

What is a Self-Managed Superannuation Fund (SMSF)?

An SMSF has less than five members, each individual trustee of the fund is a fund member, each member of the fund is a trustee, no member of the fund is an employee of another member of the fund unless those members are related. The requirement that all members be trustees ensures that each member is fully involved in the decision making process.

Set up Procedure (Estimated Set up Cost \$2,000 with a corporate trustee)

- Trust deed
- Appoint a trustee
- Elect to become a regulated fund
- Register for a TFN
- Register for an ABN
- Register for GST (if applicable)

Advantages

- Income and capital gains on pension assets tax free in hands of super fund
- Tax Free Pension payments to eligible members over 60
- Asset protected in Super fund
- Lower tax rate of 15% on income and contributions
- Retirement planning – payment of pensions
- Capital gains tax discounts
- Imputation credits offset tax liability
- Control over investments
- A better vehicle than the traditional Testamentary Trust in respect to Deceased estates.

Disadvantages

- Cost of establishing, maintaining and compliance
- Trustee responsibilities and duties
- Audit certificate required
- Contribution surcharge
- Funds locked until retirement age
- Government legislation may change in the future
- Cannot borrow (except in limited circumstances)
- Limitation on types of transactions that can be conducted with related parties
- Restriction on type of investments it can hold

Compliance Requirements

- ABN registration.
- Tax File Number application.
- GST registration (if applicable).
- BAS monthly or quarterly (if applicable).
- Tax Return – yearly.
- Financial statements – Balance Sheet, Investment Strategy, Profit and Loss, and members' statements
- Yearly audit by and approved Auditor.

Self Managed Superannuation Fund

Estimated per annum costs – refer price lists.

Trustee Duties

A Trustee of an SMSF must act in accordance with the clauses of the superannuation fund trust deed. A key area of responsibility for Trustees is investment management. There are duties and responsibilities Trustees must consider when making investment decisions for the SMSF. These rules aim 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.

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:

- Invest in such a way as to maximise member returns having regard to risk.
- Appropriate diversification of investments.
- Ability of the fund to pay benefits on retirement.

Accepting Contributions

It is important that Trustees are aware of the minimum standards relating to the acceptance of contributions.

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 (except in limited circumstances)
- Prohibited from purchasing assets from members unless:
 - The assets are Listed Securities.
 - The asset does not exceed 5% of the total fund assets.
 - The asset is Business real property.

There are very strict rules about where an SMSF can and cannot invest its money. A breach of those rules carries very severe penalties. You cannot, for example, use the account like a normal personal bank account, drawing money from it when you need it and returning the funds later. This is unacceptable.

You cannot make use of investments of the fund for personal purposes or be seen to be receiving a benefit from the investments before you retire. For example: some people have used the funds to purchase artwork and make use of these paintings in their own home. This is strictly not allowed. Investments in an SMSF are to be maintained at an arm's length basis.

If you have a concern please contact your accountant at Richards Financial Services.

Your SMSF accounts are audited and, should you breach the SMSF rules, the auditor may be required to issue an Auditor Contravention Report to the ATO. In cases of extreme breaches, the SMSF may be deemed non-complying and can be taxed at the highest tax rate of 46.5%. You also face penalties or gaol if your actions are found to be in breach of the rules.

Administrative Obligations

There are a range of administrative obligations placed upon Trustees of SMSF these include:

- Lodgement of yearly Income tax returns
- Annual Audit by an approved Auditor
- Pay an annual Supervisory Levy of \$150.00
- Maintain records
- Trustees must notify ATO of a winding up

General Comments

Self Managed Superannuation Funds are becoming increasingly popular. They provide the members with control over where to invest their retirement savings. It is a particularly good tax planning tool when acquiring Business real estate property and many Business owners use this vehicle to assist in purchasing their own Business premises.

It has the lowest tax rate available and is a great tax planning vehicle whilst maintaining control.

At retirement, the income earned by the SMSF and the pensions paid are tax free giving tremendous tax planning benefits to the recipients giving tremendous tax planning benefits to the recipients.

