



Self managed super funds – key messages for trustees

Read this fact sheet in conjunction with the *Trustee declaration* (NAT 71089). Keep a copy of this fact sheet with you and refer to it when making important decisions on behalf of your fund.

From 1 July 2007, if you are a new trustee (or director of a corporate trustee) of a self managed super fund (SMSF), you must complete a *Trustee declaration* (NAT 71089).

The trustee declaration is not the same as your fund's trust deed. It is a separate document you must complete and sign to show you understand your duties and responsibilities under the super laws.

YOU'RE RESPONSIBLE FOR MANAGING THE FUND

Becoming a trustee of a SMSF is an important decision that carries certain duties and responsibilities. That is, you must manage the fund for the benefit of members into their retirement. You must also ensure the SMSF assets are held in trust and invested on behalf of the members.

You are responsible for ensuring your fund is properly managed and complies with all governing rules (including the trust deed and super laws). These rules apply to you in your capacity as a trustee of the fund. You will also need to make important decisions that may affect the retirement savings of the fund's members.

All trustees are equally responsible for managing the fund and making sure it complies with the law. This is the case even if one trustee is more actively involved in the day-to-day running of the fund than the others, or you use a professional to do certain tasks on your behalf (for example, an accountant, lawyer, investment advisor, super fund administrator or tax agent). All trustees are responsible and accountable for running the fund and making decisions.

If you use a professional to help you manage your fund, it's important you get good advice and choose one that's right for you and your circumstances. It's essential to make sure any financial, investment and legal advice you receive comes from a qualified professional. Good advice is important as your decisions will have an impact on the retirement income of the fund's members, including you.

You must manage the fund separate to your own affairs. This means you must keep the fund's assets, including money, separate from your personal and business assets and ensure they are used solely for fund purposes.

You must not allow money to be withdrawn from the fund earlier than is legally permitted as it is meant for retirement. You must preserve members' benefits in the fund until they retire or reach their preservation age (currently not before age 55, and then rising to age 60 for those born after 30 June 1964). Early access is only allowed in very limited circumstances, for example, in cases of severe financial hardship, on tightly restricted compassionate grounds, or in the event of permanent incapacity.

YOU MUST UNDERSTAND YOUR DUTIES AND RESPONSIBILITIES

Your trustee duties and responsibilities include:

- making sure the purpose of the fund is to pay retirement benefits to members
- organising an investment strategy and making investment decisions
- accepting contributions and paying benefits (pension and lumps sums) in accordance with the rules
- ensuring an approved auditor is appointed for each income year, and
- undertaking administrative tasks such as lodging annual returns and record-keeping.

You must also ensure the fund's trust deed and investment strategy are regularly reviewed and updated in accordance with the law and the needs of the members.

! To avoid penalties, make sure you understand and comply with your duties and responsibilities under the super laws.

 MORE INFORMATION

For more information about your role and responsibilities as a trustee, refer to *Self managed superannuation funds – Role and responsibilities of trustees* (NAT 11032).

To keep up to date with the latest information on SMSFs, subscribe to our on-line newsletter – *SMSF News*. To subscribe, visit our website at www.ato.gov.au and search for 'SMSF News'.

To obtain a copy of our publications or for more information:

- visit our website at www.ato.gov.au
- phone **13 10 20**
- phone our publication ordering service on **1300 720 092**, or
- write to us at
Australian Taxation Office
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PENRITH NSW 2740

If you do not speak English well and want to talk to a tax officer, phone the Translating and Interpreting Service on **13 14 50** for help with your call.

If you have a hearing or speech impairment and have access to appropriate TTY or modem equipment, phone **13 36 77**. If you do not have access to TTY or modem equipment, phone the Speech to Speech Relay Service on **1300 555 727**.

OUR COMMITMENT TO YOU

We are committed to providing you with advice and information you can rely on.

We make every effort to ensure that our advice and information is correct. If you follow advice in this publication and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it. However, we will not charge you a penalty or interest if you acted reasonably and in good faith.

If you make an honest mistake when you try to follow our advice and you owe us money as a result, we will not charge you a penalty. However, we will ask you to pay the money, and we may also charge you interest.

If correcting the mistake means we owe you money, we will pay it to you. We will also pay you any interest you are entitled to.

You are protected under GST law if you have acted on any GST advice in this publication. If you have relied on GST advice in this publication and that advice later changes, 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 penalty or interest.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser.

The information in this publication is current at June 2007.

We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at www.ato.gov.au or contact us.

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