **R3 No-TFN quoted contributions** in these instructions for further examples.

If you show no income at **R3**, **U** and **T** item 10, then the amount you show at **B** is the amount at **A** multiplied by the applicable tax rate. Otherwise use **examples 4** and **5** below to help you calculate the gross tax amount.

EXAMPLE 5: SMSF showing income at R3 No-TFN quoted contributions item 10

Example 5a: Complying SMSF

The Natalie Superannuation Fund is a complying SMSF, however it has income which must be taxed at more than 15%.

The SMSF received \$10,000 in assessable contributions (shown at **R** item 10) all of which are employer contributions. Of that amount, \$8,000 is shown at **R1** item 10 for members who quoted their TFN, but \$2,000 is shown at **R3** item 10 for members who have not quoted their TFN and whose account was opened either:

- on or after 1 July 2007, or
- prior to 1 July 2007 but the assessable contributions made for the member in the year exceeded \$1,000.

The SMSF has also incurred \$1,000 in administration expenses (**J** item 11). The SMSF's taxable income is \$9,000.

	Amount	Rate	Tax
No-TFN quoted contributions	\$2,000	31.5%	\$630
Assessable income			
Employer contributions	\$10,000		
Total assessable income	\$10,000		
<i>less</i>			
Deductions			
Administration expenses	\$1,000		
Taxable income	\$9,000	15%	\$1,350
Gross tax			\$1,980

See **Appendix 3: Tax rates** for more information on the applicable tax rates.

Example 5b: Non-complying SMSF

Most of the income of non-complying SMSFs is taxed at 45%, but a tax rate of 46.5% applies to no-TFN quoted contributions.

If the Natalie Superannuation Fund were a non-complying fund, you would calculate its gross tax as follows:

	Amount	Rate	Tax
No-TFN quoted contributions	\$2,000	1.5%	\$30
Assessable income			
Employer contributions	\$10,000		
Total assessable income	\$10,000		
<i>less</i>			
Deductions			
Administration expenses	\$1,000		
Taxable income	\$9,000	45%	\$4,050
Gross tax			\$4,080

See **Appendix 3: Tax rates** for more information on the applicable tax rates.

EXAMPLE 6: SMSF showing income at U Net non-arm's length income item 10

Example 6a: Complying SMSF

The Elizabeth Superannuation Fund is a complying SMSF, however, it has income which must be taxed at more than 15%.

The SMSF received \$10,000 of assessable contributions (shown at **R** item **10**) and \$4,000 of private company dividends. All private company dividends are generally treated as non-arm's length income unless that income is consistent with an **arm's length dealing**. (See **U1 Net non-arm's length private company dividends** for a definition of arm's length dealing.) Of the \$4,000 private company dividends, \$2,000 is treated as non-arm's length income. The net non-arm's length income is taxed at 45%.

Non-arm's length income expenses are \$100. These expenses can be deducted only from the non-arm's length income. All non-arm's length income is shown on the annual return as a net amount of income.

The amount of taxable income other than the non-arm's length income is referred to as the **low tax component**.

The SMSF has also incurred \$2,500 in administration expenses (shown at **J** item **11**) which are not considered to be attributable to the earning of the non-arm's length income.

The SMSF's taxable income is \$11,400.

	Amount	Rate	Tax
Assessable income			
Employer contributions	\$10,000		
<i>plus</i>			
Private company dividends (arm's length dealing)	\$2,000		
<i>plus</i>			
Net private company dividends (non-arm's length income)	\$1,900		
Total assessable income	\$13,900		
<i>less</i>			
Deductions			
Administration expenses	\$2,500		
Taxable income	\$11,400		
Components of taxable income			
Non-arm's length component	\$1,900	45%	\$855
Low tax component (that is, other taxable income)	\$9,500	15%	\$1,425
Gross tax			\$2,280

Example 6b: Non-complying superannuation SMSF

The income of non-complying SMSFs is taxed at 45% (except for a tax rate of 46.5% which applies to no-TFN quoted contributions).

If the Elizabeth Superannuation Fund were a non-complying SMSF, all of its income would be taxed at the same rate because it does not have no-TFN quoted contributions. You would calculate its gross tax as follows:

	Amount	Rate	Tax
Assessable income			
Employer contributions	\$10,000		
<i>plus</i>			
Net private company dividends (including those treated as non-arm's length income)	\$3,900		
Total assessable income	\$13,900		
<i>less</i>			
Deductions			
Administration expenses	\$2,500		
Taxable income	\$11,400	45%	\$5,130
Gross tax			\$5,130

C1 Credit: foreign income tax offset

Show at **C1** the self-determined amount that is the SMSF's foreign income tax offset. The SMSF may be able to claim a foreign income tax offset where it has paid foreign income tax on an amount included in its assessable income. The SMSF's foreign income tax offset cannot exceed the lesser of:

- the foreign income tax paid (or taken to have been paid), and
- its foreign income tax offset limit (the greater of \$1,000 and the amount calculated under paragraph 770-75(2)(b) of the ITAA 1997).

For the purpose of calculating your foreign income tax offset, transitional rules determine the amount of pre-commencement excess foreign income tax that can be used. Pre-commencement excess foreign income tax consists of certain excess foreign tax credits from the five years prior to commencement of the new rules.

To calculate the foreign income tax offset, see the *Guide to foreign income tax offset rules* (NAT 72923) available on our website.

If the SMSF received franked distributions directly or indirectly from a New Zealand franking company, see **Trans-Tasman imputation** on page 59.

C2 Credit: rebates and tax offsets

Show at **C2** the total of rebates and tax offsets available. Do not show the amounts giving rise to the tax rebate and tax offset. If the SMSF is complying, do not include franking credits that relate to dividends (including non-share dividends) received nor assessable dividends from a New Zealand franking company. Show these at **F4 Credit: refundable franking credits**.

If the SMSF is claiming a no-TFN tax offset in respect of tax paid on no-TFN quoted contributions income in any of the most recent three income years, do not claim the tax offset here. Claim the tax offset at **F5 Credit: no-TFN tax offset**.

If the SMSF received a distribution of business income from a trust which was a small business entity with an aggregated turnover of less than \$75,000, the SMSF may be eligible for the entrepreneurs' tax offset. You will need to complete a schedule of additional information. On a separate piece of paper:

- print SCHEDULE OF ADDITIONAL INFORMATION – ITEM C2
- print the SMSF's name, address and tax file number
- for each trust for which the SMSF is eligible for an entrepreneurs tax offset
 - print the name of the trust
 - print 'K =' and write the amount of the trust's aggregated turnover
 - print 'N =' and write the amount of the SMSF's share of the net small business income of the trust (do not reduce the SMSF's share by any deductions it is entitled to claim for income tax purposes)
- sign and attach the schedule to page 3 of the annual return.

C Rebates and offsets

Add the amounts at **C1** and **C2** and show the total at **C**.

D Sub total

Subtract the amount at **C** from the amount at **B**. If the result is greater than zero, show the result at **D**. If the result is less than or equal to zero, show zero at **D**.

The amount at **D** cannot be less than zero, that is, it cannot be a negative amount. This is because foreign income tax offsets and rebates and tax offsets shown at **C** cannot exceed the gross tax amount shown at **B**. See **example 9a**.

Any unused rebates and tax offsets shown at **C** will not be recorded by us to be applied in future years. Where it is possible to carry forward a rebate or tax offset the SMSF is required to keep its own records if it is carrying it forward to a later date.

E Section 102AAM interest charge

Show at **E** the amount of interest calculated under section 102AAM for a distribution received from a non-resident trust. Section 102AAM of the ITAA 1936 imposes an interest charge on certain distributions from non-resident trusts. For more information, see the *Foreign income return form guide*, available on our website.

F1 Credit: interest on early payments

Show at **F1** only the calculated interest amount of 50 cents or more for early payments. Do not show payment amounts.

Interest may be payable where an actual payment is made on account of certain amounts more than 14 days before the due date of payment. Amounts which may attract early payment interest include payments of:

- income tax
- shortfall interest charge, and
- interest payable under section 102AAM of the ITAA 1936.

Amounts which you do not pay directly to us, but which are reduced by the crediting or applying of an amount, do not attract early payment interest. These amounts include:

- credit for instalments payable under the PAYG instalment regime
- credit for amounts withheld from withholding payments under the PAYG withholding regime
- an overpayment of other income tax liabilities
- a running balance account (RBA) surplus, and
- any other credit entitlement arising under a tax law.

Early payment interest is also not payable on:

- any component of the payment that exceeds the amount due, and
- an amount for any period during which that amount also attracts interest on overpayment.

Early payment interest is calculated from the date the early payment is made to the date the amount becomes due and payable. However, where you pay an amount early on account of a tax liability, and we refund it before the due date of the liability, interest will not accrue for the period after the date on which we refund the amount.

Date of payment is either:

- the date shown on the receipt
- the date payment is mailed to us plus three business days, or
- the date shown on the taxpayer's bank statement where payment is made through direct debit, that is, electronic funds transfer (EFT).

TABLE 7: Interest on early payments

The rates of interest on early payments for the 2009–10 income year are:

Quarter	Annual interest rate
Jul–Sep 2009	3.13%
Oct–Dec 2009	3.30%
Jan–Mar 2010	3.95%
Apr–Jun 2010	4.16%

If the early payment extends over two or more quarters, calculate the interest for the number of days in each quarter.

For 2009–10, interest is calculated as follows:

$$\text{Interest} = \frac{\text{number of days}}{365} \times \text{amount of payment for that quarter} \times \text{interest rate (for that quarter)}$$

Keep a record of the amount of early payment interest claimed. **This interest is assessable income** in the income year in which it is paid to the SMSF or credited against another SMSF liability.

F2 Credit: foreign resident withholding

Show at **F2** the total amount of tax withheld from payments subject to foreign resident withholding. This includes any distributed share of foreign resident withholding credits distributed to the SMSF from a partnership or trust.

Where a credit is claimed at **F2** for tax withheld under foreign resident withholding, the corresponding gross payment must be shown at item **10**, at **I Gross distribution from partnerships** or **M Gross trust distributions** or **S Other income** (gross payments subject to foreign resident withholding).

F3 Credit: ABN/ TFN not quoted (non-individual)

Show at **F3**:

- the total tax withheld from payments subject to withholding where the SMSF's ABN or TFN was not quoted (this amount equals the sum for the amounts shown in the tax withheld boxes on the *Non-individual PAYG payment summary schedule 2010* – see **Schedules** on pages 55–6), and
- any amounts withheld from investments where the SMSF's TFN has not been quoted to the financial institution.

If a credit is shown at **F3** for tax withheld where an ABN or TFN was not quoted, the corresponding gross payment must be declared at **H Gross payments where ABN not quoted** item **10**.

Do not include at **F3** any **contributions** that have been received by the SMSF where no TFN has been quoted; these are reported at **R3 No-TFN quoted contributions** item **10**.

F4 Credit: refundable franking credits

Subject to the SMSF satisfying the holding period rule and related payment rule, complying SMSFs are entitled to claim a refund of excess franking credits in respect of dividends received (including non-share dividends and assessable dividends from a New Zealand franking company).

Show at **F4** the amount of franking credits attached to dividends received, including non-share dividends and assessable dividends from a New Zealand franking company. Make sure you have included the amount of the franking credits in the assessable income you showed at **I Gross distribution from partnerships**, **L Dividend franking credit**, **M Gross trust distributions** and **E Australian franking credits from a New Zealand company** item **10**.

If the SMSF is a non-complying fund, the SMSF is entitled to a tax offset of franking credits attached to dividends received (including non-share dividends and assessable dividends from a New Zealand franking company) against the income tax liability of the SMSF. Show the amount of the franking credits at **C2 Credit: rebates and tax offsets**. Make sure you have included the amount of the franking credits in the assessable income you showed at **L Dividend franking credit** and **E Australian franking credits from a New Zealand company**.

Do not show at **F4** credits that you included at **C1 Credit: foreign income tax offsets** or payments for the SMSF's 2009–10 tax liability. Show any amounts already paid for the SMSF's 2009–10 tax liability at **G PAYG instalments raised**.

NOTE

A dividend from a New Zealand franking company might also carry New Zealand imputation credits. An Australian resident cannot claim New Zealand imputation credits.

F5 Credit: no-TFN tax offset

Show at **F5** the no-TFN tax offset claimed.

An SMSF is entitled to a refundable no-TFN tax offset for the current income year if:

- tax was payable by the SMSF on an amount of no-TFN quoted contributions in one of the most recent three income years ending before the current year, and
- the no-TFN quoted contributions were made to the SMSF to provide superannuation benefits for an individual who has quoted (for superannuation purposes) their TFN to the SMSF for the first time in 2009–10.

The no-TFN tax offset is the total amount of the additional tax paid or payable on no-TFN quoted contributions where the above conditions have been met.

EXAMPLE 7: SMSF showing a credit at F5 Credit: no-TFN tax offset

The Margarita Super Fund is a complying SMSF. The SMSF reported \$10,000 of no-TFN quoted contributions in its 2008–09 annual return and paid additional tax of \$3,150 on those no-TFN quoted contributions.

The no-TFN quoted contributions income included \$2,000 of assessable contributions made by Julie, as she had not provided her TFN to the SMSF by 30 June 2009. The SMSF paid tax of \$630 in respect of the no-TFN quoted contributions attributed to Julie. Julie provided her TFN to the SMSF on 30 September 2009.

In its 2009–10 annual return, the SMSF is entitled to claim a no-TFN tax offset for the \$630 tax paid on the \$2,000 no-TFN quoted contributions reported in the SMSF's 2008–09 annual return. The \$630 is included at **F5**.

F6 Credit: interest on no-TFN tax offset

Show at **F6** the total calculated interest amount of 50 cents or more for interest payable on the no-TFN tax offset claimed in the SMSF's annual return. Do not write the amount of no-TFN tax offset at this label. This amount is shown at **F5 Credit: no-TFN tax offset**.

Interest on the no-TFN tax offset is only payable if **all** of the following conditions are met:

- the member of the SMSF provided their TFN to their employer before the end of an income year (the past year)
- the employer was required by section 299C of the SISA to inform the SMSF of the individual's TFN by the end of the past year, but did not provide the TFN to the SMSF

- as a result, the contributions made in respect of that member were no-TFN quoted contributions income of the SMSF in that past year
- an amount of additional tax (which is the interest-bearing tax) that was payable on that no-TFN quoted contributions income counts towards the no-TFN tax offset under subdivision 295-J of the ITAA 1997 for an income year (the current year) for the SMSF
- the no-TFN tax offset under that subdivision is applied when assessing the SMSF for the current year.

The interest is payable on each amount of interest-bearing tax.

Interest on tax that counts toward the no-TFN tax offset is calculated for the period between the later of:

- the day on which the amount of interest-bearing tax was paid, or
- the day by which the amount of interest-bearing tax was required to be paid

and

- the date on which the SMSF lodges its annual return for the current year (which is deemed to be the date on which the current year assessment is made).

The date of payment of the interest-bearing tax is either:

- the date shown on the receipt, or
- the date payment is mailed to us plus three business days.

If the relevant interest period extends over two or more quarters, calculate the interest for the number of days in each quarter. **Example 8** provides further information on how to calculate the amount of interest in such circumstances.

The rate of interest payable on the interest-bearing tax is the base interest rate determined under section 8AAD of the TAA 1953. **Table 7 at F1 Credit: interest on early payments** provides the applicable interest rates up to 30 June 2010. For information on interest rates after that date and on calculating the interest to be applied on tax that counts towards the no-TFN tax offset, and for a calculator to help you work out the amount of interest, go to our website at www.ato.gov.au/superfunds

Keep a record of the amount of interest claimed on tax that counts towards the no-TFN tax offset. This interest is assessable income of the SMSF in the income year in which it is claimed and should be shown at **C Gross Interest** item **10**.

EXAMPLE 8: SMSF showing a credit at F6 Credit: interest on no-TFN tax offset

The Caron Superannuation Fund, a complying SMSF, included \$10,000 no-TFN quoted contributions as income in its 2009 annual return. An additional 31.5% tax amounting to \$3,150 was paid on these contributions. The SMSF's due date for lodgment of its 2009 annual return and payment of tax was 31 March 2010. The SMSF was slightly overdue lodging its return and paying its tax. It paid the full amount of tax owing, including the \$3,150 tax on the no-TFN quoted contributions income, on 7 April 2010.

During 2008–09, Ian, a member of the SMSF, provided his TFN to the SMSF after he noticed that his account had been debited with \$1,000 which was the amount of tax paid on his no-TFN quoted contributions. Ian made a statement to the SMSF saying he gave his TFN to his employer Adrian Pty Ltd when he completed a TFN declaration on 10 September 2008.

The SMSF prepares its 2010 annual return in March 2011 and anticipates that the return will be lodged on 31 March 2010.

At **F5** on the SMSF's 2010 annual return, Caron Superannuation Fund claims as a no-TFN tax offset the \$1,000 tax that was attributed to Ian's no-TFN quoted contributions. (The contributions attributed to Ian formed part of the \$10,000 reported in the SMSF's 2009 annual return and on which it paid \$3,150 in tax).

Interest on the \$1,000 tax that was paid and is now claimed back as a no-TFN tax offset is calculated for the period from 7 April 2010 (the day on which the SMSF paid the tax) until 31 March 2011 (the day on which the SMSF lodges its 2010 annual return and the day on which the assessment is deemed to be made).

Quarter	Number of days and interest rate calculation	Total [^]
Apr–Jun 2010	$\$1,000 \times \frac{85}{365} \times \frac{4.160}{100}$	\$9.687
Jul–Sep 2010	$\$1,000 \times \frac{92}{365} \times \frac{4.160^*}{100}$	\$10.485
Oct–Dec 2010	$\$1,000 \times \frac{92}{365} \times \frac{4.160^*}{100}$	\$10.485
Jan–Mar 2011	$\$1,000 \times \frac{90}{365} \times \frac{4.160^*}{100}$	\$10.257
Total interest – rounded to the nearest cent	$\$9.687 + \$10.485 + \$10.485 + \$10.257 = \$40.914$	\$40.91

[^] The total for each quarter is rounded to three decimal places.

* The base interest rate applied for each of the quarters above was not available when going to print. Consequently, the rate for the period Apr–Jun 2010, 4.160%, is used for the purpose of this example. The SMSF is entitled to claim \$40.91 interest at **F6**.

F7 Credit: refundable National rental affordability scheme tax offset

Show at **F7** the amount of national rental affordability scheme tax offset entitlement.

The national rental affordability scheme (NRAS) is designed to encourage large-scale investment in affordable housing. The NRAS offers incentives to providers of new dwellings on the condition that they are rented to low and moderate income households at 20% below market rates.

The offset is only available where the Housing Secretary from the Department of Families, Housing Community Services and Indigenous Affairs has issued a certificate under the NRAS. In order to claim the offset in the 2009–10 income year, the NRAS certificate must relate to the NRAS year comprising the period 1 May 2009 to 30 April 2010.

For more information, see the publication *National rental affordability scheme - refundable tax offset and other taxation issues* on our website.

F Eligible credits

Show at **F** the total of the amounts at:

- **F1 Credit: interest on early payments**
- **F2 Credit: foreign resident withholding**
- **F3 Credit: ABN/TFN not quoted (non-individual)**
- **F4 Credit: refundable franking credits**
- **F5 Credit: no-TFN tax offset**
- **F6 Credit: interest on no-TFN tax offset**
- **F7 Credit: refundable National rental affordability scheme tax offset.**

G PAYG instalments raised

Show at **G** the total of the SMSF's PAYG instalments for 2009–10, whether or not the instalments have actually been paid.

Include the following amounts in the total instalment amount:

- If the SMSF did not vary but used the instalment amounts worked out by us, show the amounts pre-printed at **T7** on the SMSF's quarterly activity statements or at **T5** on the annual instalment activity statement.
- If the SMSF did not use the instalment amounts worked out by us, include the amounts which the SMSF reported at **5A** on the SMSF's activity statements, reduced by any credits the SMSF claimed at **5B**.

To ensure the SMSF receives the correct amount of credit for its PAYG instalments, make sure all of its activity statements are finalised before lodging the annual return. If the SMSF is required to lodge its activity statements, it should do so even if it can't pay on time, or had nothing to pay.

The SMSF is entitled to a credit for its PAYG instalments even if it has not actually paid a particular instalment. However, the SMSF will be liable for the general interest charge on any outstanding instalment for the period from the due date for the instalment until the date it is fully paid.

H Supervisory levy

H already shows an amount that is the SMSF's annual supervisory levy that must be paid to us. Do not change the amount printed on the annual return.

The supervisory levy for the 2009–10 income year is **\$150**. This levy is included in the SMSF's tax assessment calculation, and is to be paid with its income tax liability (if any) as advised in the letter issued to the trustee, which includes due dates for return lodgment and payment. If you wish to make a payment, refer to label **I** below. The supervisory levy is payable even if the SMSF has no tax liability for the year.

I Total amount due or refundable

Show at **I** the balance of tax payable or refundable, as indicated on the annual return.

The amount at **I** does not take into account any interim or voluntary payments the SMSF has made against its income tax liability for the 2009–10 income year. If the SMSF has made such payments, take these into account in calculating the final payment but do not show the interim or voluntary payment amounts on this annual return.

To check due dates of lodgment and payment refer to the annual return lodgment and payment due dates letter.

To make a payment use the payment slip that was sent with the reminder letter for annual return lodgment and payment due dates, or see page 70 for your other payment options. Do not attach any payments to the annual return if lodging by paper.

Record keeping

An SMSF must keep all documentation issued by financial institutions detailing payments of income and any TFN amounts deducted from those payments.

The SMSF must also maintain details of any TFN amounts deducted from an income payment made to the SMSF and subsequently refunded by their financial institution. The SMSF must keep a record of the following details for the refunds:

- amount of refund received
- date of refund, and
- investment reference number, for example, the bank account number of the investment relating to the refund.

SECTION E: LOSSES

This section deals with all losses for the 2009–10 income year. You do not show cents for any amount you write at this section on your annual return.

! NOTE

Complete a *Losses schedule 2010* and attach it to the annual return if the SMSF has:

- total tax losses and net capital losses carried forward to the 2010–11 income year greater than \$100,000
- convertible foreign losses,
- an interest in a controlled foreign company (CFC) that has convertible CFC losses
- an interest in a CFC that has deducted or carried forward a loss to later income years greater than \$100,000.

13 LOSSES

U Tax losses carried forward to later income years

Show at **U** the total tax losses incurred by the SMSF that are to be carried forward to the 2010–11 income year under section 36-15 of the ITAA 1997. The amount at **U** is the sum of:

- the SMSF's **tax loss for 2009–10** (this must take into account any net exempt income), and
- the SMSF's **prior year tax losses** (including the foreign loss component of those tax losses).

Include prior year tax losses only to the extent that they have not previously been deducted or reduced by net exempt income in the 2009–10 income year.

Use the SMSF's 2009–10 net exempt income, if any, to reduce the amount of any 2009–10 tax loss first and then any prior year tax losses. If the SMSF's 2009–10 net exempt income is greater than its 2009–10 losses, you will reduce prior year losses, and the SMSF's 2009–10 year losses will be nil.

Do not include net capital losses to be carried forward to later income years at **U** – show these at **V Net capital losses carried forward to later income years** and in the CGT schedule, if a schedule is required.

If the SMSF must lodge a *Losses schedule 2010*, the amount shown at **U Tax losses carried forward to later income years** item **1** in part A of that schedule must be the same as the amount shown at **U** on the annual return.

V Net capital losses carried forward to later income years

Write at **V** the total of any unapplied net capital losses from collectables and unapplied net capital losses from all other assets and CGT events. If this item applies to the SMSF, you must refer to the *Guide to capital gains tax 2010* to complete this item. It also explains the special CGT rules that apply to foreign residents and trustees of foreign trusts.

This information is calculated or transferred from:

- **V** in part I of the CGT summary worksheet, or
- **H** and **I** in part I of the CGT schedule, if one is required.

If the SMSF must lodge a *Losses schedule 2010*, the amount shown at **V Net capital losses carried forward to later income years** item **2** in part A of that schedule must be the same as the amount shown at **V** on the annual return.

SECTION F: MEMBER INFORMATION

NOTE

Report only a single member information statement (section **F** or section **G**) for each member. If a member has multiple accounts, combine them so that each member has only one statement in either section **F** or section **G**. Reporting multiple statements for one member will cause errors. For example, their co-contributions may be overpaid or their contributions may be counted twice so they appear to exceed the contributions caps.

WHO DO YOU REPORT FOR?

In sections **F** and **G** of the annual return you must report all current members at 30 June 2010 and former members who were paid a benefit (that is, a lump sum or income stream, but not a rollover) during the income year. Include members for whom no contributions were received. You must provide this information so that we can:

- determine and pay members' entitlements to super co contributions for eligible members
- make assessments of excess contributions tax when members exceed their contributions caps, and
- check for superannuation guarantee compliance.

AMOUNTS TO BE REPORTED

Make sure you classify contributions correctly otherwise they won't be counted against the correct contributions cap, or co-contributions eligibility won't be determined correctly.

The amounts shown at **A** to **M** in sections **F** and **G** should only include contributions actually received up to 30 June 2010 and not any amounts credited to accounts but not yet received. The amounts received after 30 June 2010 must be reported in the following year when the contribution is actually received.

A member benefit transferred to another fund during the terminal medical condition period is treated as a personal contribution rather than a rollover by the receiving fund for tax purposes. For further information refer to *Accessing your super if you have a terminal medical condition* at www.ato.gov.au

If a member stops contributing and receives their benefits part way through an income year, you need to report the contributions received in the income year.

If the SMSF was wound up during 2009-2010 and the member did not roll over all their entitlements to another fund, you must report any contributions received for them during 2009-2010 before the date of winding up.

Accurately report contributions received for every member, ensuring you:

- include contributions at **A** to **N** that were made to another super fund in the income year but rolled over into the SMSF before the end of the income year. The *Rollover benefits statement* that other funds give you with each rollover will help you do this. Only include amounts contributed during the income year and reported at item **15** of the *Rollover benefits statement*
- exclude contributions from **A** to **N** that you received in the income year but rolled over to another fund before the end of that income year. You report these to that other fund on a *Rollover benefits statement* at item **15** and they report those contributions to us instead.

The amount of contributions to be reported at **A** to **M** may be more than the rollover payment actually received from the other super fund, because the rollover amount received is net of tax and fees deducted from the gross amount that was actually contributed to that fund. The amounts deducted will be reported in the *Rollover benefits statement* given to you by the other super fund.

Use **O** to **R** in sections **F** and **G** to make sure all other transactions relating to the individual member during the income year are accounted for so that each member's closing balance at 30 June 2010 shown at **S** is accurate. Each closing balance should reflect the member's actual interest in the fund so that you can reconcile this against assets and other liabilities of the fund in section **H**.

WHICH FORMER MEMBERS ARE NOT REPORTED?

The only members in the fund during the income year that you do not report for are those that had an opening balance at the beginning of the year that was exhausted during the year without payment of any benefits to the member, for example by:

- rolling over all contributions to another fund
- transfers or allotments to other members, or
- investment related expenses and events (for example, losses applied or tax deducted).

WHICH MEMBERS ARE REPORTED AT SECTION G?

Use Section **G** to report deceased members (a date of death is only available in this section) and in any circumstances where you are required to report for more than four members (that is, reporting not covered by Section **F**).

For example, there are four members at 1 July 2009. One member leaves on 1 May 2010 and is paid all entitlements as a lump sum benefit on that date. Another member is admitted on 1 June 2010 and their contributions are received in June 2010. The SMSF has an obligation to report for all five members so includes the former member at section **G** and the four current members at 30 June 2010 at Section **F**.

Title, family and given names

Print the name of the member as previously notified to us. You may need to refer to the member's most recent notice of assessment.

Member's TFN

Write the TFN of the member. Generally, we will not accept annual returns lodged without a TFN for every member.

NOTE

Be careful to insert the member's TFN, not the fund TFN or a tax agent number (TAN) which will also be a nine (9) digit number.

Date of birth

Write the member's date of birth. This information is mandatory.

CONTRIBUTIONS

Opening account balance

Show the member's opening account balance at 1 July 2009. The opening account balance should equal the previous year's closing account balance.

A Employer contributions

Show at **A** the following:

- employer contributions made to a fund on behalf of employees including those to meet superannuation guarantee, awards, agreements or other obligations
- amounts contributed for the member under salary sacrifice arrangements they have entered into
- superannuation guarantee charge
- an 'employer contribution' transferred by us to the SMSF for the member from the superannuation holding accounts special account (SHA special account), and
- amounts shown at item **15(a)** on a *Rollover benefits statement* which the SMSF received from another superannuation provider.

Do not show at **A**:

- amounts that the member asked an employer to deduct from the member's after-tax income; these are personal contributions, show them at **B Personal contributions**
- a directed termination payment that an employer pays to a superannuation provider on behalf of an employee; show it at **H Directed termination (taxable component) payments**.

Requirements for members with a defined benefit interest

For each of your members with a defined benefit interest in the fund you must report at **A** their **notional taxed contribution**.

The notional taxed contributions for each member with a defined benefit interest in an SMSF is generally the amount of the assessable contributions which the trustee has allocated to the member's defined benefit interest during the financial year. Refer to Regulation 292-170.03 of the Income Tax Assessment Regulations 1997.

However a transitional provision applies if the member held their defined benefit interest on 12 May 2009 and certain other conditions are satisfied. Under this transitional arrangement if the member's notional taxed contributions determined with advice from an actuary exceeds the concessional contributions cap for the income year, then you must report the amount of your member's notional taxed contribution as being equal to the cap.

If the member also has an accumulation interest in the SMSF, the amount shown at **A** is the sum of the notional taxed contributions and any employer contributions made to their accumulation account. See the definition of accumulation fund and defined benefit fund on page 6.

For more information see our fact sheet titled *Defined benefits funds* (NAT 70647) available on our website.

A1 ABN of principal employer

Write at **A1** the Australian business number (ABN) of the employer who made contributions to the member's account. If more than one employer contributed to the member's account, write the ABN of the employer who contributed most in the income year.

B Personal contributions

Show here the total amount of contributions made by the member, other than contributions subject to elections to exclude them from the contributions caps (that is, the personal injury election amounts or CGT exemption amounts which you must show at **C**, **D** and **E**).

Show all personal contributions, even if:

- they are deductible to the member, or
- the member has advised the SMSF that they will claim, or have claimed, a tax deduction for the contribution.

Show at **B**:

- contributions made by an employer on behalf of the member from the member's after-tax pay
- contributions made by the member themselves whether or not they have been claimed or can be claimed as a tax deduction
- amounts reported at item **15(b)** on a *Rollover benefits statement* which the SMSF received from another superannuation provider, and
- personal contributions funded by
 - personal injury payments that are *not* shown at **E Personal injury election**, and
 - the proceeds of the sale of assets, except to the extent they are shown at **C CGT small business retirement exemption** or **D CGT small business 15-year exemption amount**.

Do not include at **B**:

- amounts contributed from a first home savers account (FHSA) to a member's SMSF account by a FHSA provider, show these at **M Any other contributions (including Super Co-contributions)**
- amounts contributed from a FHSA provider to the spouse or former spouse of a FHSA holder, show these at **F Spouse and child contributions**
- Government FHSA contributions paid by us
- amounts contributed for the member under salary sacrifice arrangements they have entered into (these are employer contributions, show them at **A** above)
- the taxable component of a directed termination payment, show it at **H**
- a rollover superannuation benefit reported at item **13** on a *Rollover benefits statement* which the SMSF received from another superannuation provider, show it at **P** or **M**
- a superannuation lump sum from a foreign superannuation fund or scheme, show it at **I, J** or **M**
- contributions made by the member's spouse, other family members or friends, show them at **F** or **G**
- capital amounts that are excluded from the contributions caps under the CGT small business retirement exemption, show them at **C**
- capital amounts that are excluded from the contributions caps by the small business 15-year exemption, show them at **D**
- amounts paid in respect of personal injury that are excluded from the contributions caps because the member provided an election to the SMSF on or before the date of the contribution, show them at **E**.

C CGT small business retirement exemption

Show at **C** the amount of personal contributions the member has made that they have elected to exclude from the contributions caps because they are entitled to the CGT small business retirement exemption.

To show an amount at **C** the SMSF must have received a completed *Capital gains tax cap election* (NAT 71161) from the member at or before the time the member made the contribution. If the member made the election after making the contribution, the exclusion will not apply, and the amount contributed must be reported at **B Personal contributions**.

Show also at **C** the small business retirement exemption amount shown at item **15(c)** on a *Rollover benefits statement* which the SMSF received from another superannuation provider.

D CGT small business 15-year exemption amount

Show at **D** the amount of personal contributions the member has made that they have elected to exclude from the contributions caps because the amounts contributed:

- qualify for the small business 15-year exemption, or
- would qualify for the small business 15-year exemption, except
 - they were pre-CGT assets

- there was no capital gain, or
- the 15-year holding period was not met because of the permanent incapacity of the person (or a controlling individual of a company or trust).

To show an amount at **D** the SMSF must have received a completed *Capital gains tax cap election* from the member at or before the time the member made the contribution. If the member made the election after making the contribution, the exclusion will not apply, and the amount contributed must be reported at **B Personal contributions**.

Show also at **D** the small business 15-year exemption amount shown at item **15(c)** on a *Rollover benefits statement* which the SMSF received from another superannuation provider.

E Personal injury election

Show at **E** all personal contributions funded by personal injury payments where the member has elected that the contributions be excluded from the non-concessional contributions cap.

The amounts you include at **E** must arise from one of the following:

- a structured settlement payment
- an order for a personal injury payment, or
- a lump sum workers compensation payment and only apply to that part of these amounts that is compensation or damages for personal injury.

The member must have made the contribution within 90 days of the later of the following dates:

- the date the member received the personal injury payment
- the date the member entered into an agreement for settlement of a personal injury, or
- the date on which an order for a personal injury payment was made.

To show an amount at **E** the SMSF must have received a completed *Contributions for personal injury* (NAT 71162) form from the member before or when the member made the contribution. If the member made the election after making the contribution, the exclusion will not apply, and the amount contributed must be reported at **B Personal contributions**.

Show also at **E** the personal injury election amount shown at item **15(d)** on a *Rollover benefits statement* which the SMSF received from another superannuation provider.

NOTE

Show at **B Personal contributions** personal injury amounts which the member did not elect to exclude from the non-concessional contributions cap.

F Spouse and child contributions

Show at **F**:

- contributions made by a member's spouse
- contributions made by family or friends on behalf of a member who is a child under 18 years old (excluding those made by the member's employer)
- amounts shown at item **15(e)** on a *Rollover benefits statement* which the SMSF received from another superannuation provider
- all contributions made by an FHSA provider when the payment is made because of a family law obligation. These are paid to the SMSF with the form *Super contributions from a first home saver account under a family law obligation* (NAT 72629).

Do not include at **F** contributions:

- made by a parent for a child who is 18 years old or older; show these at **G Other family and friend contributions**
- made by a former spouse when the couple has separated and are now living apart on a permanent basis (other than FHSA contributions from a former spouse); show these at **G Other family and friend contributions**
- made personally by a member who is under 18 years old; show these at **B Personal contributions**
- made by (or on behalf of) the members' employer; show these at **A Employer contributions**.

G Other family and friend contributions

Show at **G**:

- contributions made for the member by any of the following:
 - a spouse living separately and apart on a permanent basis from the member
 - a parent, child or other relative
 - a friend, or
 - any other third party other than an employer or a spouse who is living with the member
- amounts reported at item **15(f)** on a *Rollover benefits statement* which the SMSF received from another superannuation provider.

Do not include at **G** contributions that are shown elsewhere (other than in the total at **N Total contributions**).

Contributions made under a family law obligation by an FHSA provider from the FHSA of the spouse or former spouse of the member must be reported at **F Spouse and child contributions**.

Do not include at **G** contributions made for a member under 18 years old. Show these at **F Spouse and child contributions**.

H Directed termination (taxable component) payments

Show at **H** the **taxable component** only of a transitional termination payment which the member has directed the payer to:

- make to a complying superannuation plan, or
- purchase a superannuation annuity with.

Show also at **H** amounts shown at item **15(g)** on a *Rollover benefits statement* which the SMSF received from another superannuation provider.

We use this information to work out whether any of the directed termination payment will be included in the member's concessional contributions.

➤ For more information about directed termination payments, see *Employment termination payments – transitional arrangements* (NAT 70644).

I Assessable foreign superannuation fund amount

Show at **I** the amount transferred from a foreign superannuation fund or scheme that **exceeds** the amount that was vested in the member at the time of transfer and that is included in the assessable income of the SMSF.

Show also at **I** amounts shown at item **15(h)** on a *Rollover benefits statement* which the SMSF received from another superannuation provider.

Do not include that part of the amount transferred from a foreign superannuation fund or scheme that does not exceed the amount that was vested in the member at the time of transfer. That amount is included at **J Non-assessable foreign superannuation fund amount**.

J Non-assessable foreign superannuation fund amount

Show at **J** the amount transferred from a foreign superannuation fund or scheme that is not included in the assessable income of the SMSF.

Show also at **J** amounts reported at item **15(i)** on a *Rollover benefits statement* which the SMSF received from another superannuation provider.

Do not include that part of the amount transferred from a foreign superannuation fund or scheme that is included in the assessable income of the SMSF if the amount transferred to the SMSF exceeds the amount that was vested in the member in the foreign superannuation fund or scheme at the time of the transfer (this amount is reported at **I Assessable foreign superannuation fund amount**).

A member may choose to have an amount included in the SMSF's assessable income. In general terms, this amount reflects the investment earnings of the foreign fund or scheme that accrued while the member was an Australian resident. This amount is only reported at **M Any other contributions (including Super Co-contributions)**.

EXAMPLE 10: Transfer from a foreign superannuation fund (All amounts are in Australian dollars.)

David had \$50,000 in an overseas superannuation fund when he became an Australian resident. Four years later, the earnings on the fund were \$8,000, giving a total balance of \$58,000. David transfers \$60,000 to his SMSF – the David Superannuation Fund, that is, \$2,000 more than the amount vested in his account at the time of the transfer. The \$2,000 is an amount paid for David as a result of the exercise of a discretion by the trustee of the overseas superannuation fund.

David chooses to have the \$8,000 included in the assessable income of the SMSF. It is taxed at 15%. This amount is reported at **M Any other contributions (including Super Co-contributions)**.

The fund's assessable income also includes the \$2,000 that was not vested in David at the time of the transfer. This amount of \$2,000 is reported at **I Assessable foreign superannuation fund amount**.

The \$50,000 is reported at **J Non-assessable foreign superannuation fund amount**.

K Transfer from reserve: assessable amount

Show at **K** assessable amounts transferred from reserves, and assessable amounts shown at item **15(j)** on a *Rollover benefits statement* which the SMSF received from another superannuation provider.

The **assessable amount** is the amount that is taken to be a concessional contribution because the SMSF allocated an amount to the member's account from a reserve. The amount taken to be a concessional contribution may be greater than the amount actually allocated to the member's account.

➤ For more information about the assessable amount, see regulation 292-25.01 of the Income Tax Assessment Regulations 1997.

L Transfer from reserve: non-assessable amount

Show at **L** the non-assessable amounts transferred from reserves, and the non-assessable amounts shown at item **15(j)** on a *Rollover benefits statement* which the SMSF received from another superannuation provider.

The non-assessable amount is the amount that is taken to be a non-concessional contribution because you allocated an amount to the member's account from a reserve and is not included as assessable income of the SMSF.

➤ For more information about the amount, see regulation 292-90.01 of the Income Tax Assessment Regulations 1997.

M Any other contributions (including Super Co-contributions)

Show at **M** contributions received for this member which you have not already shown above, such as:

- amounts contributed directly from an FHSA when the holder of the FHSA was the member of the fund for whom the contribution was made. These amounts are paid to the SMSF with the form *Super contributions from a first home saver account* (NAT 72537)
- Super co-contributions paid for the benefit of the member by us (including co-contributions transferred by us to the SMSF from the SHA special account.
- tax-free component of a directed termination payment
- so much of the amount transferred from a foreign superannuation fund or scheme that the member chose to have included in the SMSF's assessable income, and
- any other contribution reported to you on a *Rollover benefits statement* which the SMSF received from another superannuation provider. You will need to deduct the sum of items **15(a)** to **15(j)** on the *Rollover benefits statement* from item **15(k)** on the statement to calculate amount of 'other' contributions reported to the SMSF.

Do not show at **M**:

- an amount credited to the member's account from a contributions split for a spouse. For more information see *Contributions splitting – how to complete your Superannuation contributions splitting application* (NAT 15237)
- amounts contributed directly from an FHSA because of a family law obligation (as reported by the FHSA provider), as the holder of the FHSA is the spouse or former spouse of the member of the SMSF for whom the contribution was made. Show these at **F Spouse and child contributions**.

N Total contributions

Show at **N** the total of all the amounts contributed to, received by, credited or otherwise attributed to the member's account for 2009–10 before any tax or expenses were debited to the member's account. This amount must be equal to the sum of the amounts at **A** to **M**.

OTHER TRANSACTIONS

O Allocated earnings or losses

Show at **O** all the net amount of allocated earnings, expenses, taxes or losses in relation to the SMSF's investments, and attributed to this member, for 2009–10. Include at **O** any expenses or taxes attributed to the member's investment in the fund. Allocated gains and losses from assets should also be included at **O**.

Allocated earnings or losses are generally determined after adding allocated investment earnings and subtracting expenses against the member's account. Any transaction affecting the member's closing balance not covered by a contribution, rollover or benefit transaction should be reflected at **O**.

In some circumstances you will be directed by the instructions at **P** to include other amounts here at **O**.

If the amount calculated is an overall loss for the year, print **L** in the **Loss** box.

P Inward rollover amounts

Show at **P** the amounts of any rollover payments received by the SMSF less any contributions included in those rollovers. The contributions should be reported at **A** through to **M**.

The amounts to be reported at **P** are worked out from the information you will receive on the *Rollover benefits statement* from the member's previous fund (or funds). From the *Rollover benefits statement* deduct the amount at item **15(k)** from the total at item **13**. This may produce a negative amount as item **15(k)** is the gross amount of contributions made while item **13** is the net payment, after tax and fees have been deducted.

If the amount worked out this way is less than zero, report the negative amount at **O** and report zero at **P**.

You should receive the *Rollover benefits statement* within seven days of the member's previous fund (or funds) making a rollover payment.

Q Outward rollover amounts

Show at **Q** all the amounts that the member rolled over to other superannuation entities during the income year. These are amounts you have reported at item **13** on the *Rollover benefits statement*. You are required to complete a *Rollover benefits statement* and forward it to the receiving fund within seven days of making a rollover payment.

Do not report amounts transferred to another fund during the 'terminal medical condition' certification period. These are to be reported at **R Benefit payments and code**.

R Benefit payments and code

Show at **R** all the benefit payments made during the year to the member. Print the applicable code from **table 8** in the **Code** box. If two or more payment types apply, use the code relating to the largest payment.

This includes any amounts transferred on behalf of a member during the 'terminal medical condition' certification period. These benefits are reported as code **L** as they are lump sum benefit payments to the member.

TABLE 8: Benefit type

Code	Benefit type
P	Superannuation income stream benefit
L	Superannuation lump sum benefit
T	Transition to retirement superannuation income stream benefit
C	Payment is a combination of superannuation lump sum and superannuation income stream benefits

S Closing account balance

Show at **S** the member's account balance at 30 June 2010. To work out the member's balance at 30 June 2010:

- begin with last year's reported end of year balance for the member
- take into account all transactions reported for the member
 - include all contributions and inward rollovers (shown at **N** and **P**)
 - deduct payments and outward rollovers (shown at **R** and **Q**)
 - apply allocated earnings and losses (shown at **O**).

You must show an amount at **S** for the super co-contribution to be paid to the SMSF.

Example 11: Calculating the closing account balance for a single member SMSF

Closing account balance for previous income year

A SMSF calculated their closing account balance for previous income year to be \$50,000, made up of the following assets:

Cash	\$20,000
Other assets	\$30,000

Transactions for this income year

Employer contributions	+ \$12,000
Bank interest	+ \$5,000
Partnership distribution	+ \$2,000
Auditor fees #	- \$1,000
Income tax #	- \$2,500
Supervisory levy #	- \$150

These were paid in the current income year.

Member closing account balance

Opening balance	\$50,000 (previous year's closing account balance)
Employer contributions	\$12,000 (N Total contributions)
Earnings and losses	\$3,350 (O Allocated earnings or losses)

O Allocated earnings or losses is calculated by adding all of the transactions for this income year except the employer contributions, which are already accounted for at **A Employer contributions**.

Closing balance	\$65,350 (S Closing account balance)
-----------------	---

S Closing account balance is calculated by adding the previous year's closing account balance to:

- **N Total contributions**
 - **O Allocated earnings or losses**
 - **P Inward rollover amounts**,
- and subtracting:
- **Q Outward rollover amounts**, and
 - **R Benefit payments**.

SECTION G: SUPPLEMENTARY MEMBER INFORMATION

Use this section to report:

- deceased members
- former members who were paid a benefit (but not a rollover) during 2009–10, and
- any other members who cannot be included at pages 4–7.

Do not report former members who rolled over all their contributions to another fund by 30 June 2010 anywhere in sections **F** or **G**. These contributions will be reported to us by the fund that received the rollover. The receiving fund will use the contributions information you gave them on the *Rollover benefits statement*.

The information required in this section is the same as for section **F**. See the section **F** instructions to complete each entry from **A** to **S**.

The only additional entry in section **G** is the date of death for deceased members.

If deceased, date of death

If the member died during the 2010 income year, print the date of their death and complete the member's account details on their page of the annual return.

Do not show cents for any amount you write at this section on the SMSF's annual return.

SECTION H: ASSETS AND LIABILITIES

This section covers the assets and liabilities of the SMSF and should balance. Use the asset value shown in the SMSF's balance sheet (also known as the SMSF's statement of financial position) at **30 June 2010**. Do not show cents for any amount you write at this section on the annual return.

14 ASSETS

14a Australian managed investments

This section covers investments in other entities that then make further investments on behalf of the SMSF. If the entity in which the SMSF has invested is located or registered in Australia, then it is recorded at one of the following: **A, B, C or D**.

A Listed trusts

Show at **A** the value of listed trust units that the SMSF owned.

A listed trust is a trust which has its units traded on an Australian stock exchange, and the unit values are reported as shares.

B Unlisted trusts

Show at **B** the value of unlisted trust interests that the SMSF held and were registered or located inside Australia.

Unlisted trusts are not traded or purchased through an Australian stock exchange.

C Insurance policy

Show at **C** the value of life insurance policies that the SMSF owned and that were issued by an organisation registered under the *Life Insurance Act 1995*.

D Other managed investments

Show at **D** the value of other investments in other entities that are located or registered in Australia who invest on behalf of the SMSF in other asset classes not reported in **A Listed trusts, B Unlisted trusts or C Insurance policy**.

This asset category includes investments with all external investment managers and pooled superannuation trusts (PSTs) located or registered in Australia.

An external investment manager is a person appointed by the trustee of the SMSF in accordance with section 124 of the SISA to make investments on behalf of the SMSF. Investments managed by an external investment manager are called managed funds. Where the managed fund is registered in Australia and invests in overseas assets, the managed fund is still considered as being an Australian investment vehicle.

A PST is a resident unit trust:

- whose trustee is a trading or financial corporation formed within the limits of the Commonwealth, and
- that is used only for investing assets
 - of a regulated superannuation fund, ADF or PST
 - solely for the tax-advantaged assets of life insurance companies, or
 - of an exempt entity within the meaning of paragraphs (a), (c) or (d) of the definition of exempt entity in section 102M of the ITAA 1936.

14b Australian direct investments

This section covers investments located in Australia where the SMSF directly holds the assets, either in the name of the SMSF or in another legally recognised format.

E Cash and term deposits

Show at **E** the value in Australian currency of all cash accounts and term deposits that the SMSF held (including accounts with financial institutions or other similar organisations) with any Australian financial institution.

F Debt securities

Show at **F** the value of any debt securities that the SMSF traded or were available inside Australia.

Debt securities are typically financial securities which establish ownership and represent borrowings that must be repaid by the issuer. They include negotiable instruments such as bonds, bills of exchange, promissory notes or share certificates which are traded in financial markets.

Some securities may consist of a combination of two or more financial instruments. These are called hybrid securities and can have a combination of bonds or notes, swaps, forward or futures contracts, and options. Show the value of hybrid securities at **F**.

G Loans

Show at **G** the value of loans that the SMSF held or negotiated within Australia.

H Listed shares

Show at **H** the value of public shares and equities that the SMSF held within Australia and traded on Australian stock exchanges.

This category relates to shares, equities and similar financial contracts that are traded on Australian stock exchanges, excluding debt securities. Do not show investments in listed trusts here – show them at **A Listed trusts**.

I Unlisted shares

Show at **I** the value of private shares that the SMSF held within Australia that are not listed on Australian stock exchanges.

This category refers to shares, equities and similar financial contracts that are not listed on Australian stock exchanges but are located in Australia. Do not show investments in unlisted trusts here – show them at **B Unlisted trusts**.

If you show an amount at **I**, you must also show an amount at **U Net non-arm's length income** item **10** if the amount is not consistent with an arm's length dealing. An arm's length dealing is defined at **U1 Net non-arm's length private company dividends** on page 19.

J Derivatives and instalment warrants

Show at **J** the value of derivative and instalment warrant investments that the SMSF purchased or traded inside Australia.

Derivatives are financial products which derive their value from the value of another financial product. Examples of derivative instruments include futures contracts, forward contracts, contracts for difference, options, instalment warrants, interest rate swaps, caps, floors and swap options.

Do not show investments in hybrid securities here – show them at **F Debt securities**.

SMSFs are prohibited from borrowing to invest except in certain limited circumstances permitted under section 67 of the SISA.

The trustee of a SMSF may enter into certain limited-recourse borrowings, but the trustee must take care to satisfy the conditions in subsection 67(4A) and other provisions of the SISA as well as related superannuation rules.

It is recommended that you seek independent professional advice if the SMSF is considering these arrangements.

K Non-residential real property

Show at **K** the value of non-residential real property that the SMSF owned that is located inside Australia.

Non-residential real property includes investments in land and buildings located within Australia that are used for commercial or business purposes. This includes premises that are used for both commercial purposes and as a place of residence.

Show non-residential real property located outside Australia in the overseas assets category **Q Overseas non-residential real property**.

L Residential real property

Show at **L** the value of residential real property that the SMSF owned that is located inside Australia.

Residential property means a building which is lawfully occupied as a place of residence or is suitable for occupation as a place of residence. If the premises are suitable for occupation as a place of residence but are used for commercial purposes, show this property at **K Non-residential real property**.

Show investments in real property located outside Australia in the overseas assets category **R Overseas residential real property**.

M Artwork, collectables, metal or jewels

Show at **M** the total value of artwork, collectables, metal or jewels that the SMSF owned that are stored in Australia.

O Other assets

Show at **O** the value of other assets that the SMSF owned but that do not fall within any of the categories listed above but are located in Australia.

14c Overseas direct investments

This section covers investments which are located outside Australia. This section includes overseas direct investments that may make further investments in Australian markets. If an investment is not regulated by an Australian organisation, then the investment is recorded at **P, Q, R, S** or **T** below.

Do not show in section **14c** investments in Australian-regulated entities that make further investments on behalf of the SMSF. Show these investments at **A Listed trusts, B Unlisted trusts, C Insurance policy** or **D Other managed investments**.

P Overseas shares

Show at **P** the value of public and private shares that the SMSF held outside Australia.

Overseas public and private shares refer to shares, equities and similar financial contracts that are traded on an overseas stock exchange, but exclude debt securities. Do not show investments in listed or unlisted trusts at **P**, show them at **S Overseas managed investments**.

Q Overseas non-residential real property

Show at **Q** the value of non-residential real property that the SMSF owned that is located outside Australia.

Non-residential real property includes investments in land and buildings located outside Australia that are used for commercial or business purposes. This includes premises used for both commercial purposes and as a place of residence.

Show investments in non-residential real property located inside Australia at **K Non-residential real property**.

R Overseas residential real property

Show at **R** the value of residential real property owned by the SMSF that is located outside Australia.

Residential property means land which has a building on it which is lawfully occupied as a place of residence or is suitable for occupation as a place of residence. If the premises are suitable for occupation as a place of residence but are used for commercial purposes, show this property at **O Other assets**.

Show investments in real residential property located inside Australia at **L Residential real property**.

S Overseas managed investments

Show at **S** the value of investments with overseas investment vehicles located outside Australia that the SMSF owned.

For an explanation of the types of investment vehicles, see the descriptions on page 44 of:

- **A Listed trusts**
- **B Unlisted trusts**
- **C Insurance policy**, and
- **D Other managed investments.**

This category includes placements with all external investment managers located overseas. An external investment manager is someone appointed by the trustee of the SMSF in accordance with section 124 of the SISA to make investments on behalf of the SMSF. Investments managed by an external investment manager are called managed funds.

Do not show at **S** managed-fund investments registered or located in Australia where the managed fund invests in overseas assets, show them at **D Other managed investments.**

T Other overseas assets

Show at **T** the value of other assets that the SMSF owned but that do not fall within any of the categories listed above and are located outside Australia.

U Total Australian and overseas assets

Show at **U** the total of all the amounts shown at **A** to **T**.

15 LIABILITIES

V Borrowings

Show at **V** the total amount of borrowings by the SMSF, including accrued interest, at 30 June 2010.

NOTE

SMSFs are prohibited from borrowing except in certain limited circumstances permitted under section 67 of the SISA.

W Total member closing account balances

Show at **W** the total of all member-account balances shown at **S Closing account balance** in section **F** and **G**.

X Reserve accounts

Show at **X** the total amount of assets not allocated to members at 30 June 2010.

NOTE

The use of reserve accounts is strictly limited for SMSFs.

Y Other liabilities

Show at **Y** the total amount of liabilities that cannot be included in:

- **V Borrowings**
- **W Total member closing account balances**, or
- **X Reserve accounts.**

Z Total liabilities

Show at **Z** the sum of all the liabilities shown at **V** to **Y**.

Z Total liabilities must equal **U Total assets**.

SECTION I: TAXATION OF FINANCIAL ARRANGEMENTS

G Did you make a gain, loss or transitional balancing adjustment from a financial arrangement subject to the TOFA rules?

Print **X** in the appropriate box at **G**.

Print **X** in the **Yes** box only if during the 2010 income year the SMSF elected for the TOFA rules to apply to it early, and:

- made a gain or loss under the TOFA rules, or
- had an assessable or deductible amount from a transitional balancing adjustment, as a result of making the transitional election for existing financial arrangements.

NOTE

For more information on when the TOFA rules apply to SMSFs, see **What's new** on page 1, or *Guide to the taxation of financial arrangements (TOFA) rules in Taxation of financial arrangements (TOFA)* available on our website www.ato.gov.au/tofa

H Total TOFA gains

Show at **H** the SMSF's total TOFA gains from financial arrangements. Include TOFA gains shown at the following labels:

- **Section B: Income – C Gross interest**
- **Section B: Income – D1 Gross foreign income**
- **Section B: Income – J Unfranked dividend amount**
- **Section B: Income – S Other income.**

I Total TOFA Losses

Show at **I** the SMSF's total TOFA losses from financial arrangements. Include TOFA losses shown at the following labels:

- **Section C: Deductions – A Interest expenses within Australia**
- **Section C: Deductions – B Interest expenses overseas**
- **Section C: Deductions – L Other deductions**
- **Section B: Income – D Net foreign income.**

J TOFA transitional balancing adjustment

Show at **J** the SMSF's transitional balancing adjustment amount for the income year as a result of making the transitional election for existing financial arrangements.

If the balancing adjustment is a deductible amount, print **L** in the **Loss** box.

SECTION J: REGULATORY INFORMATION

This section covers key regulatory obligations for which the Commissioner requires ongoing disclosure each year by the trustee of SMSFs.

Failure to disclose correct information may result in penalties being imposed. Penalties can include administrative penalties of \$2,200 or fines of up to \$5,500.

The SMSF's complying status may be removed if the trustees are found to have contravened the superannuation laws. This would result in the SMSF's tax rate being increased to 45%.

We aim to work with you to help you comply with your obligations. We may seek to impose penalties where you have deliberately or intentionally failed to meet your obligations, or where actions lead to serious contraventions of the superannuation laws. We may prosecute in more serious cases or for repeated contraventions of the superannuation laws.

Trustees of SMSFs and those preparing the *Self-managed superannuation fund annual return 2010* should refer to the publication *Running a self-managed super fund: Your role and responsibilities as a trustee* (NAT 11032).

More information about the information required at this section is available on our website at www.ato.gov.au

Do not show cents for any amount you write at this section on your annual return.

IN-HOUSE AND RELATED PARTY ASSETS

A Did the SMSF loan, lease to or invest in related parties (known as in-house assets)?

Print **X** in the appropriate box.

Show at **A** the value of in-house assets that the SMSF held at any time during the year.

Generally an **in-house asset** of an SMSF is an asset that is:

- a loan to, or an investment in, a related party of the SMSF
- an investment in a related trust of the SMSF, or
- subject to a lease or lease arrangement between the trustee of the SMSF and a related party of the SMSF.

Related parties of an SMSF are all members of the SMSF and their associates, and all standard employer-sponsors of the SMSF and their associates.

- Associates of a particular member of the SMSF would include every other member of the SMSF, their relatives, business partners and any companies or trusts that they control (either alone or with their other associates).

A **standard employer-sponsor** is an employer who contributes to a superannuation fund for the benefit of a member, under an arrangement between the employer and the trustee of the SMSF.

- Associates of standard employer-sponsors would include business partners and any companies or trusts

that the employer controls (either alone or with their other associates) or companies and trusts that control the employer.

Some in-house asset exceptions do exist, such as a lease or lease agreement, between the SMSF and a related party of the SMSF involving business real property. There is also a limited exception for certain investments in related non-g geared unit trusts and companies.

Do not show at **A** any related party investments that are not in-house assets.

➤ Legislative reference: see part 8 of the *Superannuation Industry (Supervision) Act 1993*.

For further information on what is an in-house asset refer to *Self Managed Superannuation Funds Ruling SMSFR 2009/4 Self Managed Superannuation Funds: the meaning of 'asset', 'loan', 'investment in', 'lease' and 'lease arrangement' in the definition of an 'in-house asset' in the Superannuation Industry (Supervision) Act 1993*.

B Did the SMSF hold in-house assets at any time during the year that exceeded 5% of total assets?

Print **X** in the appropriate box.

SMSFs are not allowed to have in-house assets that exceed 5% of total assets. If the market value ratio of in-house assets held by the SMSF at 30 June 2010 exceeds 5% of the SMSF's total assets, you must answer **Yes** to this question.

➤ Legislative reference: see part 8 of the *Superannuation Industry (Supervision) Act 1993*.

In relation to valuation of certain in-house assets for the purposes of the 5% ratio, refer to *Self Managed Superannuation Funds Determination SMSFD 2008/2 Self Managed Superannuation Funds: when calculating the market value ratio of in-house assets for the purposes of section 75 of the Superannuation Industry (Supervision) Act 1993 is it permissible for a Self Managed superannuation fund to value its assets at historical cost (purchase price)?*

Generally, for the purposes of determining the market value ratio of an SMSF's in-house assets under section 75 of the SISA, trustees of an SMSF must value all of the SMSF's assets at market value, including shares in a related company or units in a related unit trust.

C Did the SMSF hold an investment in a related party at any time during the year (excluding in-house assets)?

Print **X** in the appropriate box.

Show at **C** the value of related party investments that the SMSF held at any time during the year that were not in-house assets. The definition of **related party** is contained in subsection 10(1) of the SISA and is explained in the previous column.

These related party investments that are not in-house assets include:

- grandfathered investments – these are investments or acquisitions of assets made before 11 August 1999 that were not in-house assets at that time, and additions to these existing investments made on or before 30 June 2009 up to the allowable limits
- investments in certain related non-geared unit trusts and companies – these are investments in related unit trusts and companies that satisfy the conditions of Regulations 13.22B and 13.22C of the Superannuation Industry (Supervision) Regulations 1994 so that they are deemed not to be in-house assets
- any other investment with a related party that is not an in-house asset.

For more information on when investments in certain related companies and unit trusts become in-house assets, see *Self Managed Superannuation Fund Determination SMSFD 2008/1 Self Managed Superannuation Funds: how does the happening of an event in subregulation 13.22D(1) of the Superannuation Industry (Supervision) Regulations 1994 affect whether a Self Managed superannuation fund's investments in related companies or unit trusts are in-house assets of the fund?*

NOTE

The 10-year transition period applying to in-house assets rules ended on 30 June 2009. An SMSF that had investments affected by the transitional rules, should review its investment structure to ensure it continues to comply with the in-house asset rules from 1 July 2009. If you do not meet these rules you will need to report all or part of the investment that is an in-house asset at **A**.

For more information about transitional rules for in-house assets, see our fact sheet *In-house assets and transitional rules* available on our website.

D Did the SMSF acquire any assets (other than exempt assets) from related parties?

Print **X** in the appropriate box.

Show at **D** the value of any assets (other than exempt assets) acquired from related parties.

SMSFs are prohibited from acquiring assets for the SMSF from related parties of the SMSF. There are limited exceptions.

Exempt assets include:

- business real property of the related party acquired at market value
- listed securities acquired at market value
- in-house assets that would not result in the level of in-house assets of the SMSF exceeding 5% of the SMSF's total assets, and
- certain assets specifically excluded from being in-house assets that are acquired at market value.

Business real property of an entity generally relates to land and buildings used wholly and exclusively in a business. For more information, see *Self Managed Superannuation Funds*

Ruling SMSFR 2009/1 Self-Managed Superannuation Funds: business real property for the purposes of the *Superannuation Industry (Supervision) Act 1993*.

▶ Legislative reference: see section 66 of the *Superannuation Industry (Supervision) Act 1993*.

For more information, see *Self Managed Superannuation Funds Ruling SMSFR 2010/1 Self-Managed Superannuation Funds: the application of subsection 66(1) of the Superannuation Industry (Supervision) Act 1993 to the acquisition of an asset by a self-managed superannuation fund from a related party*.

OTHER REGULATORY QUESTIONS

E Did the SMSF lend money or provide financial assistance to a member or relative of a member of the fund?

Print **X** in the appropriate box.

SMSFs are prohibited from lending money or providing direct or indirect financial assistance (including the provisions of credit) to a member or a member's relative. A **member's relative** includes:

- a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the member or of the member's spouse
- a member's spouse or a spouse of any other individual specified above.

A member's spouse includes another person (whether of the same sex or opposite sex) who:

- the member was in a relationship with that was registered under a prescribed state or territory law,
- although not legally married to the member, lived with the member on a genuine domestic basis in a relationship as a couple.

For more information see *Self Managed Superannuation Funds Ruling SMSFR 2008/1 Self Managed Superannuation Funds: giving financial assistance using the resources of a self-managed superannuation fund to a member or relative of a member that is prohibited for the purposes of paragraph 65(1)(b) of the Superannuation Industry (Supervision) Act 1993*.

▶ Legislative reference: see section 65 of the *Superannuation Industry (Supervision) Act 1993*.

F Did the SMSF receive *in specie* contributions during the year?

The term *in specie* refers to contributions to the SMSF in the form of an asset other than money.

Print **X** in the appropriate box.

Show at **F** the value of all *in specie* contributions that the SMSF received during the year on behalf of its members.

Do not include other costs, if any, associated with the acquisition of the asset (for example, stamp duties, legal fees or GST).

Trustees must keep in mind that a regulated SMSF is generally prohibited from intentionally acquiring assets from related parties of the SMSF. See **D Did the SMSF acquire any assets (other than exempt assets) from related parties?** for exceptions to this rule.

G Did the SMSF make and maintain all investments on an arm's length basis?

Print **X** in the appropriate box.

Investments undertaken by SMSF trustees need to be made and maintained on an arm's length basis.

The effect of this rule is that all investments by the SMSF trustee (or investment manager) must be both entered into, and maintained, on commercial terms – the purchase or sale price of an investment should be at full market value and the income received from that investment should reflect a true market rate of return. This rule does not necessarily prevent trustees or investment managers from entering into transactions with related or associated parties. The requirement applies to the terms of the transaction, not the parties. The trustee (or investment manager) should keep proper records to establish that the SMSF's assets were invested on arm's length terms.

➤ Legislative reference: see section 109 of the *Superannuation Industry (Supervision) Act 1993*.

H Did the SMSF borrow for purposes that are not permissible?

Print **X** in the appropriate box.

Trustees must not borrow or maintain a borrowing for purposes outside those permitted under section 67 of the SISA.

Exceptions to the general prohibition include short-term borrowing to pay beneficiaries, to pay superannuation surcharge, to cover settlement of securities transactions or to allow the SMSF trustee to acquire an asset under certain limited-recourse arrangements.

For more information see *Self Managed Superannuation Funds Ruling SMSFR 2009/2 Self Managed Superannuation Funds: the meaning of 'borrow money' or 'maintain an existing borrowing of money' for the purposes of section 67 of the Superannuation Industry (Supervision) Act 1993*.

Further information regarding the exception provided to certain limited-recourse borrowings under subsection 67(4A) of the SISA is provided on our website in *Taxpayer Alert 2008/5 certain borrowings by self-managed superannuation funds and the factsheet Instalment warrants and super funds – questions and answers*.

➤ Legislative reference: see section 67 of the *Superannuation Industry (Supervision) Act 1993*.

I Did members have the personal use of the SMSF's assets before retirement?

Print **X** in the appropriate box.

Assets belonging to the SMSF must not, under any circumstances, be used for personal or business purposes by members. This is to ensure that the SMSF investments are made for the sole purpose of providing for retirement income for its members.

Personal use of the SMSF's assets can include, but is not limited to, the use of a holiday home or receiving commissions or other benefits for investing in a particular asset, the wearing of jewellery at any time and displaying artworks in the family home. Investment decisions by trustees must be made for the sole purpose of providing retirement benefits and should not be influenced by the trustees' personal considerations.

For more information see *Self Managed Superannuation Funds Ruling SMSFR 2008/2 Self Managed Superannuation Funds: the application of the sole purpose test in section 62 of the Superannuation Industry (Supervision) Act 1993 to the provision of benefits other than retirement, employment termination or death benefits*.

➤ Legislative reference: see section 62 of the *Superannuation Industry (Supervision) Act 1993*.

J Did the SMSF provide money to members without a condition of release being met?

Print **X** in the appropriate box.

Trustees have the very important responsibility in determining whether (and when) a member can receive their benefits. Setting up or using an SMSF to gain improper early access to superannuation benefits is illegal. Significant penalties apply to both the trustee and the member of the SMSF if superannuation money has been unlawfully released. Conditions of release are nominated events that a person must satisfy to enable them to withdraw their preserved benefits and unrestricted non-preserved benefits from an SMSF. Lawful conditions of release are:

- retirement
- attaining 65 years of age
- terminating gainful employment after 1 July 1997 – benefits less than \$200
- terminating gainful employment with certain employers
- death
- permanent incapacity
- temporary incapacity
- severe financial hardship
- compassionate grounds
- terminal medical condition
- temporary residents departing Australia

- attaining preservation age (transition to retirement).

Different cashing restrictions apply to the above conditions of release. If a payment has been made without one of the conditions being met, or if you have any questions about the above conditions, contact the Superannuation Infoline (see the inside back cover).

➤ Legislative reference: see part 6 and Schedule 1 to the Superannuation Industry (Supervision) Regulations 1994.

K Did trustees of the fund receive any remuneration for their services as trustees?

Print **X** in the appropriate box.

Payment to trustees for the time and effort involved in running the SMSF, including making investment decisions, is strictly prohibited. No trustee should be receiving any remuneration for acting as a trustee. Limited reimbursement for direct operating costs paid by the trustee on behalf of the SMSF is allowed (for example, accounting fees) and is not considered remuneration. However, reimbursement of this kind should not normally arise, as expenses of the SMSF should be paid by the SMSF directly.

➤ Legislative reference: see paragraphs 17A(1)(f) and (g) and 17A(2)(c) and (d) of the *Superannuation Industry (Supervision) Act 1993*.

L Are any trustees or directors currently disqualified persons as defined by SISA?

Print **X** in the appropriate box.

A disqualified person may not act as:

- a trustee of any type of superannuation fund, or
- as a responsible officer of a body corporate that is a trustee of any type of superannuation fund.

An individual is a disqualified person if they:

- have ever been convicted of an offence involving dishonesty
- have ever been subject to a civil penalty order
- are an insolvent under administration
- are an undischarged bankrupt
- have been disqualified by a regulator.

An application can be made to the Commissioner of Taxation as regulator of SMSFs in certain circumstances to allow an individual to be a trustee of an SMSF even if they have been convicted of an offence involving dishonesty.

A body corporate is not permitted to act as trustee if:

- the company knows or has reasonable grounds to suspect that a responsible officer of that company is a disqualified person (a responsible officer includes a director, secretary or executive officer)
- a receiver, administrator, official manager or provisional liquidator has been appointed to the company, or
- action has commenced to wind up the company.

Action should be taken to remove a disqualified trustee as soon as possible. Penalties may apply to those who continue to act as trustees while disqualified. Notify us immediately if the trustee is in this position to minimise any possible negative consequences.

➤ Legislative reference: see part 15 of the *Superannuation Industry (Supervision) Act 1993*.

M Are all SMSF assets appropriately documented as owned by the fund?

Print **X** in the appropriate box.

Trustees must ensure that the SMSF's ownership of its investments is assured. We require that the SMSF's assets be held in a legally recognised ownership arrangement. We also prefer the assets to be in the names of all of the individual trustees as trustees for the SMSF or, in the case of a corporate trustee, in the name of the company as trustee for the SMSF. It is important that money and other assets of the SMSF are held separately from money and assets held by the trustees and members in their personal capacity.

It is recognised that, in certain states, restrictions may prevent an SMSF from holding assets using the SMSF's name at all. In this circumstance, a caveat, legal instrument or declaration of trust must be properly executed in respect of the asset, to clearly show the SMSF's ownership of the asset. Failure to take appropriate action to protect the SMSF's assets is a breach of trustee duties and responsibilities. If the restriction from holding the assets in the name of the SMSF exists, it should be clearly documented.

➤ Legislative reference: see section 52 of the *Superannuation Industry (Supervision) Act 1993*.

N Did the SMSF carry on a business of selling goods or services?

Print **X** in the appropriate box.

In order to answer this question you first need to determine if the SMSF either sells physical goods (for example, office supplies, food items) or provides services (for example, financial advice, catering staff) for which it bills clients or customers. You then need to determine whether or not a business is actually being carried on. The business activity indicators include:

- there is a reasonable expectation of profit
- the business is of a reasonable size
- there is repetition and continuity of activity
- the activities are undertaken in a business-like manner
- the intention is to carry on a business.

If an SMSF is conducting a business, it may not be administered for the sole purpose of providing benefits for members and beneficiaries of the SMSF. In all undertakings, an SMSF that carries on a business must ensure it complies with the following:

■ **Sole purpose test**

Was the SMSF set up and maintained for the purpose of generating retirement benefits for members, or is there some other predominant purpose – for example, running a business in a tax-reduced environment?

■ **Investment strategy requirement**

Is the business activity included in the strategy and properly documented?

■ **Acquiring assets from related parties**

SMSFs are prohibited from acquiring assets from related parties (subject to some limited exceptions).

■ **Prohibition on borrowing**

Trustees are unable to borrow money. No overdraft facility or other line of credit can be maintained by the trustees in support of the business.

■ **Arm's length requirement**

Trustees would be required to demonstrate that all transactions have been made and maintained on a commercial basis – for example, the sale and purchase price of the investment is at full market value and returns on the investment reflect a true market rate of return.

■ **Governing rules of the SMSF**

These must permit the SMSF to make certain business-related investments.

➤ Legislative reference: see section 52 of the *Superannuation Industry (Supervision) Act 1993*.

If you are unsure as to whether the SMSF is operating a business, seek advice from a professional adviser or phone the Superannuation Infoline (see the inside back cover).

O Does the auditor provide services to the SMSF as either a tax agent, accountant or financial advisor or administrator?

Print **X** in the appropriate box.

A fundamental requirement for every audit is that the auditor must be independent and also appear to be independent. It is essential that the auditor be independent of the SMSF's decision-making process. A lack of independence may be a factor contributing to an SMSF's failure to meet legislative requirements.

The code of professional conduct of CPA Australia and the ICAA can be a useful guide to assist in ensuring auditor independence. The CPA and ICAA's 'Professional Statement F1 Professional independence' provides guidance to members of the CPA and ICAA. Threats to independence in this guide include:

- **self review (F1 Appendix 1.23)** – where the person who prepared the SMSF's accounts also conducted the SMSF's audit
- **self interest (F1 Appendix 1.22)** – this could occur, for example, if the auditor benefits financially from an investment the SMSF has made (for example, shares in the same company)
- **intimidation (F1 Appendix 1.26)** – this could occur, for example, if a trustee threatens to stop using the auditor's services for related work (for example, the auditor may be engaged to provide other services such as financial advice or preparing the accounts of other entities belonging to the trustee).

The 'Professional Statement F1 Professional independence' is available at www.cpaaustralia.com.au or www.charteredaccountants.com.au

For more information on auditing standards and independence, see the standards of the relevant professional association as well as considering the Auditing Standard ASA 2007-1 *Amendments to Australian Auditing Standards* issued by the Auditing and Assurance Standards Board, available at www.auasb.gov.au

For more information on ethics for accountants, see APES 110 *Code of Ethics for Professional Accountants* issued by the Accounting Professional and Ethical Standards Board, available at www.apesb.org.au

SECTION K: OTHER INFORMATION

Forestry managed investment schemes

Complete this section only if:

- the SMSF is eligible to claim a deduction at **U Forestry managed investment scheme deduction item 11** for contributions made to an FMIS during the income year, and
- a product ruling or a private ruling has been issued to the SMSF in relation to its interest in the FMIS.

To complete this item, if the SMSF's interests in the FMIS are covered by a product ruling, then:

- print **PR** at **G** under **Code**
- write the year of the product ruling at **H** under **Year**
- write the product ruling number at **I** under **Number** (do not write the year of the product ruling nor the slash).

Alternatively, if the SMSF's interests in the FMIS are covered by a private ruling, then:

- print **AN** at **G** under **Code**
- leave **H** blank under **Year**
- write the authorisation number which was printed on the front page of your notice of private ruling at **I** under **Number**.

Family trust and interposed entity election status

Items **A** to **D** must be completed as applicable if any of the following apply.

Family trust elections

The trustees of the SMSF:

- are making a family trust election (FTE) specifying the 2004-05 or later income year in accordance with section 272-80 of Schedule 2F to the ITAA 1936
- have previously made a FTE specifying an income year from 1994-95 to 2008-09 in accordance with section 272-80 of Schedule 2F to the ITAA 1936 and, if applicable, item 22 or 22A of Schedule 1 to the *Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998* (Trust Loss Act 1998) and, that election has not been revoked in an income year before the 2009-10 income year in accordance with subsections 272-80(6) to (8)
- are revoking in the 2009-10 income year, a previously made FTE in accordance with section 272-80 of Schedule 2F to the ITAA 1936, or
- are varying the specified individual of a previously made FTE in accordance with section 272-80 of Schedule 2F to the ITAA 1936.

Interposed entity elections

The trustees of the SMSF:

- are making one or more interposed entity elections (IEEs) specifying a day in the 2004-05 or later income year in accordance with section 272-85 of Schedule 2F to the ITAA 1936
- have previously made one or more IEEs specifying a day in any income year from 1994-95 to 2008-09 in accordance with section 272-85 of Schedule 2F to the ITAA 1936 and, if applicable, item 23 or 23A of Schedule 1 to the Trust Loss Act 1998 and at least

one election has not been revoked in an income year before the 2009-10 income year in accordance with subsection 272-85(5) and (6), or

- are revoking from the 2009-10 income year, one or more previously made IEEs in accordance with section 272-85 of Schedule 2F to the ITAA 1936

A trustee cannot make an FTE or an IEE specifying a year earlier than 2004-05 in the SMSF's annual return (section 272-80 and 272-85 of Schedule 2F to the ITAA 1936).

Do not attach election forms for FTEs and IEEs made specifying an income year before the 2004-05 income year to the annual return.

! NOTE

Amendments to Schedule 2F to the ITAA 1936 enacted in *Tax Laws Amendment (2007 Measures No. 4) Act 2007* may impact on the family trust and interposed entity election status codes to be completed at section **K**. The amendments apply to income years starting on or after 1 July 2007.

Family trust election

Changes to section 272-80 of Schedule 2F to the ITAA 1936 allow a trustee to revoke an FTE and vary the specified individual in an FTE in certain limited circumstances.

A trustee cannot vary the specified individual or revoke an FTE unless the variation or revocation is in respect of an income year that occurs during the period:

- starting at the beginning of the income year specified in the election and finishing at the end of the fourth income year after the income year specified in the election, or
- starting on 1 July 2007 and finishing on 30 June 2009.

The variation or revocation of an election must be made with the entity's tax return for the income year from which the variation or revocation is to be effective.

Interposed entity election

Changes to section 272-85 of Schedule 2F to the ITAA 1936 allow an IEE to be revoked in certain limited circumstances.

A trustee cannot revoke an IEE unless the revocation is in respect of an income year that occurs during the period:

- starting at the later of
 - the beginning of the income year specified in the election, or
 - the beginning of the income year in which the entity became a member of the family group, and
 - finishing at the end of the fourth income year after the income year referred to in the above two points,

or

- starting on 1 July 2007 and finishing on 30 June 2009.

The revocation must be made with the entity's tax return for the income year from which the revocation is to be effective.

For more details on these amendments see the fact sheet *Family trusts – details of the amendments to increase flexibility for family trusts*, available only on our website.

Instructions on how to complete the *Family trust election, revocation or variation 2010* (NAT 2787) and the *Interposed entity election or revocation 2010* (NAT 2788) are on the forms themselves.

If the annual return is not lodged electronically using ELS and a *Family trust election, revocation or variation 2010* or an *Interposed entity election or revocation 2010* is being lodged with the annual return, send the annual return and the attachments to:

Australian Taxation Office
GPO Box 9845
IN YOUR CAPITAL CITY

! NOTE

An FTE or IEE can be made at any time provided certain conditions are met.

However, when revoking an FTE or an IEE or varying the test individual in an FTE, a *Family trust election, revocation or variation 2010* or an *Interposed entity election or revocation 2010* must be attached to the SMSF's 2010 annual return.

Family trust election status

If the trustees have previously made an FTE specifying an income year before the 2009–10 income year, write the appropriate income year at **A**.

If the trustees have previously made an FTE specifying an income year before the 2004–05 income year and taken advantage of the one-off opportunity in *Law Administration Practice Statement PS LA 2004/1 (GA) Lodgment opportunity for family trust and interposed entity elections* to specify an earlier year, write the earlier income year specified at **A**.

If the trustees are making an FTE specifying the 2004–05 or later income year, write the appropriate income year at **A** and complete a *Family trust election, revocation or variation 2010* specifying the 2004–05 or later income year.

If the trustees of the SMSF have not made or are not making an FTE, do not complete **A**.

Interposed entity election status

If the trustees have previously made one or more IEEs specifying a day in an income year before the 2009–10 income year, write the earliest income year specified at **C** unless the trustees are making one or more IEEs specifying a day in the 2004–05 or later income year.

If the trustees have previously made one or more IEEs specifying a day in an income year before the 2004–05 income year and took advantage of the one-off opportunity in Practice Statement PS LA 2004/1 to specify an earlier year, write the earliest income year specified at **C**, unless the trustees are making one or more IEEs specifying a day in the 2004–05 or later income year.

If the trustees are making one or more IEEs specifying a day in the 2004–05 or later income year, write the earliest income year specified at **C**, and complete an *Interposed entity election or revocation 2010* for each IEE, specifying a day in the 2004–05 or later income year.

If the trustees of the SMSF have not made or are not making any IEEs, do not complete **C**.

Revoking an FTE

An FTE can only be revoked by an SMSF that satisfies the relevant conditions in section 272-80 of Schedule 2F to the ITAA 1936.

Print **R** at **B** if the FTE made by the trustee of the SMSF is being revoked in the 2009–10 income year. A *Family trust election, revocation or variation 2010* must be completed and lodged with the annual return.

Revoking an IEE

An IEE can only be revoked by the trustee of an SMSF that satisfies the relevant conditions in section 272-85 of Schedule 2F to the ITAA 1936.

Print code **R** at **D** if the IEE made by the trustee of the SMSF is being revoked in the 2009–10 income year. An *Interposed entity election or revocation 2010* must be completed and lodged with the annual return.

Varying the test individual of an FTE

If the relevant conditions in section 272-80 of Schedule 2F to the ITAA 1936 are satisfied, an SMSF may, vary an election so that a different individual is specified as the individual whose family group is taken into account in relation to the election. The variation must be in respect of an income year that occurs during the period specified under the heading **Family trust election** in the **Note** box on page 52. The trustee may only vary the specified individual of an FTE once, except where doing so under subsection 272-80(5C) of Schedule 2F to the ITAA 1936 in relation to a relevant family law order, agreement or award.

Print code **V** at **B** if the specified individual of an FTE is being varied from a time in the 2009–10 income year. A *Family trust election, revocation or variation 2010* must be completed and lodged with the 2010 annual return.

EXAMPLE 12: New elections – specifying the current year

The trustee has not previously made an FTE or an IEE but wants to make an FTE election specifying the 2009–10 income year and make an IEE specifying a day in the 2009–10 income year.

Write **2010** at **A**, and

Write **2010** at **C**.

A *Family trust election, revocation or variation 2010* form must be completed, specifying the 2009–10 income year, to provide details of the FTE the SMSF is making.

An *Interposed entity election or revocation 2010* form must be completed, specifying the 2009–10 income year, to provide details of the IEE the SMSF is making.

The completed forms can be attached to the annual return.

EXAMPLE 13: New elections – specifying an earlier year

The trustee has not previously made an FTE or an IEE. The trustee decides to make an FTE specifying the 2004–05 income year and an IEE specifying a day in the 2004–05 income year.

Write **2005** at **A**, and

Write **2005** at **C**.

A *Family trust election, revocation or variation 2010* form must be completed, specifying the 2004–05 income year, to provide details of the FTE the SMSF is making.

An *Interposed entity election or revocation 2010* form must be completed, specifying the 2004–05 income year, to provide details of the IEE the SMSF is making.

The completed forms can be attached to the annual return.

EXAMPLE 14: Existing elections

The trustee has previously made an FTE specifying the 1994–95 income year and an IEE specifying a day in the 1994–95 income year.

Write **1995** at **A**, and

Write **1995** at **C**.

The trustee does not need to complete a *Family trust election, revocation or variation 2010* or an *Interposed entity election or revocation 2010*.

SECTION L: DECLARATIONS

All SMSFs must complete this section.

TRUSTEE'S OR DIRECTOR'S DECLARATION

All trustees are equally responsible and accountable for managing the SMSF and making sure it complies with the law. The signing of this declaration confirms that **all** trustees or directors have authorised this annual return. Signing this declaration confirms that the information supplied is true and correct.

This annual return should be authorised by all trustees of the SMSF and documented as such in the SMSF's records. As well, all trustees should ensure that the audit undertaken on the SMSF has been reviewed by all trustees before this annual return has been authorised.

Penalties may be imposed for false or misleading information in addition to penalties relating to any tax shortfalls.

Preferred trustee or director contact details

List the name and contact details of the individual (not the tax agent) that we can contact if required.

You must provide a contact phone number including area code.

Non-individual trustee name (if applicable)

Print the name of the corporate trustee, referred to here as non-individual trustee, if applicable.

ABN of non-individual trustee

Print the ABN of the corporate trustee if applicable.

Time taken to prepare and complete this annual return

We are committed to reducing the costs involved in complying with the SMSF's taxation and regulatory obligations. The trustee's response to this item is voluntary.

When completing this item consider the time, rounded up to the nearest hour, which you spent:

- reading the annual return instructions
- collecting the necessary information to complete this annual return
- making the necessary calculations
- actually completing this annual return or putting the tax affairs of the SMSF in order so the information can be handed to the SMSF's registered tax agent.

Include the time both the trustee and tax agent spent in preparing and completing the annual return. This includes the time spent by any other person who helped with this.

TAX AGENT'S DECLARATION

If the tax agent is a partnership or a company, this declaration must be signed in the name of the partnership or company by a person who is registered as a nominee of that partnership or company. The person's name must be printed at this item.

Tax agent's contact details

List the name and contact details, including:

- title
- family name
- given names
- name of the tax agent's practice
- tax agent's phone number including area code
- tax agent's reference number (that is, the client number that the tax agent has allocated to the SMSF)
- tax agent number issued to the agent by us.

SCHEDULES

General information about completing schedules:

- Complete only **one** copy of the appropriate schedule.
- Attach all completed schedules to the annual return unless specified otherwise.
- Annual returns lodged without all the required schedules may not be considered to have been lodged in the approved form. Unless all schedules are lodged by the due date, a failure to lodge on time penalty may apply.

CAPITAL GAINS TAX SCHEDULE

All SMSFs that have one or more CGT events happen during the income year must complete a *Capital gains tax (CGT) schedule 2010* and attach it to the annual return if:

- a CGT event happens in relation to a forestry managed investment scheme interest that is held other than as an initial participant
- the total current year capital gains are greater than \$10,000, or
- the total current year capital losses are greater than \$10,000.

The *Guide to capital gains tax 2010* will help the SMSF meet its CGT obligations by outlining the essential steps involved in calculating its net capital gain for the income year. The guide also includes:

- aspects of CGT law that may apply to the SMSF – for example, record-keeping requirements
- a capital gain or capital loss worksheet for calculating a capital gain or capital loss for each CGT event
- a CGT summary worksheet for calculating the SMSF's net capital gain or net capital loss for the income year
- the CGT schedule.

LOSSES SCHEDULE

You use the *Losses schedule 2010* to show detailed information on losses when required to do so. Transfer totals of the amounts at part **A** of the *Losses schedule 2010* to section **E** of the annual return at **U Tax losses carried forward to later income years** and at **V Net capital losses carried forward to later income years**.

Complete and attach a *Losses schedule 2010* if:

- the total of the SMSF's tax losses and net capital losses carried forward to the 2010–11 income year is greater than \$100,000
- the SMSF has convertible foreign losses
- the SMSF has an interest in a controlled foreign company (CFC) that has convertible CFC losses
- an interest in a CFC that has deducted or carried forward a loss to later income years greater than \$100,000.

For more information, see the *Losses schedule instructions 2010*.

If you need to complete a *Losses schedule 2010*, you may also need to complete a CGT schedule. For more information, see the *Guide to capital gains tax 2010*.

CAPITAL ALLOWANCES SCHEDULE

All SMSFs that claim a deduction for the decline in value of depreciating assets of more than \$100,000 must complete the *Capital allowances schedule 2010* and attach it to the annual return. The *Capital allowances schedule instructions 2010* will help you to complete the *Capital allowances schedule 2010*. The *Guide to depreciating assets 2010* will assist you to claim a deduction for an asset's decline in value. Use this guide if the SMSF incurred other capital expenditure and you want to know whether you can claim a deduction for that expenditure.

NON-INDIVIDUAL PAYG PAYMENT SUMMARY SCHEDULE

This schedule is a summary of amounts withheld from payments made to a non-individual entity such as an SMSF payee from different payers. Complete and attach this schedule if the SMSF has received any payments from which amounts have been withheld.

If an amount was withheld from a payment to the SMSF, the payer is required to give the SMSF a payment summary.

For example, if the payer withheld an amount from a payment because the SMSF did not quote its ABN, the payer should have given the SMSF (payee) a *PAYG payment summary – withholding where ABN not quoted* (NAT 3283). A payer may issue a receipt, remittance advice or similar document in place of the payment summary, provided the document contains all the information required.

If an amount from a payment to the SMSF was withheld by the payer because of the operation of foreign resident withholding, the SMSF should have received a *PAYG withholding from foreign residents – payment summary* (free format) from the payer.

PAYG payment summary – withholding where ABN not quoted

If the SMSF did not receive or has lost its copy of a payment summary, contact the payer responsible and request a signed photocopy of the payer's copy. Details from any *PAYG payment summary – withholding where ABN not quoted* must be included on a *Non-individual PAYG payment summary schedule 2010*.

Complete a *Non-individual PAYG payment summary schedule 2010* when you show an amount at:

- **H Gross payments where ABN not quoted** in section **B**, or
- **F3 Credit: ABN/TFN not quoted (non-individual)** in section **D**.

Print neatly in block letters with a black pen only. Show the SMSF's TFN and name in the appropriate boxes at the top. Print **N** for this type of withholding. From each *PAYG payment summary – withholding where ABN not quoted*, record on the *Non-individual PAYG payment summary schedule 2010*:

- the payer's ABN (or withholding payer number)
- total tax withheld
- gross payment
- the payer's name.

When you have entered details of all these payment summaries on the schedule, attach the *Non-individual PAYG payment summary schedule 2010* to the applicable return.

Do not attach copies of any *PAYG payment summary – withholding where ABN not quoted* to the applicable return – keep them with the SMSF's copy of the annual return. Also keep a copy of the *Non-individual PAYG payment summary schedule 2010* with the SMSF's tax records.

Payment summary – foreign resident withholding

Details from any *PAYG payment summary – foreign resident withholding* must be included on a *Non-individual PAYG payment summary schedule 2010*.

Complete a *Non-individual PAYG payment summary schedule 2010* when you show an amount at:

- **F2 Credit: foreign resident withholding** in section **D** (except where the amount is from partnership or trust distributions).

When you have entered details of all these payment summaries on the schedule, attach the *Non-individual PAYG payment summary schedule 2010* to the applicable return.

A *Non-individual PAYG payment summary schedule 2010* is not required for income subject to foreign resident withholding received in a distribution from a partnership or trust because these distributions do not have an associated payment summary.

Do not attach copies of any *PAYG payment summary – foreign resident withholding* to the annual return – keep them with the SMSF's copy of the annual return. Also keep a copy of the *Non-individual PAYG payment summary schedule 2010* with the SMSF's tax records.

GENERAL INFORMATION

ELECTION TO BECOME A REGULATED FUND

A trustee must elect to become 'regulated' under the SISA if the SMSF wishes to receive concessional taxation treatment. The trustees of a new SMSF must, within 60 days after establishment of the SMSF, give us a notice of election to be a regulated superannuation fund.

The trustee completes an *Application for ABN registration for superannuation entities*. You can register online at www.abr.gov.au or, for a paper copy of the application, phone the Superannuation Infoline (see the inside back cover).

Once a trustee has elected for the SMSF to become regulated they cannot reverse the decision – the SMSF would have to be wound up to cease to be regulated under the SISA and the Superannuation Industry (Supervision) Regulations 1994.

SWITCHING REGULATORS OR CHANGING TRUSTEES

The *Self-Managed superannuation fund annual return 2010* must not be used to report a switch of regulator or changes with trustees.

If a non-regulated or Australian Prudential Regulation Authority (APRA) regulated superannuation fund attempts to lodge a *Self-Managed superannuation fund annual return 2010* it will be rejected. The same will occur if an SMSF attempts to lodge a *Fund income tax return 2010*.

All superannuation funds that switch regulators must inform us within 21 days by either updating their details online at www.abr.gov.au or by completing a *Change of details for superannuation entities*.

When SMSFs appoint or remove trustees, directors or members they must also update these details by one of the two methods mentioned above. APRA regulated funds have the same requirement for changes to trustees. We will inform APRA of any relevant changes to the Superannuation funds they regulate. SMSFs are now legally required to inform us of any changes of trustees within 28 days of the change occurring.

A trustee, or a director of a corporate trustee, of an SMSF appointed after 30 June 2007 must complete and sign a *Trustee declaration* (NAT 71089), no later than 21 days after becoming a trustee or director, and retain this document with the SMSF's records for 10 years.

RECORD-KEEPING REQUIREMENTS

Generally, an SMSF must keep all relevant records for five years after they were prepared or obtained, or five years after the completion of the transactions or acts to which they relate, whichever is the later. Although this period may be extended in certain circumstances, such as for the *Trustee declaration*, which is to be retained for 10 years.

Keep records in writing and in English. You can keep them electronically as long as the records are in a form that we can access and understand to ascertain the SMSF's tax liability – see *Taxation Ruling TR 96/7 – Income tax: record keeping – section 262-A – general principles* and *Taxation Ruling TR 2005/9 – Income tax: record keeping – electronic records*.

You are not expected to duplicate records. If the records that the SMSF normally keeps contain the information specified in the instructions, you do not need to prepare additional records.

For some items on the annual return, these instructions spell out specific record-keeping requirements. In general, these extra records cover instances where the necessary information may not be available in the normal SMSF accounts.

The record-keeping requirements stipulated by these instructions cover only the information that the SMSF needs to keep to show the correct information on its annual return, but the records that an SMSF needs to maintain are not limited to our requirements.

Prepare and keep the following documents:

- a statement of financial position
- a detailed operating statement
- a statement of cash flow (reporting entities only)
- notices and elections
- documents containing particulars of any estimate, determination or calculation made while preparing the annual return, together with details of the basis and method used in arriving at the amounts on the annual return
- a statement describing and listing the accounting systems and records – for example, a chart of accounts showing those kept on paper and those kept electronically.

If we conduct an audit, we may ask for the following information, and we expect you to make the information readily available:

- a list and description of the main financial products (for example, bank overdrafts, bills, futures and swaps) that were used by the SMSF to finance or manage its activities during the income year
- for SMSFs that have entered into transactions with associated entities overseas
 - an organisational chart of the group structure, and
 - all documents, including worksheets, that explain the nature and terms of the transactions entered into.

The SMSF will be liable to pay penalties and interest, in addition to the shortfall amount, if it does not state the correct amount of taxable income and tax payable on that income, or overclaims a credit entitlement on the annual return. The law also imposes a penalty where an SMSF fails to keep records in the required manner or it fails to retain records for the appropriate period.

SMSF trustees are required to keep the following for a minimum of 10 years following the end of the income year to which they relate:

- minutes of trustee meetings and records of decisions where matters affecting the SMSF were discussed
- records of all changes of trustees, including all changes of directors of any corporate trustee
- copies of members' written consent to be appointed as trustees of the SMSF, or as a director of the corporate trustee
- copies of all annual returns lodged
- copies of all member or beneficiary reports given to members
- records relating to the management of the SMSF as required by the SISA
- *Trustee declarations* recognising the obligations and responsibilities for any trustee, or director of a corporate trustee, appointed after 30 June 2007.

Capital gains and capital losses tax record keeping

An SMSF must keep records of everything that affects its capital gains and capital losses for at least five years after the relevant CGT event.

If an SMSF carries forward a net capital loss, the SMSF should generally keep records of the CGT event that resulted in the loss for five years from the year in which the loss was made or four years from the date of assessment for the income year in which the capital loss is fully applied against capital gains, whichever is longer.

For more information on record keeping for capital gains tax, see the *Guide to capital gains tax 2010* and *Taxation Determination TD 2007/2 – Income Tax: should a taxpayer who has incurred a tax loss or made a net capital loss for an income year retain records relevant to the ascertainment of that loss for only the record retention period prescribed under the income tax law?*

Tax losses record keeping

If an SMSF incurs tax losses it may need to keep records longer than five years from the date when the losses were incurred.

Generally tax losses incurred in an income year can be carried forward indefinitely until they are applied by recoupment. When applied, the loss amount is a figure that is included in the calculation of the SMSF's taxable income in that year.

It is in the SMSF's interest to keep records substantiating this year's losses until the amendment period for the assessment in which the losses are applied has lapsed (in most cases up to four years from the date of that assessment). See *Taxation Determination TD 2007/2*.

Record keeping for overseas transactions and interests

Keep records of any overseas transactions in which the SMSF is involved, or has an interest, during the income year.

The involvement can be direct or indirect – for example, through persons, trusts, companies or other entities. The interest can be vested or contingent, and includes the case where the SMSF has direct or indirect control of:

- any income from sources outside Australia not disclosed elsewhere on the applicable return
- any property (including money) situated outside Australia. If this is the case, keep a record of the following
 - the location and nature of the property
 - the name and address of any partnership, trust, business, company or other entity in which the SMSF has an interest
 - the nature of the interest.

If an overseas interest was created by exercising any power of appointment, or if the SMSF had an ability to control or achieve control of overseas income or property, keep a record of the following:

- the location and nature of the property
- the name and address of any partnership, trust, business, company, or other entity in which the SMSF has an interest.

FOREIGN EXCHANGE (FOREX) GAINS AND LOSSES

Under the forex provisions (Division 775 of the ITAA 1997), forex gains and losses are generally brought to account as assessable income or allowable deductions, when realised. This covers both foreign currency denominated arrangements and, broadly, arrangements to be cash-settled in Australian currency with reference to a currency exchange rate. Some forex gains and losses of a private or domestic nature, or in relation to exempt income or non-assessable non-exempt income, are not brought to account under the forex provisions.

If a forex gain or loss is brought to account under the forex provisions and under another provision of the tax law (apart from the TOFA rules), it is assessable or deductible only under the forex provisions.

Generally, where the TOFA rules apply to the foreign exchange gains and losses of an SMSF then those gains and losses will be brought to account under the TOFA rules instead of the forex provisions.

! NOTE

For more information, see *Guide to the taxation of financial arrangements (TOFA) rules in Taxation of financial arrangements (TOFA)* available on our website www.ato.gov.au/tofa

In general, forex gains and losses will not be assessable or deductible under these provisions if they arise from certain acquisitions or disposals of capital assets, or acquisitions of depreciating assets, and the time between the acquisition or disposal and payment is no more than 12 months. Instead, any forex gain or loss is usually matched with or integrated into the tax treatment of the underlying asset.

The general translation rule requires all tax-relevant amounts to be expressed in Australian currency regardless of whether there is an actual conversion of that foreign currency into Australian dollars.

The tax consequences of gains or losses on existing foreign currency assets, rights and obligations that were acquired or assumed before the commencement date (1 July 2003 but maybe later) are generally to be determined under the law as it was before these provisions came into effect, unless:

- the SMSF has made a transitional election that brings these gains and losses within the forex provisions, or
- there is an extension of an existing loan (for example, an extension by new contract or a variation to an existing contract) that brings the arrangement within these provisions.

More information about forex gains and losses and how to calculate forex realisation gains and losses is available on our website at www.ato.gov.au (search 'forex').

GENERAL VALUE SHIFTING REGIME

The general value shifting regime (GVSR) can apply to value shifts that happen from 1 July 2002.

Broadly, value shifting describes transactions and other arrangements that reduce the value of an asset and (usually) increase the value of another asset.

The GVSR consists of direct value shifting (DVS) and indirect value shifting (IVS) rules that primarily affect equity and loan interests in companies and trusts. There is also a DVS rule dealing with non-depreciating assets over which a right has been created. There are different consequences for particular interests according to whether the interest is held on capital account, as a revenue asset or as trading stock.

Where the rules apply to a value shift there may be a deemed gain (but not a loss) adjustment to adjustable values (such as cost bases) or adjustments to losses or gains on realisation of assets.

There are *de minimus* exceptions and exclusions which will minimise the cost of complying with the GVSR, particularly for small business. Entities dealing at arm's length or on market value terms are generally excluded from the GVSR.

For more information, refer to the Guide to the general value shifting regime available on our website at www.ato.gov.au

DEBT AND EQUITY RULES

The debt equity rules (Division 974 of the ITAA 1997) broadly operate to characterise certain interests as either debt or equity. For some tax law purposes, equity interests are treated in the same way as shares even though they are not shares in legal form. These interests are called 'non-share equity interests'. They include some income securities and some stapled securities. *Debt and equity tests: guide to the debt and equity tests*, available on our website, provides an overview of the debt and equity rules and explains what a non-share equity interest is.

For the purposes of the imputation system, generally, non-share equity interests are treated in the same way as shares that are not debt interests. Non-share dividends on these types of interests may be franked or unfranked. Show any amount of non-share dividend, whether franked or unfranked, or any amount of franking credit attached to the non-share dividend at the appropriate place on the annual return as if it were for a share.

TRANS-TASMAN IMPUTATION

The Trans-Tasman imputation measure allows New Zealand resident companies to choose to enter the Australian imputation system. Doing so allows a company to maintain an Australian franking account and to attach Australian franking credits to dividends it pays, one month after the company makes an election. Australian shareholders of these companies may benefit from the Australian franking credits attached to distributions the companies make (such a company is referred to as a 'New Zealand franking company').

If the SMSF is an Australian shareholder of a New Zealand franking company and received franked dividends with Australian franking credits attached directly or indirectly from a New Zealand franking company, see the following instructions for help in completing the tax return:

- **D1 Gross foreign income** item 10, and
- **E Australian franking credits from a New Zealand company** item 10

for instructions that will assist in completing the annual return. For more information, visit the Trans-Tasman imputation page on our website or phone the Tax Reform Infoline (see the inside back cover).

FOREIGN RESIDENT WITHHOLDING

Withholding applies to certain payments made to foreign residents for:

- operating or promoting gaming junkets
- entertainment or sports activities
- construction and related activities.

Payers are required to withhold at the relevant rate prescribed in the appropriate regulation. We may grant a variation to the rate of withholding in special circumstances.

For more information, see Foreign resident withholding (FRW) – who it affects available on our website at www.ato.gov.au or phone the Business Infoline (see the inside back cover).

FOREIGN CURRENCY TRANSLATION RULES

Taxation of foreign currency gains and losses is contained in Division 775 of the ITAA 1997. The foreign currency translation rules are contained in Subdivision 960-C of the ITAA 1997 (and the functional currency rules are contained in Subdivision 960-D of the ITAA 1997).

For more information about the foreign currency translation rules, see the fact sheets *Foreign exchange (forex) – the general translation rule* (NAT 9339) and *Foreign exchange (forex) – general information on average rates* (NAT 13434), available only on our website.

SELF-DETERMINATION OF FOREIGN INCOME TAX OFFSET

If an SMSF has paid foreign tax and wishes to claim a foreign income tax offset, calculate the amount of any such offset allowed and show it at **C1** in section **D** (item **12**). For more information on the calculation of a foreign income tax offset, see the *Foreign income return form guide* (NAT 1840) and *Guide to foreign income tax offset rules 2009–10* (NAT 72923), available on our website.

For help with the calculation, or advice about whether the offset is allowed, phone the Individual Infoline (see the inside back cover).

ASSESSMENT

An assessment of an SMSF is deemed to be made on the day on which the annual return is lodged.

OBJECTION TO SELF-ASSESSMENT

If a trustee wishes to object to the calculation of taxable income calculated according to an ATO ruling or policy that is unfavourable to the SMSF, they may dispute the application of a ruling or policy by lodging an objection to the self-assessment, generally within four years of the deemed assessment date. The objection must state the full particulars of the issue in dispute.

PRIVATE RULING BY THE COMMISSIONER OF TAXATION

A private ruling is a written expression of opinion by the Commissioner about the way in which tax laws and other specified laws administered by the Commissioner would apply to, or be administered in relation to, an entity in relation to a specified scheme.

An application for a private ruling must be made in the approved form and in accordance with Divisions 357 and 359 of Schedule 1 to the TAA 1953. See *Private ruling application form (tax professionals)* (NAT 13043) and *Private ruling application form (not for tax professionals)* (NAT 13742), available on our website.

The required information and documentation that accompany a private ruling request must be sufficient for the Commissioner to make the private ruling and include:

- the entity to whom the ruling is to apply
- the facts describing the relevant scheme or circumstance
- relevant supporting documents such as transaction documents
- issues and questions raised that relate to the relevant provision to which the ruling relates
- your argument and references on such questions.

The Commissioner may request additional information to make a ruling. The Commissioner will then consider the request and either issue or, in certain limited circumstances, refuse to issue a private ruling.

The trustee may apply for a ruling affecting a member's income tax affairs with the written consent of the member.

Publications

To further improve the administration of the private rulings system, we now publish all notices of private rulings for public record. These publications are available on our website at www.ato.gov.au

Private rulings are published in an edited form to safeguard taxpayer privacy.

Private ruling applicants are invited to provide a statement detailing any information they believe should be removed from the published version of their private ruling.

If the information the applicant wants removed is more than simply names and addresses, reasons why publication of this information will breach the applicant's privacy should be provided.

Before publication, applicants can comment on the edited version of their private ruling.

Review rights

Trustees can object to adverse private rulings or a failure to make a private ruling in much the same way as they can object to assessments. They also can seek a review of adverse objection decisions on a private ruling by the Administrative Appeals Tribunal (AAT) or a court. An explanation of review rights and how to exercise them is issued with the private ruling. An objection to a ruling can be lodged within the later of:

- 60 days after the ruling was made, or
- four years from the last day allowed for lodging an annual return for the income year covered by the ruling.

A trustee cannot object to a private ruling if an assessment has occurred covering the same facts and issues; however, they can object to the assessment.

If a trustee has objected to a private ruling, they cannot object on the same grounds against a later assessment, unless the facts have changed.

Private rulings dealing with the ITAA 1936 continue to apply to the ITAA 1997, to the extent that the old law to which the ruling applies expresses the same ideas as the new law in the ITAA 1997.

When rulings are binding

A private ruling is binding on the Commissioner where it applies to an entity and the entity has relied on the ruling by acting (or omitting to act) in accordance with the private ruling. An entity can stop relying on a private ruling at any time by acting (or omitting to act) in a way that is not in accordance with the private ruling; and can subsequently resume relying on the private ruling by acting accordingly. This is unless the entity is prevented in either case from doing so by a time limit imposed by a tax law. The Commissioner cannot withdraw a private ruling. However, the Commissioner can make a revised private ruling if the scheme to which the earlier private ruling relates has not begun to be carried out and, if the earlier private ruling relates to an income year or other accounting period that year or period has not begun.

SMSF SPECIFIC ADVICE BY THE COMMISSIONER OF TAXATION

SMSF specific advice is a written expression of opinion by the Commissioner about the way in which the provisions of the *Superannuation Industry (Supervision) Act (1993)* and the *Superannuation Industry (Supervision) Regulations (1994)* would apply to an SMSF in relation to a specific transaction or arrangement.

An application for SMSF specific advice can be made in writing containing the required information or by using the standard application form. See *Request for self-managed superannuation fund specific advice (NAT 72441)*, available on our website.

The required information and documentation that accompany specific advice requests must be sufficient for the Commissioner to make the specific advice. The request must include:

- the SMSF to which the specific advice is to apply
- a full disclosure of all relevant facts which describe the relevant transaction or arrangement
- copies of relevant documents, such as contracts
- issues and questions that the SMSF specific advice is to address
- the check listed items and declaration referred to on the standard application form

The trustees and their advisors are also encouraged to provide a summary of research and analysis of the technical issues involved so that their views on the issue can be considered in providing the SMSF specific advice.

The Commissioner may request additional information. The Commissioner will then consider the request and either issue or, in certain limited circumstances, decline to issue specific advice.

SMSF specific advice will not be provided on the SMSF's complying status or where discretionary powers are required to be exercised. The trustee will, however, be able to obtain information or guidance.

A tax agent, who is registered for the Tax Agent Portal or Business Portal, has the ability to lodge the application for specific advice through their portal.

Review rights

While similar in form to a private tax ruling, SMSF specific advice is not binding on the Commissioner and does not carry any formal rights of review.

If a trustee is dissatisfied with their SMSF specific advice, the trustee can ask the Commissioner for a 'second look'. The 'second look' is offered as a good administrative practice under the Taxpayers' Charter.

Weight given to SMSF specific advice

SMSF specific advice is not legally or administratively binding on the Commissioner and if the trustee relies on SMSF specific advice given, the trustee is responsible for their own actions.

However, if the Commissioner takes the view at a later time that the law applies less favourably to the SMSF than SMSF specific advice indicates, the fact that the trustee followed the advice given by the Commissioner would be a relevant factor in their favour in the Commissioner's exercise of any discretion as to what action to take in response to a breach of the law.

This is on the basis that:

- the advice was given for the SMSF's particular situation
- the trustee acted in good faith and reasonably in accordance with the advice given
- a full and true disclosure has been made to the Commissioner when the advice or guidance is sought.

The weight to be given to the reliance placed on the SMSF specific advice would depend on all the circumstances applicable to the SMSF. Each case must be considered on its own merits.

PAYMENT ARRANGEMENTS

Paying your tax debt

Income tax debts must be paid by the due date. For payment options, see page 70.

General interest charge (GIC) is a uniform interest charge imposed where there is a late payment of a tax debt. The GIC rate is the 90-day bank accepted bill rate plus 7% and is updated on a quarterly basis. Amounts payable under the original assessment are due on the statutory due date for payment, which is the first day of the sixth month of the following income year or by such later date as the Commissioner allows. Each year SMSFs are sent a reminder letter notifying them of their lodgment and payment due dates. For SMSFs the balancing date is 30 June 2010 and the statutory due date for payment is 1 December 2010; however, for many SMSFs a later payment due date will apply. GIC will begin to accrue from the due date for payment until the amount is paid in full.

For more information on the GIC, phone the Business Infoline (see the inside back cover).

What if the SMSF cannot pay the tax debt by the due date?

If you cannot pay the debt on time phone the Account Management Infoline (see the inside back cover). You are expected to organise the SMSF's affairs to ensure that you pay the debt on time. However, depending on the circumstances you may be able to enter into an arrangement to pay by instalments. You may need to provide details of the SMSF's financial position, including a statement of its assets and liabilities and details of the SMSF's income and expenditure. We will also want to know what steps you have taken to obtain funds to pay the tax debt and the steps you are taking to meet future payments of tax debts on time. GIC will continue to accrue on the outstanding balance from the original due date.

APPENDIXES

APPENDIX 1: CAPITAL WORKS DEDUCTIONS

Division 43 of the ITAA 1997 provides for a system of deducting capital expenditure incurred in the construction of capital works used to produce assessable income.

Capital works

You can deduct construction costs for the following capital works:

- buildings or extensions, alterations or improvements to a building
- structural improvements or extensions, alterations or improvements to structural improvements
- environmental protection earthworks.

Deductions for construction costs must be based on actual costs incurred. If it is not possible to genuinely determine the actual costs, provide an estimate by a quantity surveyor or another independent qualified person. The costs incurred by the SMSF for providing this estimate are deductible as a tax-related expense, not as an expense in gaining or producing assessable income.

Who can claim?

The SMSF can claim a deduction under Division 43 for an income year only if it:

- owns, leases or holds part of a construction expenditure area of capital works
- incurred the expense, and
- uses the building to produce assessable income.

The area the SMSF owns, leases or holds is called 'your area'.

In calculating the SMSF's deduction you must identify your area for each construction expenditure area of the capital works. Your area may comprise the whole of the construction area or part of it.

Lessee of a building

A lessee can claim a deduction for an area leased or held under a quasi-ownership right.

To claim a deduction the lessee must have:

- incurred the construction expenditure or been an assignee of the lessee who incurred the expenditure
- continuously leased or held the building itself, or the building must have been held in that way by previous lessees, holders or assignees since completion of construction, and
- used the building to produce assessable income.

If there is a lapse in the lease the entitlement to the deduction reverts to the building owner.

Requirement for deductibility

An SMSF can deduct an amount for capital works in an income year if:

- the capital works have a 'construction expenditure area', and
- there is a 'pool of construction expenditure' for that area, and
- the SMSF uses the area in the income year to produce assessable income.

No deduction until construction is complete

An SMSF cannot claim a deduction for any period before the construction of the capital works is complete even though it used them, or part of them, before completion. Additionally, the deduction cannot exceed the undeducted construction expenditure for your area.

Capital works are taken to have started when the first step in the construction phase starts – for example, the pouring of foundations or sinking of pilings for a building.

Establishing the deduction base

You can deduct expenditure for the construction of capital works if there is a construction expenditure area for the capital works.

Whether there is such an area and how it is identified depends on:

- the type of expenditure incurred
- the time the capital works started
- the area of the capital works to be owned, leased or held by the entity that incurred the expenditure
- for capital works begun before 1 July 1997, the area of the capital works that was to be used in a particular manner – see section 43-90 of the ITAA 1997.

Construction expenditure

Construction expenditure includes:

- preliminary expenses such as architect fees, engineering fees, foundation excavation expenses and costs of building permits
- costs of structural features that are an integral part of the income-producing building or income-producing structural improvements – for example, lift wells and atriums
- some portion of indirect costs.

For an owner-builder entitled to a deduction under Division 43 of the ITAA 1997, the value of their contributions to the works – that is, labour or expertise and any notional profit element – do not form part of construction expenditure. See *Taxation Ruling TR 97/25 – Property development: deduction for capital expenditure on construction of income producing capital works, including buildings and structural improvements* and its addendum TR 97/25A.

Construction expenditure does not include expenditure on:

- acquiring land
- demolishing existing structures
- clearing, leveling, filling, draining or otherwise preparing the construction site before carrying out excavation work
- landscaping
- plant
- property for which a deduction is allowable or would be allowable if the property were to be used for the purpose of producing assessable income under another specified provision of the ITAA 1936 or the ITAA 1997.

Construction expenditure area

The construction of the capital works must be complete before the construction expenditure area is determined. A separate construction expenditure area is created each time an entity undertakes capital works construction.

For construction area expenditure before 1 July 1997, the capital works must have been constructed for a specified use at the time of completion, depending upon the time when the capital works started. The first specified use construction time was 22 August 1979 – see table 43-90 and subsection 43-75(2) of the ITAA 1997.

Pool of construction expenditure

The pool of construction expenditure is the portion of the construction expenditure incurred by an SMSF on capital works, which is attributable to the construction expenditure area.

Deductible use

An SMSF can only claim a deduction under Division 43 if it uses the area in a way described in table 43-140 or 43-145 of Subdivision 43-D of the ITAA 1997.

Special rules about uses

Your area is taken to be used for a particular purpose or in a particular manner if:

- it is maintained ready for that use, is not used for another purpose and its use had not been abandoned, or
- its use has temporarily ceased because of, for example, construction or repairs or seasonal or climatic conditions.

Your area is taken not to be used to produce assessable income if:

- it is used, or for use, wholly or mainly for exhibition or display in connection with the sale of all or part of any building – and it is not a hotel or apartment building – and construction began after 17 July 1985 but before 1 July 1997. If construction started after 30 June 1997, buildings that are used for display are eligible;
- construction began after 19 July 1982 and before 18 July 1985 and it is used or for use
 - wholly or mainly for, or in association with, residential accommodation – and it is not a hotel or apartment building, or

- wholly or mainly for exhibition or display in connection with the sale of all or part of any building, or the lease of all or part of any building for use wholly or mainly for, or in association with, residential accommodation – and it is not a hotel or apartment building or an extension, alteration or improvement to such a building
- the SMSF or an associate uses it mainly for, or in association with, residential accommodation – and it is not a hotel or apartment building. See subsection 43-170(2) of the ITAA 1997 for exceptions to this rule.

Your area, other than a hotel or apartment building, is taken to be used, or for use, wholly or mainly for or in association with residential accommodation if it is:

- part of an individual's home, or
- used, or for use, wholly or mainly for the purpose of operating a hotel, motel or guest house – and construction began after 19 July 1982 and before 18 July 1985.

Special rules for hotel and apartment buildings are contained in section 43-180 of the ITAA 1997.

Calculation and rate of deduction

An SMSF's entitlement to a deduction begins on the date the building is first used to produce assessable income. The first and last years of use may be apportioned. The entitlement to a deduction runs for either 25 or 40 years – the limitation period – depending on the rate of deduction applicable.

The legislation contains two calculation provisions:

- section 43-215 of the ITAA 1997 – deduction for capital works which began before 27 February 1992
- section 43-210 of the ITAA 1997 – deduction for capital works which began after 26 February 1992.

Capital works begun before 27 February 1992 and used as described in table 43-140 of the ITAA 1997

Calculate the deduction separately for each part that meets the description of your area.

Multiply the construction expenditure by the applicable rate – either 4% if the capital works began after 21 August 1984 and before 16 September 1987 or 2.5% in any other case – and by the number of days in the income year in which you owned, leased or held your area and used it in a relevant way. Divide that amount by the number of days in the income year.

Apportion the amount if your area is used only partly to produce assessable income.

The amount the SMSF claims cannot exceed the undeducted construction expenditure.

Capital works begun after 26 February 1992

Calculate the deduction separately for each part of the capital works that meets the description of your area.

There is a basic entitlement to a rate of 2.5% for parts used as described in table 43-140 Current year use. The rate increases to 4% for parts used as described in table 43-145 Use in the 4% manner.

Undeducted construction expenditure

The undeducted construction expenditure for your area is the part of the construction expenditure that remains to write off. It is used to work out:

- the number of years in which the SMSF can deduct amounts for construction expenditure, and
- the amount that the SMSF can deduct under section 43-40 of the ITAA 1997 if your area or a part of it is destroyed.

Balancing deduction on destruction

If a building is destroyed during an income year, you can claim a deduction for the remaining amount of undeducted construction expenditure that has not yet been deducted, less any compensation received. This applies even if the destruction or demolition is voluntary.

You can claim the deduction in the income year in which the destruction occurs.

The deduction is reduced if the capital works are used in an income year only partly for the purpose of producing assessable income.

For guidelines on these measures, see Taxation Ruling 97/25 and addendum.

APPENDIX 2: RESPONSIBILITIES OF TRUSTEES

The following summary is only a small number of the special responsibilities trustees have in the preparation of the SMSF annual return.

- The SMSF must have a governing trust deed or a constituent document.
- The SMSF must ensure that all assets are in the name of all the trustees of the SMSF.
- The SMSF must elect to become a regulated fund under the SISA and be a complying SMSF in order to receive tax concessions. The trustee must retain a notice of compliance when issued for a previous income year. A notice of compliance given in relation to a year of income will be effective for that year and all subsequent years until such time, if any, as a notice of non-compliance is given to the SMSF.
- If a CGT event has happened to a CGT asset that the SMSF acquired prior to 1 July 1988, the SMSF must keep records of the market value or the original cost used for the cost base as at 30 June 1988.

- The SMSF must keep separate records of private company dividends, certain trust distributions or other non-arm's length income.
- The SMSF must keep records of all foreign source income and calculation of the foreign income tax offsets.
- In relation to contributions, the SMSF must keep records of:
 - contributions received from employers and employees or depositors
 - rollover notifications to verify untaxed elements where rollovers are received.
- The SMSF must keep records of notices received excluding member or depositor contributions. If the contributions tax liability is transferred, the SMSF must obtain evidence in writing of an agreement signed by the transferor and the transferee.
- In relation to deductions, the SMSF must keep records of expenditure and to what income it relates. If a potential detriment deduction is claimed, the SMSF must keep records of how the claim was calculated and obtain the relevant actuarial certificates. It must also keep evidence that the benefit of the deduction is passed on to the dependant.
- If premiums for death and disablement cover are claimed, where relevant, the SMSF must:
 - keep a copy of the policy or actuarial certificate, and
 - if a future service element deduction is claimed, keep evidence of the calculation and full details of the relevant superannuation lump sum benefit.
- In addition to the above documentation used in the preparation of this annual return, trustees also have the responsibility under the SISA for maintaining documentation after lodging the annual return.

Trustees must keep the following records for a minimum of five years:

- accurate and accessible accounting records that explain the transactions and financial position of the SMSF
- an annual operating statement and an annual statement of the SMSF's financial position
- copies of all annual returns lodged
- copies of any other statements you are required to lodge with us, or provide to other super funds.

Trustees must keep the following records for a minimum of 10 years:

- minutes of trustee meetings and decisions (where matters affecting the SMSF were discussed)
- records of all changes of trustees, including all changes of directors of any corporate trustee
- trustee declarations recognising the obligations and responsibilities for any trustee, or director of a corporate trustee, appointed after 30 June 2007
- a member's written consent to be appointed as a trustee of the SMSF, or as director of the corporate trustee
- copies of reports given to members.

For more information, trustees of SMSFs should refer to our publication *Running a self-managed super fund: Your role and responsibilities as a trustee*, available on our website.

APPENDIX 3: TAX RATES

	Rate %
The following rates of tax apply to superannuation funds, ADFs and PSTs for 2009–10.	
Superannuation funds certified by the ATO or APRA as complying with superannuation fund conditions:	
■ assessed on income, including realised capital gains and taxable contributions received	15
■ assessed on private company dividends (including non-share dividends) unless the amount is consistent with an arm's length dealing – see Net non-arm's length private company dividends on page 19	45
Superannuation funds that were a foreign superannuation fund in the prior year:	
■ assessed on income, including realised capital gains, taxable contributions and assessable income due to fund tax status change (assets /less member contributions)	15
Superannuation funds not certified by the ATO or APRA as complying with superannuation fund conditions:	
■ superannuation funds that were complying in the prior year assessed on income, including realised capital gains, taxable contributions received and any assessable income due to fund tax status change (assets less non-concessional contributions)	45
■ superannuation funds that were not complying in the prior year assessed on income, including realised capital gains and taxable contributions received	45
■ an Australian superannuation fund which was a foreign superannuation fund in the prior year assessed on income, including realised capital gains, taxable contributions and assessable income due to fund tax status change (assets /less member contributions)	45
Superannuation funds that have not elected to be regulated under the <i>Superannuation Industry (Supervision) Act 1993</i>:	
■ assessed on income, including realised capital gains and taxable contributions received	45
ADFs certified by APRA as complying with ADF conditions:	
■ assessed on income, including realised capital gains and certain rollover deposits	15
■ assessed on non-arm's length income, private company dividends (including non-share dividends) unless the amount is consistent with an arm's length dealing – see Net non-arm's length private company dividends on page 19	45
ADFs not certified by APRA as complying with ADF conditions:	
■ assessed on income, including realised capital gains and certain rollover deposits	45
Unit trusts certified by APRA as complying with conditions for PSTs:	
■ assessed on income, including realised capital gains and any liability attached to tax deductible contributions transferred from investing funds	15
■ assessed on non-arm's length income, private company dividends (including non-share dividends) unless the amount is consistent with an arm's length dealing – see Net non-arm's length private company dividends on page 19	45
No-TFN quoted contributions that are included in assessable contributions:	
■ for superannuation funds certified by APRA or the ATO as complying with superannuation fund conditions, an additional tax rate of 31.5% applies to contributions received that were for a member who has not quoted a TFN	31.5
■ for superannuation funds not certified by APRA or the ATO as complying with superannuation fund conditions, an additional tax rate of 1.5% applies to contributions received that were for a member who has not quoted a TFN	1.5

ABBREVIATIONS

AAT	Administrative Appeals Tribunal	SHA	superannuation holding accounts special account
ABN	Australian business number	SIC	shortfall interest charge
ABR	Australian Business Register	SIS	<i>Superannuation Industry (Supervision) Act 1993</i> and Superannuation Industry (Supervision) Regulations 1994
ADF	approved deposit fund	SISA	<i>Superannuation Industry (Supervision) Act 1993</i>
Annual return	self-managed superannuation fund annual return	SISR	Superannuation Industry (Supervision) Regulations 1994
APRA	Australian Prudential Regulation Authority	SMSF	self-managed superannuation fund
ATO	Australian Taxation Office	TAA	<i>Taxation Administration Act 1953</i>
BSB	bank sub-branch	TAN	Tax agent number
CFC	controlled foreign company	TBNT	trustee beneficiary non-disclosure tax
CGT	capital gains tax	TFN	tax file number
Commissioner	Commissioner of Taxation	TOFA	Taxation of financial arrangements
DVS	direct value shifting	Trust Loss Act 1998	<i>Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998</i>
EFT	electronic funds transfer		
ELS	electronic lodgment service		
FBT	fringe benefits tax		
FHSA	first home savers account		
FMIS	forestry managed investment scheme		
FRLI	Federal Register of Legislative Instruments		
FTDT	family trust distribution tax		
FTE	family trust election		
fund	superannuation fund, approved deposit fund and pooled superannuation trust		
GIC	general interest charge		
GST	goods and services tax		
GVSR	general value shifting regime		
IEE	interposed entity election		
ITAA	Income Tax Assessment Act		
IVS	indirect value shifting		
LIC	listed investment company		
MCS	member contributions statement		
MIS	managed investment scheme		
NRAS	National rental affordability scheme		
PAYG	pay as you go		
PDF	pooled development fund		
PST	pooled superannuation trust		
RBA	running balance account		

PUBLICATIONS, TAXATION DETERMINATIONS AND RULINGS

Publications (available at www.ato.gov.au unless noted)

- *Amendments to Australian Auditing Standards* (available at www.auasb.gov.au)
- *Application for ABN registration for superannuation entities* (NAT 2944)
- *Super contributions from a first home saver account* (NAT 72537)
- *Super contributions from a first home saver account under a family law obligation* (NAT 72629)
- *Accessing your super if you have a terminal medical condition* (NAT 72437)
- *A New Tax System (Australian Business Number) Act 1999*
- *Cancellation of registration – application* (NAT 2955)
- *Capital allowances schedule 2010* (NAT 3424)
- *Capital allowances schedule instructions 2010* (NAT 4089)
- *Capital gains tax (CGT) schedule 2010* (NAT 3423)
- *Change of details for superannuation entities* (NAT 3036)
- *Code of Ethics for Professional Accountants* (available at www.apesb.org.au)
- *Contributions for personal injury* (NAT 71162)
- *Contributions splitting – how to complete your Superannuation contributions splitting application* (NAT 15237)
- *Debt and equity tests: guide to the debt and equity tests*
- *Defined benefits funds* (NAT 70647)
- *Employment termination payments – transitional arrangements* (NAT 70644)
- *Family trust election, revocation or variation 2010* (NAT 2787)
- *Family trusts – details of the amendments to increase flexibility for family trusts*
- *Foreign exchange (forex) – general information on average rates* (NAT 13434)
- *Foreign exchange (forex) – the general translation rule* (NAT 9339)
- *Foreign income return form guide* (NAT 1840)
- *Foreign investment funds guide* (NAT 2130)
- *Fringe benefits tax: a guide for employers* (NAT 1054)
- *Fund income tax return 2010* (NAT 71287)
- *General value shifting regime: who it affects*
- *Guide to capital gains tax 2010* (NAT 4151)
- *Guide to concessions for small business entities* (NAT 71874)
- *Guide to depreciating assets 2010* (NAT 1996)
- *Guide to the general value shifting regime* (NAT 8366)
- *Guide to foreign income tax offset rules* (NAT 72923)
- *How to complete a rollover benefits statement* (NAT 70945)
- *Income Tax Assessment Act 1936*
- *Income Tax Assessment Act 1997*
- *Income Tax Regulations 1936*
- *Income Tax Assessment Regulations 1997*
- *Income tax (Transitional Provisions) Act 1997*
- *Instructions for completing an auditor/actuary contravention report* (NAT 11299)
- *Interposed entity election or revocation 2010* (NAT 2788)
- *Legislative Instrument registered on the Federal Register of Legislative Instruments* (available at www.frli.gov.au)
- *Losses schedule 2010* (NAT 3425)
- *Losses schedule instructions 2010* (NAT 4088)
- *National Rental Affordability Scheme (Consequential Amendments) Act 2008*
- *New Business Tax System (Taxation of Financial Arrangements) Act (No. 1) 2003*
- *New International Tax Arrangements (Managed Funds and Other Measures) Act 2005*
- *New International Tax Arrangements (Foreign Owned Branches and Other Measures) Act 2005*
- *Non-individual PAYG payment summary schedule 2010* (NAT 3422)
- *PAYG payment summary – withholding where ABN not quoted* (NAT 3283)
- *PAYG payment summary – foreign resident withholding*
- *PAYG withholding from interest dividend and royalty payments paid to non residents - annual report* (NAT 7187)
- *Rollover benefits statement* (NAT 70944)
- *Running a self-managed super fund: Your role and responsibilities as a trustee* (NAT 11032)
- *Schedule 25A 2010* (NAT 1125)
- *Schedule 25A instructions 2010* (NAT 2639)
- *Self-managed superannuation fund annual return 2010* (NAT 71226)
- *Self-managed superannuation funds audit report* (NAT 11466)
- *Self-managed superannuation funds – Role and responsibilities of approved auditors* (NAT 11375)
- *Small Superannuation Accounts Act 1995*
- *Superannuation funds, retirement savings accounts and tax file numbers*
- *Superannuation Guarantee (Administration) Act 1992*
- *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*
- *Superannuation Industry (Supervision) Act 1993*
- *Superannuation Industry (Supervision) Regulations 1994*
- *Superannuation Legislation Amendment Act (No. 4) 1999*
- *Super contributions – too much super can mean extra tax*
- *Taxation Administration Act 1953*
- *Taxation Administration Regulations 1976*
- *Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998*
- *Tax file numbers and superannuation* (NAT 70641)
- *Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009*
- *Trustee declaration* (NAT 71089)
- *Winding up a self-managed superannuation fund* (NAT 8107)

■ Taxation determinations and taxation rulings

- Law Administration Practice Statement PS LA 2004/1 (GA) – Lodgment opportunity for family trust and interposed entity elections
- Self-Managed Superannuation Funds Ruling SMSFR 2008/1 – Self-Managed Superannuation Funds: giving financial assistance using the resources of a self-managed superannuation fund to a member or relative of a member that is prohibited for the purposes of paragraph 65(1)(b) of the Superannuation Industry (Supervision) Act 1993
- Self-Managed Superannuation Funds Ruling SMSFR 2008/2 Self-Managed Superannuation Funds: the application of the sole purpose test in section 62 of the Superannuation Industry (Supervision) Act 1993 to the provision of benefits other than retirement, employment termination or death benefits.
- Self-Managed Superannuation Funds Ruling SMSFR 2009/1 Self-Managed Superannuation Funds: business real property for the purposes of the Superannuation Industry (Supervision) Act 1993.
- Self-Managed Superannuation Funds Ruling SMSFR 2009/2 Self-Managed Superannuation Funds: the meaning of ‘borrowing’ or ‘maintain an existing borrowing of money’ for the purposes of section 67 of the Superannuation Industry (Supervision) Act 1993
- Self-Managed Superannuation Funds Ruling SMSFR 2009/3 Self-Managed Superannuation Funds: application of the Superannuation Industry (Supervision) Act 1993 to unpaid trust distributions payable to a Self Managed Superannuation Fund
- Self-Managed Superannuation Funds Ruling SMSFR 2009/4 Self-Managed Superannuation Funds: the meaning of ‘asset’, ‘loan’, ‘investment in’, ‘lease’ and ‘lease arrangement’ in the definition of an ‘in-house asset’ in the Superannuation Industry (Supervision) Act 1993
- Self-Managed Superannuation Funds Ruling SMSFR 2010/1 Self-Managed Superannuation Funds: the application of subsection 66(1) of the Superannuation Industry (Supervision) Act 1993 to the acquisition of an asset by a self managed superannuation fund from a related party
- Taxpayer Alert 2008/5 certain borrowing by self-managed superannuation funds
- Self-Managed Superannuation Funds Determination SMSFD 2007/1 – Self-Managed Superannuation Funds: when is a dividend or trust distribution ‘received’ before the end of 30 June 2009 for the purposes of paragraph 71D(d) of the Superannuation Industry (Supervision) Act 1993?
- Self-Managed Superannuation Fund Determination SMSFD 2008/1 – Self-Managed Superannuation Funds: how does the happening of an event in subregulation 13.22D(1) of the Superannuation Industry (Supervision) Regulations 1994 affect whether a self-managed superannuation fund’s investments in related companies or unit trusts are in-house assets of the fund?
- Self-Managed Superannuation Funds Determination SMSFD 2008/2 – Self-Managed Superannuation Funds: when calculating the market value ratio of in-house assets for the purposes of section 75 of the Superannuation Industry (Supervision) Act 1993 is it permissible for a self-managed superannuation fund to value its assets at historical cost (purchase price)?
- Taxation Ruling IT 2624 – Income tax: company self-assessment; elections and other notifications; additional (penalty) tax; false or misleading statement
- Taxation Determination TD 1999/6 – Income tax: what is the purpose of sections 279E and 289A of the Income Tax Assessment Act 1936 (ITAA 1936)?
- Taxation Determination TD 2007/2 – Income Tax: should a taxpayer who has incurred a loss or made a net capital loss for an income year retain records relevant to the ascertainment of that loss only for the record retention period prescribed under income tax law?
- Taxation Determination TD 2007/3 – Income tax: is a deduction allowable to complying superannuation funds, under section 279 of the Income Tax Assessment Act 1936, for insurance premiums attributable to the provision of benefits for members in the event of temporary disability longer than two years?
- Taxation Ruling IT 2624 – Income tax: company self-assessment; elections and other notifications; additional (penalty) tax; false or misleading statement
- Taxation Ruling TR 96/7 – Income tax: record keeping – section 262A – general principles
- Taxation Ruling TR 97/25 – Income tax: property development: deduction for capital expenditure on construction of income producing capital works, including buildings and structural improvements and its addendum TR 97/25A
- Taxation Ruling TR 2005/9 – Income tax: record keeping – electronic records
- Taxation Ruling TR 2006/7 – Income tax: special income derived by a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust in relation to the year of income
- Taxation Ruling TR 2009/4 – Income tax: effective life of depreciating assets (applicable from 1 July 2009)
- Taxation Ruling TR 2008/9 – Income tax: meaning of ‘Australian superannuation fund’ in subsection 295-95(2) of the Income Tax Assessment Act 1997

LODGMENT

The only postal address for lodgment of the *Self-managed superannuation fund annual return 2010* is:

**Australian Taxation Office
GPO Box 9845
IN YOUR CAPITAL CITY**

The address must appear as shown above.

Do not post payments to this address; for payment information see **PAYMENT**.

If you wish to write to the ATO about superannuation send your correspondence to:

**Australian Taxation Office
PO Box 3100
PENRITH NSW 2740**

PAYMENT

Assessment notices

Under full self-assessment an SMSF completes and lodges its annual return and pays the amount it is required to pay (if any) to the ATO. This means that the SMSF will not receive a notice of assessment. However, we will issue a notice of amended assessment if subsequent amendments are made.

SMSFs are sent a reminder letter each year notifying them of their lodgment and payment due dates. Alternatively, this information can be obtained by contacting us on **13 10 20** or via our website at **www.ato.gov.au**. The letter also contains a personalised payment slip the SMSF can use to make payments at Australia Post outlets.

Payment options are described under **How to pay**, see below.

! NOTE

If you contact us for an EFT payment code please clearly state that it is for superannuation income tax as the supervisory levy is combined with any income tax debt.

Refunds

If a refund is due to you, the refund will be paid by cheque.

How to pay

There are a range of payment options both in Australia and overseas.



BPAY®

Make a payment directly from your cheque or savings account to the ATO using your financial institution's phone or internet banking service.

Details you need

Billers code: 75556

Reference: Your EFT code or PRN

Your payment needs to reach us on or before the due date. Please check your financial institution's processing deadlines to avoid making a late payment.

BPAY payments made out of hours, on a weekend or public holiday will not reach us until the next working day.

Credit card

Credit card payments can be made online or by phone. To make a credit card payment you will need

- A current Visa, MasterCard or American Express card
- Your EFT code or PRN

NOTE

A card payment fee applies to transactions made using the credit card payment service

To make credit card payments online or for further information go to www.ato.gov.au/howtopay

To make credit card payments by phone call **1300 898 089**

What is my electronic funds transfer (EFT) code or PRN?

Your EFT code or PRN is the reference number. It is printed directly above the barcode on your payment slip.

Your EFT code or PRN is also provided on the 'Payment options – details' screen (for business and tax agent portal users) or immediately below the Biller code and titled EFT code, on the details screen of your ECI e-BAS (where access is available).

A receipt number is issued at the time the payment is made. Please record it for future reference.

If you need more information:

- phone **1800 815 886** 8am to 5pm, Monday to Friday AEST
- email payment@ato.gov.au

Direct credit

Transfer your payment to us online from your cheque or savings account.

Details you need

Bank: Reserve Bank of Australia

BSB: 093 003

Account number: 316 385

Account name: ATO direct credit account

Reference: Your EFT code or PRN

Your payment needs to reach us on or before its due date. Please check your financial institution's processing deadlines to avoid making a late payment. Direct credit payments made out of hours, on a weekend or public holiday will not reach us until the next working day.

Direct debit

Have your payment automatically deducted from a cheque or savings account.

Please allow at least seven (7) working days for your direct debit to be activated to ensure your payment reaches us on or before its due date.

Mail

Mail your cheque or money order to us. Do not send cash.

Cheques and money orders should be for amounts in Australian dollars and payable to the 'Deputy Commissioner of Taxation'. Cheques should be crossed 'Not Negotiable' and must not be post dated.

You should also include your payment slip or a note that states your:

- full name
- address and telephone number
- account identifier: tax file number (TFN), Australian business number (ABN), client identification number etc
- payment type: BAS payment, income tax, HELP etc.

Mail your payment and payment slip or note to:
NSW, ACT or QLD residents

**Australian Taxation Office
Locked Bag 1793
PENRITH NSW 1793**

WA, SA, NT, TAS or VIC residents

**Australian Taxation Office
Locked Bag 1936
ALBURY NSW 1936**

Do not use pins, staples, paper clips or adhesive tape.

Please allow sufficient time for your payment to reach us on or before the due date.

If you need more information:

- phone **1800 815 886**, 8am to 6pm, Monday to Friday
- email payment@ato.gov.au

In person – at a post office

If you have a pre-printed payment slip with a barcode, you can pay in person at any Australia Post outlet.

A \$3,000 limit applies to cash payments. EFTPOS payments are subject to daily withdrawal limits.

Cheques or money orders should be for amounts in Australian dollars and payable to 'Deputy Commissioner of Taxation'. Cheques should be crossed 'Not Negotiable' and must not be post dated.

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