

Self Managed Superannuation Funds

Level 1, 23 Oxford Rd
Ingleburn NSW 2565
PO BOX 460
Ingleburn NSW 1890

Ph: (02) 9829 4188
Fax: (02) 9829 2670
info@austaxaccountants.com.au



www.austaxaccountants.com.au

What is a Self Managed Superannuation Fund (SMSF)?

Like other superannuation funds, a SMSF is a special purpose trust established to provide retirement benefits for its members. The difference between an SMSF and other types of super funds is, generally, that members of an SMSF are the trustees. This means the members of the SMSF run it for their own benefit.

Definition of a SMSF

For your fund to meet the definition of a SMSF is must have elected to be regulated by the Australian Taxation Office (ATO) and;

- Have less than five members,
- Each individual trustee of the fund is a fund member,
- Each member of the fund has to also be a Trustee or director of the Trustee company,
- No member of the fund can be an employee of another member unless those members are related,
- No Trustee of the fund can receive any remuneration for their services as a Trustee.

Who can be a Trustee?

Generally, anyone 18 years or over can be a trustee of a super fund, as long as they're not under a legal disability (such as someone who is bankrupt or mentally impaired) or are a disqualified person.

A person is disqualified if they:

- have ever been convicted of an offence involving dishonesty
- have ever been subject to a civil penalty order under the super laws
- are considered insolvent under administration
- are an undischarged bankrupt
- have been disqualified by a regulator (for example, by the ATO or APRA).

Trustee Duties

As a Trustee of an SMSF you must act in accordance with the clauses of the superannuation fund trust deed and ensure that your fund complies with the Superannuation Industry (Supervision) Act 1993. The Super Funds section of the ATO

website, www.ato.gov.au, has a number of publications available that are recommended reading for current and potential trustees and should be referred to frequently as the laws governing SMSFs' change over time.

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 they understand their obligations and responsibilities as a Trustee.

Setup Procedure

- Decide on Corporate vs Individual Trustee
- Create Trust Deed
- Elect to become an ATO regulated fund.
- Register for a TFN
- Register for an ABN
- Register for GST (if applicable)

Features of A Self-Managed Superannuation Fund

- Members have greater control over what their retirement savings are invested in;
- Wide range of asset classes available for investment (eg, Coins, Artwork, Direct Property, etc)
- Low flat tax rate of 15% on income and concessional contributions received;
- One third capital gains tax discount on assets held for greater than 12 months;
- Excess imputation credits received by the fund are refundable to the SMSF;
- Asset protection in Super fund;
- Potential for cost savings with lower management expenses;
- Able to borrow money in limited circumstances to acquire assets such as real property;
- Can purchase business real property and lease back to members or related parties (conditions apply).

Other Considerations

- Complying with Trustee responsibilities and duties can be time consuming and onerous;
- Trustees must invest time in ongoing education to ensure they are up to date with legislative changes;
- Consequences of fund being ruled non complying can be severe (Eg, 45% of assets tax penalties, and prosecution of trustees);
- The Fund Trust deed will require ongoing updates as legislation changes;
- Fund is subject to annual financial and compliance audit requirements;
- Fund records must be kept for 10 years;
- Trustees require the skills and expertise to make good investment decisions;
- Lack of access to discounted group insurance policy coverage;
- Accounting, administrative and audit fees may be prohibitive for funds with small balances;

General Comments

SMSFs' have been growing in popularity in recent years. They provide members with control over where to invest their retirement savings.

They are a particularly good tax planning tool when acquiring business real estate property and can be used by business owners to assist in purchasing their own business premises.

SMSFs' also have the benefit of being the lowest taxed entity, with a flat tax rate of 15%. This rate can be reduced even further on capital gains and even drops to zero once a member commences receiving a pension. This concession provides enormous tax planning benefits to the recipients.

Disclaimer: The information contained in this fact sheet is factual in nature and is intended to be used for general information purposes only. It is not general or personal financial advice and does not take into account your specific circumstances, financial situation, goals and objectives. While every attempt is made to ensure the information in this document is accurate at the time of publication, due to the constantly evolving taxation and regulatory environment, the content in this fact sheet may no longer be accurate. Do not act on the information contained in this document without first obtaining specific advice regarding your particular circumstances from a suitably qualified SMSF Adviser.

Austax Accountants & Financial Planners Pty Ltd, its directors, employees and consultants expressly disclaim any and all liability to any person, whether a client or not, for the consequences of anything done, or omitted to be done, by any such person relying on part or the whole of the contents of this document.

Liability limited by a scheme approved under Professional Standards Legislation.