

SPR 2011/12 - Explanatory statement -



Self-managed Superannuation Funds (Assets Acquired on Marriage Breakdown) Repeal Determination 2011

Explanatory Statement

General Outline of Instrument

1. This instrument is made under paragraph 66(2)(d) of the *Superannuation Industry (Supervision) Act 1993* (SIS Act 1993)
2. This determination repeals the Self-managed Superannuation Funds (Assets Acquired on Marriage Breakdown) Determination 2006 (F2006L02884) because it is no longer necessary due to the insertion of subsection 66(2B) into to the SIS Act 1993 by the *Superannuation Legislation Amendment Act 2010*.
3. This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Date of effect

4. The instrument is taken to have commenced on 17 November 2010.
5. The instrument applies retrospectively to ensure that the Self-managed Superannuation Funds (Assets Acquired on Marriage Breakdown) Determination 2006 (F2006L02884) is repealed from the date of effect of subsection 66(2B) of the SIS Act 1993.
6. Under subsection 12(2) of the *Legislative Instruments Act 2003* this instrument does not adversely affect the rights or liabilities of any person other than the Commonwealth and ensures that the benefits of legislative change come into effect on 17 November 2010. The effect of the legislative instrument is to the advantage of affected parties. Determination 2006 still has effect until 17 November 2010.

What is this instrument about:

7. The purpose of this instrument is to repeal Self-managed Superannuation Funds (Assets Acquired on Marriage Breakdown) Determination 2006 (F2006L02884) from 17 November 2010. This instrument is repealed due to the insertion of subsection 66(2B) into the SIS Act 1993 which has made that determination redundant for acquisitions occurring on or after 17 November 2010. It should be noted that the determination remains relevant for the 2010/11 income year.

What is the effect of this instrument:

8. The effect of this instrument is to ensure that only the newly inserted subsection 66(2B) applies to trustees or investment managers of regulated superannuation funds when acquiring assets from a related party of the fund where the acquisition occurs as a result of relationship breakdown of members of the fund and their spouse or former spouse.
9. The Self-managed Superannuation Funds (Assets Acquired on Marriage Breakdown) Determination 2006 still applies for the period up until 17 November 2010.
10. An assessment of compliance cost impact indicates that the impact will be minor for both implementation and on-going compliance costs.

Background:

11. Commencing on 28 December 2002, the Self-managed Superannuation Funds (Assets Acquired on Marriage Breakdown) Determination 2006 ensured that the trustees of a self-managed superannuation fund did not commit an offence if they acquired an asset from a related party, being the trustees of another superannuation fund, if the acquisition resulted from the marriage breakdown of a member of the fund.
12. With effect from 17 November 2010, the *Superannuation Legislation Amendment Act 2010* inserted subsection 66(2B) into the SIS Act 1993 which addresses the same issue as the Self-Managed Superannuation Funds (Assets Acquired on Marriage Breakdown) Determination 2006.
13. This instrument has been developed to repeal Self-managed Superannuation Funds (Assets Acquired on Marriage Breakdown) Determination 2006 which has been superseded by subsection 66(2B) of the SIS Act 1993.

Consultation:

14. There was no consultation required in developing this instrument.

Neil Olesen
Deputy Commissioner of Taxation
14 October 2011

Legislative references:

Legislative Instruments Act 2003

Self-managed Superannuation Funds (Assets Acquired on Marriage Breakdown) Determination 2006

Superannuation Industry (Supervision) Act 1993

Superannuation Legislation Amendment Act 2010

Schedule 3 Superannuation and relationship breakdowns