

# Guide To...

## Self Managed Superannuation

### What are Self Managed Superannuation Funds (SMSF)?

Self Managed Superannuation Funds are superannuation funds with less than 5 members where the members manage the fund and the fund has elected to be regulated under the Superannuation Industry (Supervision) Act. This regulation entitles an SMSF to the same favourable taxation treatment other superannuation funds are generally entitled to. Since the members manage the fund they have greater control over various matters such as investment decisions. Like all superannuation funds, the benefits are held for retirement purposes or for the provision of beneficiaries upon a member's death. They are able to provide either a lump sum or a pension upon retirement, accept superannuation contributions, accept rollovers from another superannuation fund and provide certain insurance benefits.

Similar to SMSFs are Small Approved Funds (SAFs). These funds have less than 5 members, but they have an "Approved Trustee". An Approved Trustee is a trustee that has been approved by the Australian Prudential Regulation Authority (APRA). These funds move responsibility for compliance away from the members however the members still have all the other flexibility that is available to their SMSF counterparts, which is considerably more than retail public offer funds.

A SMSF or SAF is established once a Trust Deed is prepared and signed by the trustees. A Trust Deed sets out what the superannuation fund can and cannot do. A SMSF or a SAF Trust Deed can be very flexible within applicable laws.

For the purposes of this Guide, we will concentrate on the more common of the two types of fund, the SMSF.

### Advantages of SMSFs

#### Investment Choice and Control

SMSF allow members to have greater control and flexibility over investment decisions. You can invest directly into shares, fixed interest, cash or property as well as managed funds. By investing directly, those investments can be picked to suit your own situation and timing – not that of everyone in, for example, a retail superannuation fund. However, these investments are restricted to parameters as set out in an investment strategy, which, as trustee of your fund, you are required to establish first.

#### Taxation Planning

By selecting a tax effective mix of investments, such as Australian shares with franked dividends, you may reduce or even eliminate (if the proportion of Australian shares is significant) the contributions and earnings tax payable by the fund. This enables members to maximise the tax advantages associated with these investments in their fund. Moreover, if you take your benefit in the form of a pension from your fund, assets needed to support that pension can be sold without any Capital Gains Tax liability.

#### Insurance and Estate Planning

As with retail superannuation funds, certain insurance policies can be held through an SMSF. These include Life and Total and Permanent Disability (TPD) insurance policies.

The advantages of using an SMSF in this context is that there can be a greater degree of control in the amount and possibly types of insurance cover available, as well as features and conditions of the cover.

Superannuation funds including SMSFs can claim tax deductions for the premiums paid on life and TPD policies, thereby, reducing the contributions tax or earnings tax payable by the fund

If you are entitled to claim a tax deduction for your contributions, then that deduction will effectively reduce the cost of your insurance cover.

## **Access to Wholesale Managed Funds**

Wholesale managed funds have lower investment fees compared to retail funds, but are usually limited to investors with sufficient capital who can invest in wholesale funds. The pooling of superannuation fund money, often allows the SMSF sufficient capital to invest in wholesale funds thereby accessing the lower fees.

## **Small Business Owners**

Small business owners can use a SMSF to invest in business real property, which their business can then lease from the SMSF. This enables the business owner to utilise the more favourable tax structure of the superannuation environment for their business real property ownership and know that the lease payments are building up their superannuation benefit.

## **Some Considerations for Establishing a SMSF**

### **Trustee Structure**

In choosing which trustee structure would best suit you, you should consider the following

- Approved Trustees of SAF charge a trustee fee; therefore they are generally more expensive. However they provide reliable and professional compliance and comprehensive administration services.
- SMSF trustees can outsource administration services or and utilise a financial planner for investment choices, but the overall legal responsibility for compliance with the law still lies with the trustee/member.
- A SMSF trustee can perform all compliance and investment and trustee responsibilities themselves. However, this is not a popular choice due to the complexity of the associated with taxation and superannuation law and some services are typically outsourced.

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## **Trustee Responsibilities**

The trustee is responsible for compliance with taxation and superannuation laws amongst others. These include the following restrictions. The trustees:

- Cannot lend or give financial assistance to members or their relatives
- Cannot acquire assets from members or their relatives (business real property or listed securities are amongst the exceptions to this rule)
- Cannot have more than 5% of the market value of the fund's assets composed of in-house assets (ie, loan to, lease with, or investment in a member or related party)
- Must act at arms length with regard to transactions (transactions to be conducted at market value)
- Cannot borrow on behalf of the fund (except in extremely limited circumstances for very short terms and small amounts). However, from 24<sup>th</sup> September 2007, due to changes in the law, it may now be possible for trustees to borrow on behalf of the fund if certain conditions are met. Due to uncertainty surrounding the operational side of these changes it is recommended that trustees seek specialist advice regarding these issues.

The Trustee must also abide by:

- Reporting requirements
- Contribution standards
- Benefit payment standards
- The Sole Purpose test; and
- Investment guidelines

## **Cost Considerations**

Cost associated with setting up and maintaining a SMSF may include:

- Trust deed preparation fees or fees for adjustment to the deed for legislation changes
- Trustee fee, if you choose the SAF option
- Annual accounting and administration fees (if you outsource these functions)

We recommend you speak to your financial planner to discuss the most appropriate choice for your situation.

## **Contact your financial adviser/planner**

For further clarification on any of the above changes or for assistance with how they may impact your personal situation, please contact us on 02 4365 3666.

## Garvan Financial Planning

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