



## **SELF MANAGED SUPERANNUATION FUNDS (SMSF)**

**Wealth Creation, Tax Minimisation and Asset Protection** should be paramount to your strategic thinking. The importance of the correct structure to hold your investment in could mean the difference between paying or not paying hundreds of thousands of dollars in tax over the longer term. It could also mean shielding your investment from creditors.

### **WHAT IS A SELF MANAGED SUPERANNUATION FUND**

An SMSF has less than five members (to be very clear it can only have a maximum of four (4)). Each individual Trustee of the fund is a fund member and each member of the fund is a Trustee. No member of the fund can be an employee of another member unless those members are related (unrelated directors are exempt as they do not employ one another) and no Trustee of the fund receives remuneration for his or her services as Trustee.

### **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.

All new trustees (and directors of corporate trustees) of a SMSF are required to sign a declaration, in the approved form, within 21 days of becoming a trustee or director. The declaration aims to ensure that they understand their obligations and responsibilities.

### **SETTING UP A SELF MANAGED SUPERANNUATION FUND**

There are a number of trust laws and legislative requirements involved in setting up an SMSF. These include: obtaining a trust deed; appointing Trustees; electing to become a regulated fund; and obtaining a TFN and ABN.

We attend to all the paperwork required to get the SMSF structure established and will assume management of the process for you. Our team will attend to ordering the structures, handling any queries from you and finally sending the documents to you for signature. They will also apply for Tax File Numbers, ABN (if applicable), GST (if applicable), paying all stamp duty on the documents (if applicable) and attend to all lodgment of forms to the various institutions to avoid penalties.

Scott Associates will also attend to getting your SMSF approved as a Complying Fund by the Australian Taxation Office (ATO). Our experience shows this may take several weeks before approval is granted – allow 28 days.

### **INSURANCE**

Recent changes by the Tax Office require trustees to consider personal insurance in their SMSF. Personal insurance can be life, trauma or even income protection insurance. If you have existing insurance in your current superannuation fund and you would like to transfer this to your SMSF, you need to speak to your current superannuation fund administrator to see if this can be transferred. Some insurance companies do not allow transfers and require a new policy to be taken out which can lead to increased premiums especially if the old policy was taken out many years ago and your circumstances have changed.

### **ROLLOVER OF FUNDS FROM OLD SUPERANNUATION FUND**

Once the bank account is opened and you have received approval from the ATO that your SMSF is a Complying Fund, you can receive rollovers from your other superannuation funds. Contact your existing superannuation fund and request a rollover application form, complete it and submit it ASAP. It can take anywhere from two to four weeks, depending on the fund, to process your rollover. The processing of rollovers from other superannuation funds is out of our control, so please be prepared for a four week turnaround. Your old super fund can electronically transfer the rollover money into your Superannuation fund's bank account in most instances.

## **ACCEPTING CONTRIBUTIONS**

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

## **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.
- Consider personal insurance in the fund
- Appropriate diversification of investments.
- 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 [there are exceptions to the rule 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 – assessed annually.
  - The asset is Business real property.

\* A SMSF can borrow to purchase a single acquirable asset – e.g. real property or a parcel of shares. Contact us if you wish to consider a Limited Recourse borrowing..

There are very strict rules about where an SMSF can and cannot invest its money. A breach of those rules allows for jailing for misappropriation of funds. 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 us.

Your SMSF accounts are audited and, should you breach the Superfund rules, the Superfund will be deemed non-complying and can be taxed at the highest tax rate of 45%. You also face penalties or jail if your actions are found to be in breach of the rules. At Scott Associates we use the services of an independent auditor to audit the funds we prepare the accounts for – this is best practice. We are also licensed ASIC SMSF Auditors.

## **ADMINISTRATIVE OBLIGATIONS**

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

- Lodgment of yearly Income tax returns.
- Lodgment of Member Contribution Statements and payment of annual levy.
- Arranging Annual Audit by an approved Auditor.
- Maintain adequate records.
- Maintain and update Investment Strategy.
- Trustees must notify ATO of a winding up.

## **WHAT DO YOU GIVE YOUR ACCOUNTANT AT TAX TIME?**

Since the SMSF is audited, Trustees must maintain the appropriate records. These can include: computer accounts and / or excel spreadsheets; bank statements; cheque butts; share documents; details of all investments and expenses; receipts; rollover documentation; contracts of sale; and valuations. At Scott Associates we use CLASS Superannuation software, which will allow for much of the work to be done and documents to be stored, via the cloud. Please contact us for further information.