

## **ATO DRAFT RULING WELCOMED, WITH CAVEATS**

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Mike Taylor

A number of specialist laws firms have endorsed the Australian Taxation Office (ATO) draft ruling as generally good news for self-managed superannuation funds (SMSF) trustees.

Both Hall and Wilcox and Townsends Business and Corporate Lawyers welcomed the ATO draft ruling, but both applied caveats to their welcome.

The Hall and Wilcox analysis said the changes represented "good news for those SMSF investors trying to decide whether that new kitchen is a repair or an improvement, but not much comfort for those SMSF investors looking to develop property in a SMSF that has been acquired under a borrowing arrangement".

"In fact based on the draft ruling SMSF investors should take care with any subdivision of land or rezoning of residential to commercial premises," it said.

The Townsends analysis said the draft ruling primarily dealt with two simple questions - what is a single asset? And when is an asset transformed into another asset?

"These simple questions arise because the limited recourse borrowing rules revolve around the concepts of a 'single asset' and 'replacement asset'," it said.