



ATO Interpretative Decision


ATO ID 2003/711

Superannuation

Retirement income entity - loan to a partnership

FOI status: may be released

Status of this decision: Decision Current

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Issue

Has a contravention of section 65 of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) occurred when a self managed superannuation fund (SMSF) made a loan to a partnership?

Decision

Yes. A contravention of section 65 of the SIS Act has occurred when a SMSF made a loan to a partnership.

Facts

A SMSF made a loan to a partnership.

The partners of the partnership are members of the SMSF.

Reasons for Decision

Section 65 of the SIS Act prohibits a SMSF from lending money, or giving financial assistance, to a member of the fund or a relative of a member of the fund.

A partnership does not have a separate legal identity; rather it is two or more persons carrying on a business in common. As the partners of the partnership were members of the SMSF the loan to the partnership was actually a loan to the members of the SMSF. Such a loan contravened section 65 of the SIS Act.

Date of decision: 28 May 2001

Legislative References:

Superannuation Industry (Supervision) Act 1993

Section 65

Keywords

Regulated superannuation fund

Loan

Partnership

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