
Rental reduction related party required audit documentation

We have received several enquiries in respect of required documentation for audit purposes where a commercial property lease between the fund and a related party is in place, and a request has been received for a reduction in rental lease payments pursuant to the lease agreement, due to a downturn in business activity. This situation requires careful consideration for audit purposes given the related party nature of the lease.

In accordance with S.109 of the Superannuation Industry Super (Supervision) Act, dealings between the fund and related parties must be conducted on an arm's length basis.

The [guidance from the ATO on rent reductions due to Covid 19](#) ceased to apply as at 30/06/2022. This guidance does however provide some understanding of the type of information the ATO expects when a fund is considering a rental rate that does not reflect the market rate.

To support compliance any reduction must be substantiated by evidence showing that the terms of the lease remain commercially reasonable and have not been unduly influenced by the relationship between the parties.

A rental appraisal based on the specific circumstances and how these would be considered for an arm's length party from an independent qualified real estate agent or valuer must be sought to determine the appropriate market lease adjustment amount and time period to the existing lease arrangements to support arm's length compliance with S.109 of SISA.

Evidence and Supporting Documents required for audit purposes are summarised as follows:

- ▶ Financial statements or documents from the related tenant demonstrating the business downturn and the impact on the business financial operations and financial position.
- ▶ Rental appraisal based on the specific circumstances to support the current market rental rate including independent advice or evidence from a real estate agent or valuer supporting the temporary rent reduction is commercially reasonable under the circumstances. This includes the amount and the time period of the rent reduction. As noted above a below-market rent to a related party may be a breach of S.109 of SISA if the commercial basis is not adequately supported.
- ▶ A trustee resolution documenting the details of the decision to reduce the rent, including the financial reasons and supporting evidence. It is crucial to document that the lower rent charge is a temporary measure due to financial hardship, not an ongoing arrangement to support the perceived benefit to a related party to ensure the rent adjustment aligns with S.62 of SISA the sole purpose of providing retirement benefits.