

## DIY funds warned to lodge returns by deadline or face ATO crackdown

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Administrators of self-managed superannuation funds must lodge their returns before the deadline of August 31, or risk significant fines or Australian Taxation Office scrutiny, one expert has warned.

The warning comes after a letter sent out to tax advisers last week reportedly stated if returns for the 2009 and prior years were not turned in by August 31, those funds would be labelled non-compliant. Under the ATO's heaviest penalties, these funds could lose 45% of assets, including non-income assets.

The problem is a significant one, as there are currently about 400,000 self-managed funds operating in Australia, accounting for one-third of the super pool of \$1.3 trillion.

The actual deadline for self-managed returns is by October 31, or May 15 if completed by a tax agent. But the Australian Financial Review has reported the new letter states the deadline of August 31 exists for returns for the 2009 tax year and prior financial years.

It is understood some tax agents will be sent warning letters in the coming weeks informing them of their potentially "high risk" clients.

Liz Westover, head of superannuation at the Institute of Chartered Accountants, says it is in the funds' best interest to lodge by the due date or they will risk further scrutiny.

During the 2009 financial year, the ATO made 160 funds non-compliant, and managed to raise \$15 million in new fees. It reportedly plans to review over 10,000 funds this year, and earlier this year ATO assistant commissioner for superannuation Stuart Forsyth said in a statement this is an important area for the office.

"We know that many of these SMSFs remain active and have assets, but despite a number of reminder notices from us, they have still not lodged their annual returns. As a result we have begun a pilot exercise involving nearly 250 SMSFs and have issued them with pending default assessments of 45% of the funds' assets, less non-concessional contributions."

"We will continue to prosecute trustees who fail to meet their lodgement obligations. In a recent case, the trustee of an SMSF was prosecuted for failing to comply with court orders to lodge two annual returns. The court convicted the trustee and imposed the maximum fine of \$55,000."

Westover says there is a "definite trend" of DIY super funds reporting late, and it's something the ATO isn't going to go easy on.

However, it isn't always just as easy as filling out a form. Westover says DIY funds often rely on a number of variables that may not be completed by the lodgement date which complicates matters.

"There are certain activities that have to be lodged, you need to get things audited, and there are a lot of variables. I can't really say what each fund needs to do specifically, but there is a general trend."

But the real risk, she says, is that funds which continually report late are going to be flagged by the ATO for other matters. If you lodge your fund after the due date, you could be scrutinised for different issues altogether.

"You run the risk of having things scrutinised a little more closely. That's not to suggest that a late lodgement is a sign of other areas of non-compliance, but the ATO does consider it a risk factor."

"If you do everything right, and get your fund lodged on time, you are less likely to be targeted by the ATO purely because this is a risk factor for overall compliance in other tax areas."