



Influence is key

SMSF Association Licensing Fact Sheet

| | Relying on the accountant exemption or falls outside licensing | Limited ASFL | Full ASFL |
|--|--|--------------|-----------|
| Administration and Setup | | | |
| SMSF administration including annual returns, audit, maintenance of records and processing. | | | —————→ |
| Recommending or even influencing establishment of an SMSF. | | | —————→ |
| Recommending or even influencing the wind-up of an SMSF. | | | —————→ |
| Giving facts/explaining the rules and the process of the establishment or wind up of an SMSF. | | | —————→ |
| Advice for the 'sole purpose' of ensuring compliance with SIS Legislation (Corporations Reg 2001 7.1.29(5)). | | | —————→ |
| Talking generally about the characteristics of public offer and defined benefit funds and SMSFs, including the differences, advantages & disadvantages of each. | | | —————→ |
| Investments | | | |
| Talking about fund performance or say anything which the client might infer to be your recommendation about one type of fund over another or about a particular fund. | | | —————→ |
| Providing information and amounts available for allocation about broad asset allocations (Reg 7.1.33A). | | | —————→ |
| Providing a recommendation on classes of financial products (mining shares or should recommend their client deposit money in a term deposit). | | | —————→ |
| Recommending specific financial products (BHP or ANZ 4.5% Term Deposit). | | | → |
| Recommending a client enter into a Limited Recourse Borrowing Arrangement (LRBA). | | | —————→ |
| Advising of the tax implications of the acquisition or disposal of a specific investment owned by the SMSF (Reg 7.1.29(4)). | | | —————→ |
| Inflows/Outflows | | | |
| Recommending or endorsing a rollover. | | | —————→ |
| Giving facts/explaining the rules about the process of a rollover. | | | —————→ |
| Recommending that a client make or cease contributions or change contribution levels. | | | —————→ |
| Providing factual information regarding contribution caps and tax treatment. | | | —————→ |
| Recommending a client take a pension or other income stream over a lump sum. | | | —————→ |
| Providing factual information about taxation of lump sums and pensions. | | | —————→ |
| Recommending a client commence a pension (Account Based Pension or Transition to Retirement Pension) or a pension commutation. This goes beyond just tax as it involves wealth creation and moving a superannuation product from growth phase to the pension phase and vice versa. | | | —————→ |
| Advising on simple scenarios in managing the \$1.6 million transfer balance cap - involves commutations. If the advice is purely to commute and avoid excess tax - Rely on 7.1.29(4) and include written disclaimer. | | | —————→ |
| Providing a client with information on what their minimum pension drawdown requirement is. | | | —————→ |
| Execution | | | |
| Execution of a strategy after receipt of a SOA. | | | —————→ |
| Insurance | | | |
| Advice on managing risks, including the need for general forms of insurance. | | | —————→ |
| Recommending specific insurance amounts or particular products. | | | → |
| All AFS licensees and their representatives who provide tax advice in the context of financial advice (tax (financial) advisors) for a fee or other reward must be registered with the Tax Practitioners Board. | | | |
| Estate planning advice regarding Wills and Trust Deeds requires a legal practicing certificate. It is common for industry to provide estate planning advice in the context of retirement planning including levels of insurance, BDBNs and reversionary options when advising on pensions which may infer financial product advice. | | | |
| When relying on an accountant exemption under the regulations, disclaimers should be provided as best practice. Reg 7.1.29 (4)c (ii) and (5)d(ii) states a written disclaimer may be required. | | | |
| It is not recommended that any accountant offer SMSF administration services that are covered by an exemption unless the client has obtained advice in a written Statement of Advice (SOA) that was provided by someone who is licensed (that could be yourself or a referral partner) - and you are acting on that advice. | | | |
| You cannot recommend a particular superannuation product, or recommend the acquisition, variation or disposal of an interest in super that goes beyond the tax and operational aspects of the product. We advise caution relying on the taxation exemption in Reg 7.1.29(4) as many accountants may inadvertently provide financial product advice without realising it when advising on superannuation strategies. | | | |

Disclaimer

There may be scope for selective interpretation of these statements to suit the licensing of the reader.

It would be a determination for each licensee to ascertain their process for dealing with the provision of advice.

This document is aimed at providing clarity to the current regulations and specific legal or technical advice should be sought in this area.

Any regulations reference is from the Corporations Regulations 2001 legislation.

The SMSF Association recommends if you hold an ASFL that covers your financial product advice you should issue SOAs & ROAs regardless if any accountant exemption applies.

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