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Running a Self-Managed Super Fund

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SELF-MANAGED SUPER AND YOU

Like other superannuation funds, SMSFs are a means of saving for retirement. The primary difference between an SMSF and other types of funds is that SMSF members are also the trustees. This means members run the fund for their own benefit.

SMSFs are not suitable for everyone, and careful consideration is necessary before establishing one. It represents a significant financial decision requiring time and appropriate skills. There may be alternative, more suitable options for your superannuation savings.

If you're considering an SMSF for your superannuation, you should seek information from licensed financial advisers, tax agents, or accountants to understand what's involved.

If you decide an SMSF is appropriate for your retirement savings, you must ensure the fund is properly established and maintained to be eligible for tax concessions, able to pay benefits, and operate as efficiently as possible.

When your SMSF is established, as the trustee, you control the investment of contributions and fund earnings. Your SMSF must have a trust deed that forms part of the governing rules.

You must also develop and implement an investment strategy and review it regularly. There are specific rules and regulations you must follow to ensure the fund's assets are protected to provide benefits in retirement.

While contributions are being made to the fund, it's considered to be in the accumulation phase. This publication explains the responsibilities and obligations of trustees operating an SMSF in this phase.

When one or more members retire, you, as trustee, need to understand and follow the requirements governing the payment of benefits. The payment standards in the legislation and regulations, along with the sole purpose test and preservation rules, ensure that money in the fund is paid to members appropriately.

You should continually reassess whether an SMSF remains the most appropriate option for your retirement savings. In some cases, you may find you no longer have the capacity to handle the complexity or time required to manage your SMSF, or it may not be cost-effective to continue operating your own fund. Depending on the circumstances, it may be necessary to transfer member benefits to another complying superannuation fund.

Other reasons for winding up your SMSF might include when all members have left (for example, they've rolled over their benefits to another fund or have died) or all benefits have been paid out.

SUPER REFORM MEASURES

The government continues to support reforms to the superannuation system, including the SMSF sector. Several measures aim to improve the operation, efficiency, and integrity of SMSFs and are relevant to how you run your fund. Some of these changes have been implemented and are included in this publication, while others await legislative changes and will be introduced in the future.

For more information about these changes, refer to the Australian Taxation Office website at ato.gov.au/smsf.

We recommend seeking independent financial advice from a qualified SMSF professional before making any decisions.

SINGLE MEMBER FUNDS

It's possible to set up your fund with only one member. The trustee of a single-member SMSF can be either a corporate trustee or two individuals.
If your single-member fund has a corporate trustee, the member must be one of the following:

- The sole director of the corporate trustee
- One of only two directors, either related to the other director or not an employee of the other director

If you have two individuals as trustees, one trustee must be the member and the other trustee must be one of the following:

- A person related to the member
- Any other person who does not employ them

A trustee or director cannot be paid for their services as a trustee or director of the trustee of the fund.

RUNNING AN SMSF

Generally, as an Australian resident, you can choose to direct your superannuation guarantee payments and personal superannuation contributions either to an independently managed superannuation fund or to your own SMSF.

SMSFs serve the same purpose as other regulated superannuation funds. The difference is that generally, the members of an SMSF are also the trustees. They control the investments of their SMSF and the payment of their benefits.

For your fund to qualify as an SMSF, it must meet several requirements under superannuation law. These requirements differ depending on whether your fund has individual trustees or a corporate trustee (company), and whether it has a single member or multiple members.

For Individual Trustees

If your fund has individual trustees, it's an SMSF if all of the following apply:

- It has four or fewer members
- Each member is a trustee
- Each trustee is a member
- No member is an employee of another member, unless they are related
- No trustee is paid for their duties or services as a trustee

For Corporate Trustees

If your fund has a corporate trustee, it's an SMSF if all of the following apply:

- It has four or fewer members
- Each member is a director of the corporate trustee
- Each director of the corporate trustee is a member of the fund
- No member is an employee of another member, unless they are related
- The corporate trustee is not paid for its services as a trustee
- No director of the corporate trustee is paid for their duties or services as director of the trustee of the fund

LEGAL PERSONAL REPRESENTATIVES

A legal personal representative can be:

- The executor of the will or the administrator of the estate of a deceased person
- The trustee of the estate of a person under a legal disability
- A person who holds an enduring power of attorney to act on behalf of another person

A legal personal representative can act as a trustee, or director of a corporate trustee, on behalf of:

- A deceased member, until the death benefit becomes payable
- A member under a legal disability (mental incapacity)
- A minor (a parent or guardian can also act as a trustee on behalf of a minor)

A legal personal representative cannot act as a trustee on behalf of a disqualified person, such as an undischarged bankrupt. A legal personal representative who holds an enduring power of attorney granted by a member may be a trustee of the SMSF or a director of a corporate trustee in place of the member.

A legal personal representative does not include a registered tax agent or accountant unless they meet the definition above.

MEMBERS WHO ARE OVERSEAS

Your SMSF must meet the definition of a superannuation fund as outlined in superannuation law. Part of that definition requires your SMSF to be a resident superannuation fund.

It's important to review your management and contribution arrangements before you or any member of your fund leaves Australia. This is essential to ensure your SMSF continues to be a complying fund.

If you or any members of your SMSF are planning to travel outside Australia, you need to understand the current rules regarding the definition of an Australian superannuation fund to maintain your SMSF's complying status.

For more information about residency requirements, visit the ATO website at ato.gov.au and search for 'Residency of self-managed super funds'.

YOUR OBLIGATIONS

As an SMSF trustee, you are ultimately responsible for running your SMSF. It's crucial that you understand your duties, responsibilities, and obligations.

As a trustee of an SMSF, you need to act according to:

- Your fund's trust deed
- The provisions of superannuation law, including:
  - Superannuation Industry (Supervision) Act 1993 (SISA)
  - Superannuation Industry (Supervision) Regulations 1994 (SISR)
- The Income Tax Assessment Act 1997 (ITAA 1997)
- The Tax Administration Act 1953 (TAA 1953)
- The Corporations Act 2001
- Other general rules, such as those imposed under other tax and trust laws

If there is a conflict between superannuation law and the trust deed, the law overrides the trust deed. If you fail to perform your duties according to the law, you may incur penalties.

If you are a new trustee or newly appointed director of a corporate trustee, you need to sign the Trustee Declaration within 21 days of your appointment to show that you understand your duties as a trustee of an SMSF. If you do not sign and keep the declaration for at least 10 years, it is an offense and penalties may apply. Your Accountant will normally assist you with the Trustee declaration as part of your SMSF set up process.

As an SMSF trustee, you should always consider if an SMSF continues to meet the needs of all members. It is the trustees' duty to protect the assets of the SMSF.

You should also be aware that under existing superannuation law, members of an SMSF are not covered by a government or industry compensation scheme for losses caused by fraud or theft. However, you do have certain rights and options available if your fund suffers a financial loss due to fraudulent conduct or theft. Legal options are available under corporations law if you received advice or services from an Australian financial services licensee who was involved in the fraudulent conduct or theft. You should seek legal advice about taking action against a person who engaged in fraudulent conduct.

RELATIONSHIP BREAKDOWN

The breakdown of a relationship between members of an SMSF can occur at any time and for various reasons, such as irreconcilable differences or domestic violence. If such a breakdown occurs, you must continue to act in accordance with superannuation law and the trust deed of your fund.

Despite any personal difficulties you may have with an individual, you must continue to act in the best interests of all members at all times. You cannot:

- Exclude another trustee from the decision-making process
- Ignore requests to redeem assets and roll over money to another regulated complying superannuation fund
- Take any action that is not allowed under the SISA or the SMSF's trust deed

SAVE ONLY FOR YOUR RETIREMENT

Your SMSF must meet the sole purpose test. This means your fund must be maintained solely for the purpose of providing retirement benefits to your members, or to their dependants if a member dies before retirement.

As a trustee, you need to maintain your SMSF so that it complies with the sole purpose test at all times while it exists, including when investing fund assets and paying benefits upon retirement of members.

Your fund must comply with the sole purpose test to be eligible for the tax concessions available to a complying superannuation fund.

The sole purpose test is divided into core and ancillary purposes. Your fund must be maintained solely for either:

- One or more core purposes
- One or more core purposes and one or more ancillary purposes

Core Purposes

Generally, core purposes are for the provision of benefits for each member of your fund, on or after the member's:

- Retirement from gainful employment
- Reaching the prescribed age
- Death – if they die before they retired from gainful employment or before they attained a prescribed age and the benefits are provided to their dependants or legal personal representative

Ancillary Purposes

Generally, ancillary purposes are for the provision of benefits for members in the following circumstances:

- Termination of a member's employment with an employer who made contributions to your fund for that member
- Stopping employment due to physical or mental ill health
- Death of a member after retirement, or after reaching the prescribed age where the benefits are paid to their dependants or legal personal representative
- Other ancillary purposes approved in writing by the regulator

Ancillary purposes also allow an SMSF to provide benefits where there is severe financial hardship or compassionate grounds, subject to superannuation law, the governing rules of your fund, and the approval of the relevant government department (for applications on compassionate grounds).

Remember, the purpose of setting up your SMSF is to provide for your retirement. It is illegal to set up an SMSF to gain early access to your funds. If benefits are unlawfully released, significant penalties including fines and jail terms of up to five years can apply to you, your fund, and the recipient of the early release.

UNDERSTAND THE RULES

The rules you need to follow as a trustee of an SMSF include:

- Act honestly in all matters concerning your fund
- Exercise skill and diligence in managing your fund
- Act in the best interest of all members at all times
- Keep the money and assets of your fund separate from other money and assets (for example, your personal assets)
- Retain control over your fund
- Develop, implement, and regularly review an investment strategy
- Consider if the fund should hold insurance cover for its members
- Do not enter into contracts or behave in a way that hinders you or other trustees from performing or exercising functions or powers
- Do not access or allow others to access funds early

The SISA contains rules that impose minimum requirements on trustees and are deemed to be included in the trust deed of every regulated fund. These rules reflect the duties imposed on all trustees under trust law in general.

If you do not follow the rules, you risk one or more of the following:

- Your fund being deemed non-compliant and losing its tax concessions
- Being disqualified as a trustee
- Prosecution
- Penalties

If you fail to act according to the trust deed, other members of your fund may take legal action against you.

You can appoint other people to help you or provide services to your fund (for example, an accountant, superannuation fund administrator, tax agent, or financial planner). However, the ultimate responsibility and accountability for running the fund in a sensible manner lies with you as the trustee of the SMSF.

Money belonging to your SMSF cannot be used for personal or business purposes under any circumstances. Your SMSF's assets are not a form of credit or emergency fund when you are faced with a sudden need and must never be used in this way.

ACCEPTING CONTRIBUTIONS AND ROLLOVERS

Contributions

There are minimum standards for accepting contributions. This ensures that contributions are made for retirement purposes only. However, these are minimum standards, and the trust deed of your fund may have more rules around accepting contributions.
You need to allocate contributions to a member's account within 28 days after the end of the month in which you received them.

Types of Contributions

Mandated Employer Contributions

These are contributions made by an employer under a law or an industrial agreement for the benefit of a fund member. They can include any of the following:

- Superannuation guarantee contributions
- Superannuation guarantee shortfall components
- Award-related contributions
- Some payments from the superannuation holding accounts (SHA) special account

You can accept mandated employer contributions for members at any time. This means you may accept mandated employer contributions for a person regardless of the age of the person or the number of hours they are working at that time.

Non-Mandated Contributions

These include contributions made by employers over and above their Superannuation Guarantee obligations and member contributions such as:

- Personal contributions made by the member (including contributions made by employees and self-employed people)
- Personal contributions made on behalf of the member
- Spouse contributions
- Government co-contributions

You can only accept non-mandated contributions in specific circumstances based on the member's age and employment status. For current age-based acceptance rules, consult the ATO website or your financial advisor.

Contribution Caps

Contributions to superannuation funds are subject to annual caps. For the 2025 financial year:

Concessional Contributions

These are contributions made into your SMSF that are included in the SMSF's assessable income and taxed at a concessional rate of 15%. The most common types are employer contributions and personal contributions for which a tax deduction is claimed.

For the 2025 financial year, the concessional cap is $30,000 per person. Contributions exceeding this cap may be subject to additional tax.

Non-Concessional Contributions

These are generally after-tax contributions made to your SMSF. For the 2025 financial year, the non-concessional contribution cap is $120,000 per member.

Members under 75 years may be able to use the "bring-forward" rule, allowing them to contribute up to $360,000 in a single year by bringing forward two years of caps, if your Superannuation Balance is under $500,000.

Members with a total superannuation balance of $1.9 million or more (as of June 30, 2024) cannot make further non-concessional contributions without exceeding their cap.

Rollovers and Transfers

A member's superannuation benefits can generally be rolled over or transferred within the superannuation system with their consent.

If you accept a rollover of benefits from another superannuation fund, that fund can ask you to demonstrate that your fund is a complying fund before processing your request. Your accountant will be able to provide you with a copy of the complying conformation letter which issues from the ATO once the fund is established.

For a current listing of regulated complying superannuation funds, visit superfundlookup.gov.au.

TAX AND CONTRIBUTIONS

Recording Your Member's TFN

If you do not have a member's Tax File Number (TFN):

- You will have to pay additional income tax on some contributions (generally employer contributions)
- You may not be able to accept member contributions

If you have accepted member contributions and the member's TFN has not been quoted, you need to return the contribution within 30 days of becoming aware that you received the contribution. If your member's TFN is quoted to you within 30 days of receiving the contribution, you do not have to return the amount.

Additional Income Tax and Offsets

Not quoting a TFN means you will pay additional income tax on contributions that are assessable income of your fund.

If your member has not quoted their TFN by the end of the financial year, all the assessable contributions made during the financial year will be taxed an extra 31.5%. You have to work out your liability for the additional tax at the end of the financial year that the contributions are made.

If you pay the additional tax and, at a later stage, your member gives you their TFN, you may be able to claim back the additional tax as a no-TFN income tax offset in your SMSF annual return within a specified timeframe.

Excess Contributions Tax

Excess contributions tax is imposed when a member's concessional or non-concessional contributions exceed the annual cap in a particular financial year.

For more information about excess contributions tax, visit ato.gov.au/supercaps.

Deductions for Personal Contributions

Eligible people, including self-employed individuals, can claim a full income tax deduction for superannuation contributions they make for their own benefit.

When deciding to claim a tax deduction, your members should consider the contribution caps. Deducted personal contributions are counted against the concessional contributions cap, with amounts over the concessional cap also counting against the non-concessional cap.

A member who intends to claim a deduction must notify you of this intent. You Accountant will assist you with the required documentation. The notice is required to be given by the earlier of:

- The time the member lodges their personal income tax return for the income year during which the contribution is made
- The end of the financial year following the year the contribution was made

MANAGING YOUR FUND'S INVESTMENTS

One of your key responsibilities is to manage your fund's investments. You have certain duties and responsibilities when making investment decisions, designed to protect and increase your member's benefits for retirement.

Sole Purpose Test

If you, or any party, directly or indirectly obtain a financial benefit when making investment decisions and entering into arrangements, it is likely your fund will not meet the sole purpose test.

If investing in collectables such as art or wine, you need to take care to ensure that SMSF members are not granted use of or access to the assets of the SMSF in contravention of the sole purpose test. Please note that investing in collectables adds considerable cost to the administration of an SMSF due to the strict audit procedures that are required. Practically in most cases, it is impossible to maintain a complying fund that holds collectables. The tax consequences for operating a non-complying SMSF are significant and can lead to loss of your investments.

Contravening the sole purpose test is very serious and may lead to trustees facing civil and criminal penalties.

Your Investment Strategy

You need to prepare and implement an investment strategy for your fund and review it regularly. Your Accountant will assist you with the documentation as part of the SMSF year end work. The strategy needs to reflect the purpose and circumstances of your fund and consider:

- Investing to maximize member returns considering the risk associated with the investment
- Diversification and the benefits of investing across a number of asset classes in a long-term investment strategy
- The ability of your fund to pay benefits as members retire and pay other costs incurred by your fund
- Whether to hold insurance cover for one or more members of your SMSF
- The circumstances of members (for example, age, income level, employment pattern, and retirement needs)

The investment strategy should set out your investment objectives and detail the investment methods you will adopt to achieve these objectives. It must be reviewed regularly and whenever there is a change to the fund.

You need to make sure all investment decisions are made according to the investment strategy of your fund. If in doubt, you should seek independent investment advice from a suitably qualified professional.

Restrictions

Superannuation law places restrictions on the types of entities your fund can invest in or with, and the entities from which your fund can acquire assets.

Investment restrictions exist to protect fund members by ensuring fund assets are not exposed to undue risks, like a business failing.

Securing the Assets of Your Fund

You need to ensure that your fund's ownership of its investments is secure. Your fund's assets should be held in legally recognized ownership arrangements, preferably in the name of the trustee(s) or corporate trustee specifically as trustee for the fund.

Valuation of Assets

Superannuation law requires that your fund's assets must be valued at market value. The market value of assets should be used when preparing your fund's accounts, statements, and the SMSF annual return.

Loans or Financial Help to Members or Relatives

You cannot lend money or provide direct or indirect financial help (including the provision of credit) from your fund to a member or a member's relative.

Borrowings

You can only borrow money in very limited circumstances, including:

- Borrowing for a maximum of 90 days to meet benefit payments due to members or to meet an outstanding surcharge liability (the borrowings cannot exceed 10% of your fund's total assets)
- Borrowing for a maximum of seven days to cover the settlement of security transactions if the borrowing does not exceed 10% of your fund's total assets
- Borrowing using limited recourse borrowing arrangements that meet certain conditions

Related Party Acquisition of Assets

You cannot acquire assets for your fund from a related party of your fund, with limited exceptions including:

- Listed securities acquired at market value
- Business real property acquired at market value
- In-house assets that do not exceed the 5% threshold

In-House Assets

An in-house asset is any of the following:

- A loan to, or an investment in, a related party of your fund
- An investment in a related trust of your fund
- An asset of your fund that is leased to a related party.

ACCESS TO MEMBER BENEFITS

You need to know the rules for accessing and paying benefits from your SMSF.

The payment standards contained in the superannuation laws, the sole purpose test, and the preservation rules ensure money in your SMSF is paid to members only when they are legally allowed to have it. Penalties apply if you do not meet these requirements.

Cashing of Benefits

There are two forms of cashing benefits – compulsory and voluntary.

Compulsory Cashing of Benefits

Compulsory cashing of benefits is only required when a member dies. Your member's benefits need to be paid out as soon as possible after the member's death.

There is no compulsory cashing out rule for superannuation payments because a member has reached a particular age.

Voluntary Cashing of Benefits

Your member's benefits will be classified as one or more of the following:

- Preserved benefits
- Restricted non-preserved benefits
- Unrestricted non-preserved benefits

Generally, all contributions and earnings after June 30, 1999, are preserved benefits. Preserved benefits may only be cashed voluntarily if a condition of release is met.

Restricted non-preserved benefits cannot be cashed until the member meets a condition of release.

Unrestricted non-preserved benefits do not require a condition of release to be met and may be paid upon demand by the member.

Preservation Age

Preservation age is generally the age that your member can access their superannuation benefits, unless other extenuating circumstances occur.

A person's preservation age depends on their date of birth:
- Before July 1, 1960: 55 years
- July 1, 1960 - June 30, 1961: 56 years
- July 1, 1961 - June 30, 1962: 57 years
- July 1, 1962 - June 30, 1963: 58 years
- July 1, 1963 - June 30, 1964: 59 years
- After June 30, 1964: 60 years

Conditions of Release

Conditions of release are the events your member must satisfy to withdraw benefits from their superannuation fund. The conditions of release are also subject to the rules of your SMSF.

As a trustee, you have important responsibilities in determining if and when a member can receive their benefits. If you release superannuation without meeting a condition of release, you may be subject to significant penalties.

Preserved benefits and restricted non-preserved benefits may be paid out for reasons including:
- Retirement after reaching preservation age
- Attaining age 65
- Terminating gainful employment (with restrictions) after reaching preservation age
- Permanent incapacity
- Temporary incapacity

- Severe financial hardship
- Compassionate grounds
- Temporary residents departing Australia
- Transition to retirement
- Terminal medical condition

Early Access to Benefits

Early access or release of preserved benefits and restricted non-preserved benefits is only permitted in limited circumstances:

- Severe financial hardship
- Terminal medical condition
- On tightly restricted compassionate grounds
- Permanent incapacity

Setting up or using an SMSF to gain improper early access to superannuation is illegal. If a benefit is unlawfully released, significant penalties will apply to you, your SMSF, and the recipient of the early release.

REPORTING AND ADMINISTRATION OBLIGATIONS

SMSF Annual Return

All SMSFs need to lodge an SMSF annual return with the ATO each year to:

- Report income tax
- Report superannuation regulatory information
- Report member contributions
- Pay the supervisory levy

The lodgment and payment date for most SMSFs is October 31 each year, though first-time filers and those using tax agents may have different deadlines.

All SMSFs are required to have their financial accounts and statements audited by an SMSF auditor. Your accountant will prepare the SMSF Financial Statements and Income Tax Returns. The will assist you appoint an auditor and will work with the auditor to ensure that all audit information is supplied. We cannot lodge the SMSF annual return until the audit of your SMSF is finalized.

Member Contributions Information

For every financial year that your SMSF operates, you need to report all contributions you receive for each member in the SMSF annual return.

Rollover Benefits Statement

When rolling over benefits and current year contributions, you must complete a Rollover Benefits Statement and provide it to the receiving fund(s) within seven days of paying the rollover. A copy must also be given to the member whose benefits are being rolled over within 30 days of making the payment.

Trustee Declaration

New trustees or directors of a corporate trustee need to complete and sign the Trustee Declaration within 21 days of appointment. You must keep this declaration with your records. You do not need to send it to the ATO.

Supervisory Levy

SMSFs need to pay the annual supervisory levy with their SMSF annual return.

Tax

You need to understand SMSF tax requirements. Your tax responsibilities should not be left solely with tax agents, accountants, superannuation fund administrators, or financial planners.

Appointing an Auditor

As a trustee of an SMSF, you are required to appoint an independent auditor to audit your fund each year, at least 31 days before the due date of the SMSF annual return.

Your auditor must form an opinion as to whether:

- Your financial statements are a fair representation of the financial position of the fund
- Your fund has complied with the relevant superannuation law

Record-Keeping Requirements

You must keep certain records for specified periods:

For a minimum of five years:

- Accurate and accessible accounting records that explain the transactions and financial position of your SMSF
- Annual operating statements and financial position statements
- Copies of all SMSF annual returns lodged
- Copies of other statements you are required to lodge with the ATO or provide to other superannuation funds

For a minimum of 10 years:

- Minutes of trustee meetings and decisions affecting your fund
- Records of all changes of trustees
- Trustee declarations
- Members' written consent to be appointed as trustees
- Copies of all reports given to members
- Documented decisions about storage of collectables and personal-use assets

Notifying the ATO of Changes

As a trustee of an SMSF, you need to notify the ATO within 28 days if there is a change in:

- Trustees
- Directors of the corporate trustee
- Members
- Contact details
- Address (postal, registered, or address for service of fund notices)

Winding Up an SMSF

There are many reasons why you might need to wind up your SMSF, including when all members have left or all benefits have been paid out.

If you decide to wind up your SMSF, you must deal with all of the fund's assets and complete all reporting and administrative obligations as a trustee.

Once your SMSF is wound up, it cannot be reactivated.

UNDERSTANDING COMPLIANCE AND PENALTIES

Our Compliance Approach

The ATO's compliance approach has traditionally focused on help and education. Recently, compliance activities have increased for high-risk funds and there is greater focus on timely lodgement.

If you are genuinely making an effort to meet your obligations, the ATO will work with you to rectify any breaches.

Compliance Program

The ATO regularly updates and publishes its compliance program that applies to all taxpayers, including SMSFs.

What We Expect During Compliance Activity

During a compliance review or audit, you are expected to:

- Provide full and free access to all records, documents, buildings, and premises
- Allow copies or extracts of records and documents to be made
- Provide reasonable facilities and assistance
- Provide complete and accurate responses to requests for information
- Be truthful and honest in your dealings with the ATO

Penalties

Regulatory Penalties and Sanctions

To protect members' retirement incomes, the ATO regulates SMSFs to ensure they comply with superannuation law. Failing to comply can result in various actions, including:

- Prosecution proceedings for contraventions of superannuation law
- Making your SMSF non-complying
- Disqualifying you as a trustee
- Suspending or removing trustees
- Directing that assets not be disposed of or otherwise dealt with

A complying fund that is made non-complying will suffer serious tax consequences, with assets and income potentially taxed at the highest marginal rate.

Income Tax Penalties

Administrative penalties may apply if you make a false or misleading statement or fail to make a statement that results in an underpayment of tax.

If you do not lodge an SMSF annual return or fail to make a true and correct statement, penalties may apply.

SUPER TERMS EXPLAINED

Gainfully Employed

Means employed or self-employed for gain or reward in any business, trade, profession, vocation, calling, occupation, or employment.

Employed on a Full-Time Basis

Means gainfully employed for at least 30 hours each week.

Employed on a Part-Time Basis

For the purposes of a fund accepting contributions, means the member has been gainfully employed for at least 40 hours in a period of not more than 30 consecutive days in that financial year.

In-Specie Contributions

Contributions to your fund in the form of an asset, rather than money or cash.

Super Co-Contributions

A government initiative to help eligible individuals boost their superannuation savings.

SUPER TERMS EXPLAINED

Obtaining Publications

You can download SMSF publications from the ATO website at ato.gov.au/sms

CHECK YOU ARE COMPLYING

Member Eligibility and Fund Structure

- Make sure your SMSF continues to meet the definition of an SMSF
- Ensure all trustees or directors of the corporate trustee are not disqualified persons
- Check that all members are eligible to be members of an SMSF
- Verify your fund meets residency requirements to maintain its complying status

Trustee Responsibilities

- Sign the Trustee Declaration within 21 days of becoming a trustee or director
- Keep accurate records of all decisions made by trustees
- Act in the best interests of all members at all times
- Do not use fund assets for personal benefit
- Comply with the sole purpose test in all investment decisions

Contributions

- Verify eligibility to accept contributions based on member age and work status
- Monitor contribution caps to avoid excess contributions tax
- Ensure proper documentation for contributions including notices of intent to claim tax deductions
- Allocate contributions to member accounts within 28 days of the end of the month of receipt

Investments

- Maintain and regularly review a current investment strategy
- Ensure investments comply with restrictions on in-house assets (no more than 5% of fund assets)
- Follow arm's length rules for all investment transactions
- Value all assets at market value at least annually
- Keep evidence of investment decisions and compliance with your investment strategy

Benefit Payments

- Only release benefits when a condition of release has been met
- Maintain proper documentation for any benefit payments
- Understand different benefit payment options and their tax implications
- Report benefit payments correctly in the SMSF annual return

Reporting and Administration

- Lodge your SMSF annual return on time each year
- Pay the annual supervisory levy
- Appoint an approved auditor at least 31 days before annual return due date
- Notify the ATO of any changes to trustees, members, or contact details within 28 days
- Keep all required records for the minimum periods (5 or 10 years)

COMMON SMSF CONTRAVENTIONS TO AVOID

The ATO reports these as the most common issues found during compliance reviews:

1. **Loans or financial assistance to members or relatives**
    - Never lend fund money to members or their relatives
    - Do not allow early access to benefits
2. **In-house assets exceeding 5%**
    - Regularly value in-house assets to ensure they remain below 5% of fund assets
    - Have a written plan to reduce in-house assets if they exceed the 5% limit
3. **Failure to keep arm's length transactions**
    - Ensure all fund transactions occur at market rates and terms
    - Document evidence of market value for all related party transactions
4. **Sole purpose test breaches**
    - Ensure the fund is maintained solely for providing retirement benefits
    - Avoid arrangements where members receive current-day benefits
5. **Borrowing restrictions**
    - Only borrow in strictly limited circumstances allowed by law
    - Ensure any limited recourse borrowing arrangements meet all requirements
6. **Separation of assets**
    - Keep fund assets completely separate from personal assets
    - Ensure all assets are properly registered in the fund's name
7. **Inadequate record-keeping**
    - Maintain minutes of all trustee meetings and decisions
    - Keep comprehensive records of all financial transactions
8. **Failure to lodge annual returns**
    - Lodge SMSF annual returns by the due date
    - Ensure audits are completed prior to lodgement

IMPORTANT REMINDERS FOR 2025

1. **Contribution Caps**
    - Concessional (before-tax) contributions cap: $30,000 per person for 2024-25
    - Non-concessional (after-tax) contributions cap: $120,000 per person for 2024-25
    - Total superannuation balance limits of $1.9 million may restrict non-concessional contributions
2. **Transfer Balance Cap**
    - General transfer balance cap is $1.9 million (as of July 2023)
    - This limits the amount that can be transferred to retirement phase
3. **Work Test Requirements**
    - For members aged 67 to 75 making voluntary contributions, the work test or work test exemption may apply
    - Mandated employer contributions can be accepted regardless of age or employment status
4. **SuperStream Requirements**
    - All rollovers to and from SMSFs must use SuperStream
    - Electronic service address (ESA) required for employer contributions
5. **Compliance Focus Areas**
    - The ATO's current compliance focus includes early release schemes, non-arm's length income, and in-house asset breaches
    - Ensure all fund investments and transactions are properly documented

WHEN TO CONSIDER WINDING UP YOUR SMSF

As a trustee, you should periodically assess whether your SMSF remains appropriate for your circumstances. Consider winding up your SMSF if:

1. **Fund costs are excessive** - The costs of running the SMSF are disproportionate to the fund's assets
2. **Administrative burden** - You no longer have the time, capability, or desire to manage the responsibilities of being a trustee
3. **All members are leaving** - All members want to roll their benefits to another fund or all benefits have been paid out
4. **Relationship breakdown** - Irreconcilable differences between trustees make managing the fund effectively impossible
5. **Moving overseas** - Extended absence from Australia might compromise the fund's residency status

If you decide to wind up your SMSF, ensure you follow the proper process, including:

- Having a final audit conducted
- Paying all outstanding liabilities
- Distributing all assets according to superannuation law and the trust deed
- Lodging a final SMSF annual return
- Notifying the ATO

CONCLUSION

Managing an SMSF is a significant responsibility that requires ongoing commitment to ensure your fund complies with all regulatory requirements while effectively serving its purpose of providing for members' retirement.

By understanding your obligations, keeping up-to-date with regulatory changes, maintaining proper records, and seeking professional advice when needed, you can successfully manage your SMSF and work toward securing the retirement benefits of all members.

Disclaimer: The information in this booklet is general in nature and might not be right for your circumstances. Please arrange a meeting with on of our Accountants to discuss your particular needs.

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