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SUPERANNUATION INDUSTRY (SUPERVISION) REGULATIONS 1994


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PART 13 - MISCELLANEOUS

Division 13.3 - Various prescribed matters

REGULATION 13.18AA SELF MANAGED SUPERANNUATION FUNDS - INVESTMENT IN COLLECTABLES AND PERSONAL USE ASSETS

13.18AA(1)

For section 62A of the Act, this regulation applies to investments involving any of the following (section 62A items):

(a) artwork (within the meaning of the *Income Tax Assessment Act 1997*);

(b) jewellery;

(c) antiques;

(d) artefacts;

(e) coins, medallions or bank notes;

More (f) postage stamps or first day covers;

(g) rare folios, manuscripts or books;

(h) memorabilia;

(i) wine or spirits;

(j) motor vehicles;

(k) recreational boats;

(l) memberships of sporting or social clubs.

Asset must not be leased to related party

13.18AA(2)

Each trustee of a regulated superannuation fund that is a self managed superannuation fund commits an offence if:

(a) the fund holds an investment involving a section 62A item; and

(b) either:

(i) an interest in the item is leased to a related party of the fund; or

(ii) a trustee of the fund enters a lease arrangement with a related party of the fund in relation to the item.

Penalty: 10 penalty units.

Note:
Lease arrangement and *related party* are defined in subsection 10(1) of the Act.

Item must not be stored in private residence of related party

13.18AA(3)

Each trustee of a regulated superannuation fund that is a self managed superannuation fund commits an offence if:

(a) the fund holds an investment involving a section 62A item; and

(b) the item is stored in the private residence of a related party of the fund.

Penalty: 10 penalty units.

Note:
Related party is defined in subsection 10(1) of the Act.

Decision on storage of item must be documented

13.18AA(4)

Each trustee of a regulated superannuation fund that is a self managed superannuation fund commits an offence if:

(a) the fund holds an investment involving a section 62A item; and

(b) the trustee or trustees of the fund make a decision relating to the storage of the item; and

(c) either;

(i) a written record of the reasons for the decision is not made; or

(ii) if a written record of the reasons is made - the record is not kept for at least 10 years after the decision.

Penalty: 10 penalty units.

Item must be insured in fund's name

13.18AA(5)

Each trustee of a regulated superannuation fund that is a self managed superannuation fund commits an offence if:

(a) the fund owns a section 62A item, other than a membership of a sporting or social club; and

(b) it is more than 7 days since the fund acquired the item; and

(c) the item is not insured in the name of the fund.

Penalty: 10 penalty units.

Item must not be used by related party

13.18AA(6)

Each trustee of a regulated superannuation fund that is a self managed superannuation fund commits an offence if:

(a) the fund holds an investment involving a section 62A item; and

(b) a related party of the fund uses the item.

Penalty: 10 penalty units.

Note:

Related party is defined in subsection 10(1) of the Act.

Transfer of asset to related party requires independent valuation

13.18AA(7)

A trustee of a regulated superannuation fund that is a self managed superannuation fund commits an offence if:

(a) the trustee realises an investment held by the fund involving a section 62A item; and

(b) a related party of the fund receives an interest in the item because of the realisation; and

(c) the realisation was not at a market price determined by a qualified independent valuer.

Penalty: 10 penalty units.

Note:

Related party is defined in subsection [10\(1\)](#) of the Act.

Offences are strict liability offences

13.18AA(8)

An offence against any of subregulations (2) to (7) is an offence of strict liability.

Note:

For strict liability, see section [6.1](#) of the *Criminal Code*.

Transitional period for existing assets

13.18AA(9)

Subregulations (2) to (7) do not apply in relation to an investment in a section [62A](#) item that was held by the fund on 30 June 2011.

13.18AA(10)

However, subregulation (9) ceases to be in force on 1 July 2016.

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