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Thinking Of Starting Your Own SMSF?

Introduction

It's no coincidence that interest in self managed superannuation has skyrocketed since the global financial crisis (GFC). The loss of investor confidence in superannuation fund managers combined with the lure of controlling your own financial destiny has seen an explosion in the number of Self Managed Super Funds (SMSF) in this country.

With almost $408 billion under management, SMSF's are now the largest and fastest growing segment of Australia's $1.28 trillion superannuation industry. That figure is triple what it was just five years ago and as at September 2010, there were about 434,000 SMSF'S funds with more than 830,000 members. This means that less than 3% of the 32 million superannuation accounts are in a SMSF but they own almost a third (31.9%) of all the assets. A recent survey suggests the average balance in a SMSF is much larger than mainstream accounts at nearly $488,000 each.

What Is A SMSF?

A self managed superannuation fund is a do-it-yourself superannuation fund of 1 to 4 members where each member acts as a trustee of the fund. So all members must be the trustees, and all trustees must be the members - they are one and the same. Single member funds require two individuals as trustees or a single Company as a corporate trustee.

Your SMSF must have its own bank account and a trust deed. The deed is basically the rules of operation of the fund and sets out who can be a member, how they're admitted as a member, what the fund can invest in and who can receive a death benefit.

An SMSF requires an annual audit plus they need to lodge an annual tax return with the Australian Taxation Office (ATO). It is therefore vital that your accountant discusses the ongoing fees and you understand your legal obligations before you make a decision to establish a SMSF.

The Trustees

Generally anyone over 18 years of age can be a trustee of a SMSF (unless they're a disqualified person) and the requirement that all members be trustees ensures that each member is involved in the decision making process and proper management of the fund.

The trustee of a self managed superannuation fund has powers including:

- the appointment of professional advisers
- establishing the investment strategy
- making investments
- allowing members into the fund
- approval of payment to members

The rule of trusteeship for SMSF's is that all members must be trustees, and all trustees must be the members. However, it is also possible to register a Company to act as trustee for the fund in which case all the members must be Directors of the trustee Company and only the members can be Directors of the trustee Company.

Some of the advantages of a corporate trustee are:

- in a single member SMSF, if there is no suitable person to act as the other individual trustee, you can use a corporate trustee but you must be the sole Company Director
- you may not wish to share the role of trustee but this cannot be achieved if there are individual human trustees (because there must be two for a sole member SMSF), but you can be the sole Director of a corporate trustee
- it may allow an easier passage for multi-generational members in and out of the SMSF. However, there would have to be sufficient account balances to pay retirement and death benefits when needed. If this appeals, ask your accountant if there would be value or administrative efficiencies in a corporate trustee where the trustee remains the same and only the underlying Directors change
- it may offer a degree of asset protection, however, opinions vary on this issue and depending on your situation, you should discuss it with your accountant

A corporate trustee also includes the expense of incorporation and annual fees so again we emphasize the importance of seeking professional advice.

What Are The Benefits Of A SMSF?

One of the key motivators for moving to self-managed super is greater control. Your own superannuation fund provides members with control over the range of investments, the management fees and the tax bill. They also offer a wider choice of investment options compared to the 'off-the-shelf' super funds including corporate bonds, managed investments, listed shares, listed investment companies (LIC's), exchange-traded funds (ETF's) and direct property.

Flexibility is another key benefit of a SMSF. Apart from the wider choice of investments, your account stays with you wherever you go provided you remain within the framework of Australia's superannuation laws. You can transfer personally owned listed shares and managed funds directly into a SMSF and they can own 'business real property' (property used wholly and exclusively for business). They also give you maximum flexibility when establishing and managing pensions including account based, transition to retirement and term allocated pensions. Potentially a SMSF can also give you greater flexibility when it comes to accessing Centrelink benefits such as the Government's Age Pension.

SMSF's also let you take full advantage of tax and super law changes as soon as they come into effect and they arguably offer even more tax benefits when you consider the ability to segregate accounts and to share imputation credits. They provide families with a way to pool their resources and grow their wealth together, and they offer tax-effective strategies for the transfer of wealth between generations that may not be available through conventional superannuation products.

There's also evidence that SMSF's can deliver superior performance and lower costs based on Jeremy Cooper's Federal Government Report for the 3 years to June 30, 2008.

Who Should Have One?

You should only consider a SMSF if you're attracted to the key benefits of control, flexibility and the tax advantages. Remember, if you have a SMSF you are also responsible for the administration that includes keeping comprehensive records and arranging an annual audit by a qualified auditor. You must ensure that any funds in your SMSF are invested for the 'sole purpose' of accumulating savings for retirement but sadly, many trustees struggle to comply because they don't understand the rules.

If you think you are ready to start your own SMSF just because the share market is down or you think you could generate better returns than your current fund manager, think carefully. Taking control of the investment decisions on what is probably a significant portion of your life savings is a huge responsibility. The ramifications could have a big say in the quality of your retirement.

Given a SMSF is run by related parties, the funds can't be used for your personal benefit but most breaches of the rules relate to acquiring assets from members or relatives, buying the wrong assets, getting the fund's money confused with their own and providing financial assistance to members and relatives.

The key areas of compliance for an SMSF relate to:

- meeting the 'sole purpose' test
- documenting an investment strategy and adhering to that strategy
- prohibiting financial assistance to members and their relatives
- in-house asset rules
- conducting all transactions at 'arm's length'
- prohibition of certain borrowings
- acquisition of assets from related parties

To be successful you also need a sound investment strategy that includes an evaluation of your risk profile then building the right asset allocation.

We are often asked what sort of balance is required to set up a SMSF? Research suggests one in four trustees have a balance of more than $1 million and a further 25% have assets of between $250,000 and $550,000. Only one in seven funds in the research done by Russell Investments had less than $250,000 in assets which supports the $200,000 figure proposed by the Federal Government as a minimum level for an economically viable SMSF.

SMSF Borrowings

Your SMSF can make an equity contribution on a property and the remainder of the funds can be borrowed from a mortgage lender to complete the purchase.

Some advantages of using a SMSF to purchase property in Australia include:

- The fund can invest in direct residential and commercial property
- your SMSF can acquire property worth more than its available funds through gearing
- Ability to own your business' real property (but not operating assets) in the super fund
- Maximum 10% capital gains tax is payable on any capital gain if the property is sold after a minimum of 12 months and no capital gains tax is payable if sold during pension phase
- Maximum 15% income tax on rental income
- Your assets are secure as the mortgage lender does not have recourse to your SMSF's other assets in the event of default
- Can be used for efficient estate planning

There are a number of restrictions regarding gearing and SMSF's and we urge you to contact us before committing to any loan product or asset purchase in your SMSF.

Pension Planning

For members nearing the pension phase, a SMSF allows the most seamless transition from accumulation into flexible income streams. As with all superannuation funds, the ability to take tax free income streams into retirement is a big incentive to stay within the superannuation environment and your own SMSF offers a lot of flexibility in terms of how you go about it.

Starting a pension in a SMSF is quite simple and as a trustee of your SMSF it is at your discretion when you start, change or stop a pension. You must still comply with the laws such as preservation age and minimum and maximum pension amounts. In some circumstances you may require an Actuarial Certificate but this is all part of our SMSF offering.

How We Can Help You

The information in this brochure is really just the tip of the iceberg. However, when it comes to SMSF's you don't have to know everything about SMSF's to have one. It is one of our specialist areas and if you are looking to establish your own fund call us today and we can advise you on issues including establishment, operation and structuring of a SMSF.

Our extensive experience in DIY super funds and SMSF administration means we can offer you assistance in the following areas:

- Establishment of your own SMSF including provision of the Deed, recommendations on death benefits and transfer of Members Funds
- Bank Account requirements
- Update the Trust Deed where required
- Advice on what assets can and can't be transferred into the SMSF
- Advice on how to structure borrowings in the fund
- Pension setup in your SMSF
- Preparation of annual Financial Statements and all Statutory documents & Returns
- Arrange for the annual External Audit of your SMSF
- Activity Statements where required
- Set up New Company where a corporate Trustee is required

Contact Us

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