Market valuation of assets

Assets in an SMSF must be recorded at their market value. Issues concerning the market value of assets held in the SMSF may affect the complying status of the fund and its ability to claim a tax exemption for earnings on pension amounts. This is particularly pertinent for:

- Minimum pension requirements.
- In-house assets.
- In-specie transfers.

For guidance in determining market value please refer to Market valuation for tax purposes (NAT 72508).

Minimum pension requirement

During the financial year the SMSF is required to pay out at least the minimum pension amount as calculated using the opening balance.[1] The minimum pension requirement may be breached if the amount paid is calculated using an opening balance which is lower than the true market value.

> ***Example***
>
> *Bob has a pension opening balance of $400,000. He pays out the minimum pension for a 62 year old which is 3% (in 2011-12) or $12,000 pa (i.e. $400,000 x 3%).*
>
> *Bob's fund auditor realises that the assets were not shown at market value when the pension commenced at 1 July 2011, and that the assets were instead worth $500,000.*
>
> *Bob's minimum requirement is actually **$15,000 pa** ($500,000 x 3%)*
>
> *Bob's pension is non-compliant because he has not satisfied the minimum pension requirement in 2011-12. He cannot claim a tax exemption for income generated by assets backing the pension.*

In-house assets

An in-house asset is a loan or an investment to a related party of the fund, or to a related trust of the fund, or an asset of the fund subject to a lease arrangement between a trustee of the fund and a related party.[2]

Trustees are prohibited from lending, investing, or leasing more than 5% of the fund's total assets to a related party of the fund.

Where an SMSF has in-house assets, the fund must calculate the market value of the in-house assets at acquisition and at 30 June each year to determine whether the 'market value ratio' of the fund's in-house assets is less than 5%.[3] A fund that acquires in-house assets over the 5% threshold but disposes of it by the end of the same financial year is still in breach of the cap.

If the fund exceeds the 5% limit, it may be deemed non-compliant, prevented from purchasing further in-house assets, and may incur other penalties. The trustees will also be required to prepare a written plan outlining the steps they will take to comply with the 5% rule. The breach must be rectified before the end of the next income year.

In-specie transfers

An in-specie transfer refers to a non-cash transfer of assets. In the case of an in-specie transfer to the SMSF, the market value requirement is considered satisfied if it is treated by the SMSF as a contribution equal to the market value of the asset.[4]

> ***Example***
>
> *Jane contributes a portfolio of shares into her superannuation fund as an in-specie non-concessional contribution worth $450,000.*
>
> *When finalising the accounts for the fund, she notices that she used the wrong share price for some of the assets, and that the overall portfolio was actually worth $500,000.*
>
> *The full $500,000 will be treated by the fund as a contribution and she may now be liable for excess contribution tax on $50,000.*

Similarly, an in-specie lump sum payment from the SMSF should be at market value to avoid potential issues related to the early release of superannuation or maximum pension limits.

Further information

For further information please visit **www.cumsar.com.au** or contact Corey Plover on (03) 9642 2242.

[1] *Superannuation Industry (Supervision) Regulations 1994*, Schedule 7
[2] *Superannuation Industry (Supervision) Act 1993*, Section 71(1)
[3] *Superannuation Industry (Supervision) Act 1993*, Section 82 & 83
[4] *Self-Managed Superannuation Fund Ruling 2010/1*, paragraph 38-39