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# Illegal super schemes - beware of offers to withdraw your super early

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Have you ever been offered help to withdraw your superannuation early? Generally, you cannot access your super until you retire.

Some people promoting illegal super schemes will tell you that they can help you access your super now to pay off credit card debt, buy a house or car, or go on holiday.

These schemes are illegal. They will cost you a lot more than the super you access and may get you into a lot of trouble.



**If you are approached about a scheme, phone us on 13 10 20 immediately for advice and to make sure your super is protected.**

## How illegal super schemes operate

Illegal super schemes usually involve someone offering to help you access your super early.

Promoters of illegal super schemes usually:

- encourage you to transfer your super from your super fund into a self-managed super fund (SMSF) to access your super before you are legally entitled to
- claim that you can use your super for anything you want – which isn't true
- charge high fees – you risk losing some or all of your super to them.

Illegal super schemes often target people who are under financial pressure or who do not understand the super laws.

Taking your super out from any super fund early without meeting what is called a 'condition of release', or encouraging others to do so, is illegal.

### Illegal super schemes may lead to identity theft

If you participate in one of these schemes, you may become a victim of identity theft. Identity theft happens when someone uses your personal details to commit fraud or other crimes.

Once your identity has been stolen and misused, it can take years to fix.

### Rollovers to an SMSF

Most illegal super schemes require you to transfer your super from your super fund into an SMSF. This can be called a 'rollover'.



**Before you rollover or transfer your super, contact your super fund. They can advise you whether you can access your super.**

We are working with super funds to protect your retirement savings from illegal early release schemes by strengthening rollover processes.



**Find out more**

[Stopping schemes to illegally access super \(/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/Stopping-schemes-to-illegally-access-super/\)](#)

## When you can legally access your super

Generally, you can only access your super when you reach what's called 'preservation age' and stop working. Currently, in Australia, the preservation age is 55 years old for those born before 1 July 1960. It then increases gradually. For anyone born after 30 June 1964, the preservation age is 60 years old.

There are some special circumstances where you can legally access your super early. These include specific medical conditions or when you are experiencing severe financial hardship.



**Find out more**

To find out if you can legally access your super early, contact your super fund.



**Find out more**

For more information about whether you are eligible to access your super early:

- contact your super fund
- visit the [Department of Human Services website](http://www.humanservices.gov.au/customer/services/centrelink/early-release-of-superannuation) (<http://www.humanservices.gov.au/customer/services/centrelink/early-release-of-superannuation>) where you can apply for your super to be released early on specific compassionate grounds or severe financial hardship
- visit [Accessing your super before retirement \(/Individuals/Super/Accessing-your-super/Early-access-to-your-super/\)](#).



**You do not need to pay an application fee to anyone to legally access your super early.**

## Temporary residents

As a temporary resident, you may be eligible to have your super paid to you once you leave Australia. This is called a departing Australia super payment (DASP).

You can apply for a DASP if all of the following apply:

- you visited Australia on a temporary visa (excluding visa subclasses 405 and 410)
- your visa ceased to be in effect
- you have left Australia.



**This payment is not available to Australian or New Zealand citizens, or permanent residents.**



#### **Find out more**

[Temporary residents \(/Individuals/Super/Accessing-your-super/Temporary-residents-leaving-Australia/\)](#)

## Penalties for illegally accessing super early

### Members and trustees of SMSFs



**A trustee is the person who manages the super fund. The difference between an SMSF and other types of funds is, generally, that members of an SMSF are the trustees. This means the members of the SMSF run it for their own benefit.**

Severe penalties apply for illegally accessing your super early. You cannot claim a deduction for any fee a promoter takes from your super when they help you to roll over your super or set up an SMSF.

You may be required to pay interest and penalties on super you have accessed illegally.



**If you illegally access your super early, it is included in your taxable income, even if you return the super to the fund later.**



**If you set up an SMSF or are a trustee of an SMSF, and knowingly illegally access your super early or allow illegal access to super, you may receive a fine of up to \$340,000 and a jail term of up to five years.**

If you are an SMSF trustee, you also incur higher taxes and additional penalties, and can be disqualified if you allow super to be withdrawn early from the fund. If you are disqualified, this means you are unable to operate as a trustee of an SMSF.

There may be other penalties, depending on your involvement in the scheme.

If you have been involved in a scheme, contact us immediately. We will take your voluntary disclosure and circumstances into account when determining any penalties.

### Promoters

People who encourage or promote the illegal early release of super are called 'promoters' and may be prosecuted by us and the Australian Securities and Investments Commission (ASIC). These activities may involve breaches of many laws, including the:

- *Superannuation Industry (Supervision) Act 1993*
- *Corporations Act 2001*
- *Australian Securities and Investments Commission Act 2001.*

Breaches may include misleading conduct and giving financial product advice without an Australian financial services licence.

Civil and criminal penalties, including significant fines and jail terms, may be imposed. Some people have received jail sentences for promoting such schemes and assisting people to illegally access their super early.

## Tell us about illegal schemes

If you have been approached by anyone telling you that you can access your super early:

- stop any involvement with the scheme, organisation or the person who approached you
- do not sign any documents
- do not provide them with any of your personal details, such as your Tax File Number (TFN) or passwords
- urgently phone us on **13 10 20** and advise us of your situation.

## More information

For more information about when you can and can't access your super early:

- visit the [ASIC website \(https://www.moneysmart.gov.au/\)](https://www.moneysmart.gov.au/)
- visit [Accessing your super before retirement \(/Individuals/Super/Accessing-your-super/Early-access-to-your-super/\)](/Individuals/Super/Accessing-your-super/Early-access-to-your-super/)
- phone us on **13 10 20** or ASIC on **1300 300 630**.

If you do not speak English well and want to talk to a tax officer, phone the Translating and Interpreting Service on **13 14 50** for help with your call.



### Find out more

[Other languages \(/General/Other-languages/\)](/General/Other-languages/)

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We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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