

23 February 2023

## Joint statement

### Consumer warning: Personal use of professional skills could plunder your super

- Aussies' super at risk of 45 per cent penalty tax rate due to perverse rules
- Applying professional skills to personal tasks could trigger breach
- Tradies, real estate agents, accountants and solicitors most at risk

#### **CPA Australia, Chartered Accountants Australia and New Zealand, Institute of Financial Professionals Australia, Institute of Public Accountants, National Tax & Accountants' Association, SMSF Association and The Tax Institute:**

Hardworking Australians could take a hit to their super simply by applying their professional or trade skills to their personal lives due to complex restrictions on non-arm's length transactions. Tradies and professional services workers are the most at risk in relation to these perverse rules.

The current rules prohibit transactions with related parties at "mate's rates" or no rate at all. Something as mundane as mistakenly using a work laptop to complete a personal task could trigger a breach.

The rules could see an accountant penalised for completing their own super fund's returns unless they charge for it. Yet someone who is not a tax agent who completes and submits their return would not be penalised.

A real estate agent who chooses to sell an investment property owned within their super fund and doesn't charge commission could also land themselves in hot water. The same may apply to a tradie who renovates or undertakes maintenance themselves and doesn't bill their fund.

The penalty tax rate of getting it wrong can be 45 per cent or more and is applied to every contribution made to the super fund, including compulsory payments from employers.

An Australian with a \$135,000 superannuation balance and an annual income of \$90,000 could be slugged \$6000 in penalty taxes if they accidentally fall on the wrong side of these rules.

That's why we say the non-arm's length expensing rules don't hold up in the real world. They need to be changed. Tradies, real estate agents, accountants and other professional service workers should be able to use their professional skills in their personal lives without putting their retirement savings at risk.

Professionals and skilled tradies are not trying to circumvent the rules. It is simply easier and often makes financial sense to DIY these tasks.



We collectively represent about 500,000 members and have made numerous submissions about the non-arm's length expensing rules that threaten working Australians' retirements.

We have written to Hon Stephen Jones MP, Minister for Financial Services, requesting the government urgently fix this problem. We acknowledge the need for appropriately targeted integrity measures, however, we want the government to take a sensible approach that reflects what Australians expect.

The current rules are an unnecessary over-reach. It is not possible for a skilled worker to demonstrate to the Australian Taxation Office that even the most minor of these activities shouldn't attract a penalty. We are urgently seeking a solution so thousands of people don't fall afoul of the rules.

These rules were set up to stop risky borrowing arrangements seen over 20 years ago. The type of borrowing the rules tried to limit has been outlawed since 2016. People are being penalised because of rules designed to fix a problem that hasn't existed in half a decade. We need to see change.

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