



Legislative Instrument

Self Managed Superannuation Funds (Limited Recourse Borrowing Arrangements – In-house Asset Exclusion) Determination 2014

I, Alison Lendon, Deputy Commissioner of Taxation, make this determination under paragraph 71(1)(f) of the *Superannuation Industry (Supervision) Act 1993*

Dated: 4 April 2014

Alison Lendon
Deputy Commissioner of Taxation

1. Name of Determination

This determination is the *Self Managed Superannuation Funds (Limited Recourse Borrowing Arrangements – In-house Asset Exclusion) Determination 2014*.

2. Commencement

This determination is taken to have commenced on 24 September 2007.

3. Determination

3.1. An asset (***the investment asset***) of a self managed superannuation fund (***the fund***) that is an investment in a related trust of the fund, is not an in-house asset of the fund at a time (***the test time***) where:

- (a) the application of subsection 71(8) of the *Superannuation Industry (Supervision) Act 1993* (***SIS Act***) would result in the investment asset not being an in-house asset of the fund at the test time but for the fact that:
 - (i) if a borrowing referred to in paragraph 71(8)(b) of the SIS Act has not yet begun – such a borrowing has not yet begun; and
 - (ii) the related trust does not yet hold the asset referred to in paragraph 71(8)(c) of the SIS Act; and
- (b) it is reasonable to conclude at the test time that:
 - (i) if a borrowing referred to in paragraph 71(8)(b) of the SIS Act has not yet begun – such a borrowing will occur; and
 - (ii) the related trust will hold the asset referred to in paragraph 71(8)(c) of the SIS Act; and

- (iii) the application of subsection 71(8) of the SIS Act would result in the investment asset not being an in-house asset of the fund from the time the related trust begins to hold the asset referred to in paragraph 71(8)(c) of the SIS Act.

3.2. An asset (***the investment asset***) of a self managed superannuation fund (***the fund***) that is an investment in a related trust of the fund, is not an in-house asset of the fund at a time (***the test time***) where:

- (a) the application of subsection 71(8) of the *Superannuation Industry (Supervision) Act 1993* (***SIS Act***) resulted in the investment asset not being an in-house asset of the fund at all times from when the related trust began to hold the asset referred to in paragraph 71(8)(c) of the SIS Act until a borrowing referred to in paragraph 71(8)(b) of the SIS Act was repaid; and
- (b) the application of subsection 71(8) of the SIS Act would result in the investment asset not being an in-house asset of the fund at the test time but for the fact that that borrowing has been repaid.

4. Definitions

Expressions used in this determination have the same meaning as in the SIS Act.