



SELF MANAGED SUPERANNUATION FUNDS

WHAT IS A SELF MANAGED SUPERANNUATION FUND (SMSF)

An SMSF has less than five members. Each individual Trustee of the fund has to be a fund member and each member of the fund has to be a Trustee. No member of the fund can be an employee of another member unless those members are related and no Trustee of the fund can receive any remuneration for his or her services as a Trustee. If in doubt obtain professional advice.

TRUSTEE DUTIES

As a Trustee of an SMSF you must act in accordance with the clauses of the superannuation fund trust deed. One of the key areas of responsibility for Trustees is investment management. There are duties and responsibilities that Trustees must consider when making investment decisions for the SMSF. These rules are aimed to protect and increase member benefits for retirement purposes. It is important that Trustees seek appropriate financial advice when making investment decisions for the SMSF.

From 1 July 2007 all new trustees (and directors of corporate trustees) of a SMSF are required to sign a declaration in the approved format within 21 days of becoming a trustee or director of the SMSF. The declaration is to ensure that they understand their obligations and responsibilities as a Trustee.

ROLLOVER OF FUNDS FROM OLD SUPERANNUATION FUND

Once the bank account is opened and the SMSF has received approval from the ATO that it is a Complying Fund, the SMSF can receive rollovers relating to its members from other superannuation funds. It is best to obtain professional advice prior to proceeding to rollover funds.

ACCEPTING CONTRIBUTIONS

It is important that Trustees are aware of the minimum standards relating to the acceptance of contributions. It is also important to understand the acceptance of the government co-contribution and the cap on member contributions. If there is any doubt professional advice should be sought.

MANAGING INVESTMENTS

The Trustees of every fund are required to prepare and implement an investment strategy for their fund. This strategy must take into consideration the following:

- Investing in such a way as to maximise member returns having regard to risk.
- The appropriate diversification of investments.
- The ability of the fund to pay benefits on retirement.

INVESTMENT RESTRICTIONS (Sole purpose is to provide for retirement benefits)

An SMSF is:

- Prohibited from loaning or providing financial assistance to members or a relative.
- Prohibited from borrowing per se however there are exceptions to the rule in limited circumstances. Professional advice should be sought in relation to this area.
- Prohibited from purchasing assets from members unless:
 1. The assets are Listed Securities.
 2. The asset does not exceed 5% of the total fund assets.
 3. The asset is Business or Commercial real property.

There are very strict rules about where an SMSF can and cannot invest its money. Breaching these rules can lead to legal action being taken against the Trustees.

A member of the SMSF cannot make use of investments of the fund for personal purposes or be seen to be receiving a benefit from the investments before retirement. Investments in an SMSF are to be maintained at an arm's length basis.

SMSF accounts must be audited and should there be a breach the Superfund rules, the Superfund can be deemed to be non-complying and thus taxed at the highest tax rate of 45%. A member of the fund can also face penalties or jail if their actions are found to be in breach of the rules. Professional advice should always be obtained to ensure that the investment is not in breach of the rules.

ADMINISTRATIVE OBLIGATIONS

There are a range of administrative obligations placed upon Trustees of SMSF's.

These include:

- The lodgement of yearly Income tax returns for the fund.
- The lodgement of Member Contribution Statements (MCS) for each member.
- Payment of the annual superannuation fund levy.
- Arranging an Annual Audit by an approved Auditor.
- Maintaining adequate records and minutes.
- Maintaining and updating at least yearly the Investment Strategy of the fund.

Your professional advisor can assist you in meeting your obligations.

WHAT YOU NEED TO GIVE TO YOUR ACCOUNTANT AT TAX TIME?

Since the SMSF is audited, Trustees must maintain the appropriate records. This includes any computer accounts, spreadsheets, bank statements, cheque butts, share documents, details of all investments and expenses, receipts, rollover documentation, contracts of sale, minutes of meetings and valuations. Please contact your accountant for further information.