

Does a self managed superannuation
fund suit me?



SMSF WORKS

IMPORTANT



This is not advice, SMSF Works has prepared this presentation for the general information of individuals considering the use of a Self managed superannuation fund (SMSF).

You should not act solely on the basis of the material contained in this presentation as it is of a general nature only. We recommend that formal advice be sought before acting in any of the areas covered in this presentation.

Topics



- ⌘ What is a SMSF ?
- ⌘ Who can be the trustee of a SMSF ?
- ⌘ Advantages and disadvantages of having your own fund
- ⌘ Investment strategy
- ⌘ Administration obligations
- ⌘ Reporting requirements

What is a SMSF ?

- ⌘ Limited to a maximum of four members
- ⌘ A SMSF can provide the members with greater control
- ⌘ Suitable for :
 - high net worth individuals
 - family members
 - those who have already accumulated at least \$250,000 in superannuation
- ⌘ SMSFs are regulated by the ATO

Who can be the trustee of a SMSF ?

- ⌘ All the members of a SMSF must be a trustee
- ⌘ The trustee can be the individual members, or a company where all members must be directors of the trustee company.

EXCEPTION

Single member funds

- ⌘ Single member funds must have at least two individual trustees, one being the member of the fund, or a corporate trustee with two directors one being the member of the fund, or corporate trustee with the sole director being the fund member.

Corporate vs. Individual Trustee

Company as Trustee	Individual as Trustee
Cost Need to establish a company	Cost No additional cost occurred
Change of membership Trustee can operate as a sole director company or add new directors/members	Change of membership Must maintain a minimum of two trustees and will require a replacement trustee should a member die or leave the fund through divorce
Administration Less work required if a member/trustee leaves the fund as investment records remain unchanged	Administration If a member/trustee leaves the fund, investment records need to be changed to reflect the new trustee composition

Advantages and disadvantages of having your own fund

Advantages

- ⌘ Greater control over investment management of the fund
- ⌘ Opportunity for direct investment in shares and property
- ⌘ Greater strategic planning opportunities:
 - in-specie contributions
 - estate planning
 - tax planning
- ⌘ Potential costs savings

Disadvantages

- ⌘ Not cost effective for small amounts of money, suggested minimum at least \$250,000
- ⌘ Need to understand trustee responsibilities and investment restrictions
- ⌘ Time to manage the paperwork and keep good records

Fund Investment Strategy

- ⌘ Trustees must have a written investment strategy and consider the following:
 - Circumstances of the fund
 - Establish the fund investment objectives
 - Consider risk associated with the funds investments
 - Establish fund asset allocation
 - Consider the funds liquidity requirements to pay benefits

- ⌘ The trustees are required to invest in accordance with their strategy and review this on a regular basis.

- ⌘ In addition to the fund investment strategy the fund must comply with the sole purpose test.

Trustee administrative obligations

- ⌘ Trustees must sign a trustee declaration
- ⌘ Keep records for 10 years
- ⌘ Keep funds investments separate from personal investments
- ⌘ Prepare and keep accurate accounting and administrative records
- ⌘ The fund must continue to meet the definition of an “Australian superannuation fund”
- ⌘ Lodge the fund income tax and regulatory return
- ⌘ Appoint an auditor

Reporting requirements

- ⌘ Trustees must lodge an annual return with the ATO
- ⌘ The return provides information in relation to:
 - income tax
 - member contributions and
 - regulatory details
- ⌘ SMSF must pay an annual levy of \$150.00
- ⌘ The fund must be audited by an approved auditor

Establishing a self managed superannuation fund

There are a number of trust law and legislative requirements involved in establishing a self managed superannuation fund.

Four major steps to establish a fund are:

- ⌘ **1** Establishing a trust – obtain a trust deed and make sure it contains all the relevant requirements.
- ⌘ **2** Electing to be a regulated fund, obtaining a tax file number and an Australian business number for the fund. The fund may also register for GST, if applicable.
- ⌘ **3** Prepare an investment strategy
- ⌘ **4** Open a bank account – a bank account is required to keep your superannuation fund assets separate from your personal assets and to manage your contributions, investments, earnings and expenses.

We can arrange for the establishment of the fund for you however, it is the trustees responsibility to ensure all legislative requirements are met.

What next?

- ⌘ If you have decided that a self managed superannuation fund does suit your needs - complete our fund establishment – request at the “Order Forms” tab on our website and submit by email, post or fax to our office; or
- ⌘ If you have any questions before making your decision please contact our office at
Email: info@smsfworks.com.au
Phone: 03 8602 4100
- ⌘ For additional information, provided by the Australian Taxation Office, please refer to the ATO document following this presentation.



Australian Government

Australian Taxation Office

Does a self managed superannuation fund suit me?

This fact sheet will help you decide whether a self managed superannuation fund is for you.

Deciding to set up and run a self managed superannuation fund is an important decision that you should consider very carefully.

A self managed superannuation fund is just one way to manage your superannuation benefits. There are other types of superannuation funds available to you which you should consider before making a decision.

If you choose to establish a self managed superannuation fund, you and all other members, will be a trustee of the fund (or director of the corporate trustee).

The requirement that all members be trustees ensures that each member is fully involved and has the opportunity to participate in making decisions about the fund. This means as a trustee, you will be required to make investment decisions about the fund for the benefit of all members.

It is important to understand there are severe penalties for trustees who misuse the fund's superannuation benefits and who do not comply with the relevant legislation.

THE COSTS OF ESTABLISHING AND MAINTAINING A SELF MANAGED SUPERANNUATION FUND

There are many issues to consider before making the commitment to establish a self managed superannuation fund, such as:

- the financial and time burdens of operating a self managed superannuation fund
- your responsibilities as a trustee to comply with the legislation, and
- determining whether you have a sufficient amount of money to contribute to the fund to make it viable.

You should also ensure you have the appropriate combination of asset levels, investment diversification and expertise to manage the fund successfully. We strongly recommend you consult a qualified professional to discuss whether a self managed superannuation fund is the best retirement saving option for you.

You should compare the costs of running a self managed superannuation fund with the costs of other options such as leaving your benefits with the current fund.

The costs and administrative requirements in establishing and maintaining a self managed superannuation fund include:

- establishing the superannuation fund, including formulating a trust deed, appointing trustees and ensuring the settlement of property
- preparing and keeping accurate accounting and administrative records for the fund
- appointing an auditor and ensuring you have an annual audit completed for the fund every year
- lodging a fund income tax and regulatory return with us, which includes a supervisory levy of \$45 each year
- lodging annual superannuation member contributions statements outlining the contributions made into the fund
- complying with reasonable benefit limits reporting when the fund has paid a benefit to a member
- completing the relevant eligible termination payment statements
- costs of brokerage if you invest your money in listed shares
- costs of dealing with a real estate agent if you purchase property through a real estate agent and have the property managed by a real estate agent
- the option to engage the services of an accountant to manage the accounting and tax obligations
- the option to engage a financial planner who holds an appropriate Australian financial services licence to assist with your investments, and
- the costs of education if you are an inexperienced investor and you want to make your own decisions on your investments.

Legal requirements for maintaining a self managed superannuation fund

To make an informed choice, you need to understand the legal requirements. These include:

- the clauses of the trust deed (governing rules) of your self managed superannuation fund
- provisions of the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation Industry (Supervision) Regulations 1994*
- provisions of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*
- provisions of the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997*
- provisions of the *Corporations Act 2001* if you have a corporate trustee, and
- other relevant administrative and legislative requirements.

ESTABLISHING A SELF MANAGED SUPERANNUATION FUND

There are a number of trust law and legislative requirements involved in establishing a self managed superannuation fund.

Four major steps to establish a fund are:

- 1 Establishing a trust – obtain a trust deed and make sure it contains all the relevant requirements. This includes appointing consenting trustees, transferring or ensuring there is a settlement of property, and ensuring the trust deed is dated and properly executed so that the trust is legally established.
- 2 Electing to be a regulated fund, obtaining a tax file number and an Australian business number for the fund – you will need to complete an *Application to register for superannuation entities* (NAT 2944), either using the paper form or online at www.abr.gov.au Once the form has been accepted, the fund will be allocated a tax file number and an Australian business number. The fund may also register for GST, if applicable.
- 3 Prepare an investment strategy – the trustees must formulate and follow an investment strategy for the fund, taking into account risk, return, diversification, liquidity, cash flow, asset allocation and the ability to discharge existing and prospective liabilities.
- 4 Open a bank account – a bank account is generally required to keep your superannuation fund assets separate from your personal assets and to manage your contributions, investments, earnings and expenses.

Often your accountant will organise the establishment of the fund for you. However, it is your responsibility to ensure all legislative requirements have been met.

TRUSTEE RESPONSIBILITIES

In addition to the above requirements, superannuation industry supervision legislation and general law create duties for a trustee. You may need to seek advice before committing to the establishment of a self managed superannuation fund.

The obligations of a trustee include:

- complying with the sole purpose test, which requires you to maintain your fund only for the purpose of providing benefits to members on their retirement, or to dependants in the case of a member's death before retirement
- acting honestly in all matters and in the best interests of fund members
- exercising the same degree of care, skill and diligence as an ordinary prudent person
- not accessing your money without meeting a specific condition of release
- not lending superannuation money to members or relatives
- not borrowing money or allowing your fund bank account to become overdrawn
- understanding and applying the rules when acquiring assets from related parties
- understanding and adhering to the in-house asset rules
- complying with the contribution and payment standards, and
- not allowing disqualified people to be trustees and informing the regulator if a trustee becomes disqualified at any time.

MAKING A DECISION

Before you decide whether to establish a self managed superannuation fund to manage your own superannuation for retirement, we strongly recommend you read the Australian Government's booklet *Super Choices* and the Tax Office-ASIC fact sheet *Is self managed super right for you?*

Your accountant or tax agent may be able to help you set up your self managed superannuation fund, but may not advise you about whether this is the right financial decision for you unless they hold an Australian financial services licence. A licensed financial adviser can help ensure you have considered all options available to you for investing your superannuation benefits, based on your individual circumstances.

For specific advice about investment products for your fund, you will also need to deal with a licensed advisory business.

MORE INFORMATION

Visit our website at www.ato.gov.au/super and review the following publications:

- *Self managed superannuation funds – role and responsibilities of trustees* (NAT 11032)
- *DIY super – it's your money ... but not yet!* (NAT 11393)
- *Self managed superannuation funds (SMSFs) – duties of trustees*
- *Self managed superannuation funds – penalties*
- *What is a self managed superannuation fund?*

Visit the Australian Securities and Investment Commission consumer website at www.fido.asic.gov.au and review the publication *Super choices*.

Phone our information line on **13 10 20** between 8.00am and 6.00pm, Monday to Friday, for printed copies of the above publications or further information.

OUR COMMITMENT TO YOU

The information in this publication is current at May 2005.

In the taxpayers' charter we commit to giving you information and advice you can rely on.

If you try to follow the information contained in our written general advice and publications, and in doing so you make an honest mistake, you won't be subject to a penalty. However, as well as the underpaid tax, we may ask you to pay a general interest charge.

We make every effort to ensure that this information and advice is accurate. If you follow our advice, which subsequently turns out to be incorrect, or our advice is misleading and you make a mistake as a result, you won't be subject to a penalty or a general interest charge although you'll be required to pay any underpaid tax.

You are protected under GST law if you have acted on any GST information in this publication. If you have relied on GST advice in this Tax Office publication and that advice has later changed, you will not have to pay any extra GST for the period up to the date of the change. Similarly, you will not have to pay any penalties or interest.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser. Since we regularly revise our publications to take account of any changes to the law, you should make sure this edition is the latest. The easiest way to do this is by checking for a more recent version on our website at www.ato.gov.au

© COMMONWEALTH OF AUSTRALIA 2005

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth available from the Attorney-General's Department. Requests and enquiries concerning reproduction and rights should be addressed to the Commonwealth Copyright Administration, Copyright Law Branch, Attorney-General's Department, Robert Garran Offices, National Circuit, Barton ACT 2600 or at <http://www.ag.gov.au/cca>

PUBLISHED BY

Australian Taxation Office
Canberra
May 2005