

“What is an ACR?”

An audit contravention report (ACR) is an ATO report that SMSF auditors are required to prepare and lodge with the ATO within 28 days of finalizing the audit, if the answer to any of the following is yes:

Test 1 – Fund Definition	Did the fund fail to meet the definition of an SMSF?
Test 2 – New Fund Test	As at the end of the financial year, is the SMSF <15 months old? If yes then, any single contravention exceeding \$2000 is reportable and auditor is to ignore tests 3-7.
Test 3 – Trustee Behavior Test	Has the trustee previously received advice of a contravention that they reached again?
Test 4 – Trustee Behavior Test	Is there an identified contravention from a previous year that has not been rectified at the time the audit is being conducted?
Test 5 – Trustee Behavior Test	Did the trustee fail to meet a statutory time period by more than 14 days?
Test 6 – Financial Threshold Test	Was the total value of all contraventions greater than 5% of the total value of the fund's assets?
Test 7 – Financial Threshold Test	Was the total value of all contraventions greater than \$30,000?

What will happen if an ACR is required?

If an SMSF contravenes a reportable section or regulation required to be tested for that financial year, our first action is to discuss it with your accountant, who will discuss it with you to ensure we have the facts correct and to obtain any additional information that may clarify the issue.

If the contravention is confirmed, our auditor will prepare a management letter that details the facts of the contravention, including any mitigating factors and our recommended rectification if you haven't already corrected the issue. Attached to this management letter will be a draft ACR, which you need to review carefully and if you disagree with anything or can provide more information you need to contact our office in writing before the due date for lodgment of the ACR. We recommend you do provide us with any additional information regarding completed or planned rectifications, as rectified contraventions are treated more favorably by the ATO.

What will the ATO do on receipt of the ACR?

The ATO doesn't apply penalties or judgements based on the ACR that we prepare and lodge. Rather they begin their own investigation to decide if there is a contravention. This may include a phone call to the trustee to discuss the contravention and any rectifications. As trustee you should discuss the contravention honestly with the ATO, because if it's been rectified, they may take no further action on minor issues.

If the trustee declines to discuss the matter with the ATO, an ATO review will be commenced. Once an ATO review or audit is undertaken it is our understanding that penalties in some form will be applied dependent on the situation and seriousness of the breach. These can range from trustee education and or financial penalties for minor contraventions up to serious financial penalties, trustee disqualification, criminal proceedings and jail sentences for serious contraventions that are dishonest and or fraudulent.

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