



ATO Interpretative Decision


ATO ID 2002/986

Superannuation

Retirement income entities - In-House Assets of a self managed super fund

FOI status: may be released

Status of this decision: Decision Current

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Issue

Will the exemption to the in-house assets rule contained in section 71B of the *Superannuation Industry (Supervision) Act 1993* (SISA) apply if the lessee continues to rent a bus from the self managed superannuation fund (SMSF) in accordance with the terms of the old lease.

Decision

Yes. The asset subject to the lease will not be an in-house asset of the SMSF.

Facts

One of the assets of the SMSF is a bus.

The SMSF leases the bus to a related party under a lease agreement entered into prior to 11 August 1999.

Reasons for Decision

Amendments were made to the investment rules of SISA by the *Superannuation Legislation Amendment Act 1999* to restrict investments and loans by SMSFs to/in related parties. The amendments apply from 11 August 1999. According to the transitional rules, fund investments and assets subject to leases in place at 11 August 1999 are not subject to the new rules. That is, the assets are not counted as in-house assets, unless they were already included as an in-house asset under the old rules.

As the asset subject to lease between the SMSF and the related party was in place prior to 11 August 1999 the exemption contained in section 71B of SISA applies to exempt the asset from being an in-house asset of the SMSF.

Date of decision: 9 August 2001

Year of income: Year ended 30 June 2001

Legislative References:

Superannuation Industry (Supervision) Act 1993
Section 71B

Keywords

SMSF investments
Self Managed Superannuation funds
SMSF related parties
Superannuation fund in house assets

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