Running a self managed super fund (SMSF)

Fast facts

What is an SMSF?

A self-managed super fund (SMSF) is a trust run for the sole purpose of providing retirement benefits to its members or their beneficiaries if a member dies before retirement.

A trust is an arrangement where a person or company (the trustee) holds assets for the benefit of others (the beneficiaries).

A trust must have a trustee, a trust deed, assets, and beneficiaries.

A trustee can be either individual trustees or a corporate trustee.

The Australian Taxation Office (ATO) is the regulator of SMSFs which means they are responsible for ensuring compliance with the super and tax laws.

It's important that you understand how to run an SMSF in accordance with super law. It can be illegal to:

- access retirement savings early
- invest in or loan your super benefits to a related party such as a related business
- use your super benefits to provide financial assistance to yourself or a relative
- use the fund's assets to obtain a current day benefit

- be paid for your duties or services as a trustee.

When SMSF trustees do not comply with super and tax laws, there are a range of actions that the ATO may take including disqualification, penalties, and tax consequences.

Your obligations when running an SMSF

Running an SMSF can be complex. As a trustee you must ensure you fully understand your role and responsibilities under the law. Super law requires all trustees to manage the fund honestly and with skills and diligence. This includes maintenance of and compliance with the trust deed and acting in the best financial interests of all members.

Make sure you understand the requirements for:

- accepting contributions and rollovers
- managing your fund's investments
- paying super benefits, and
- reporting and administration.

Contributions and rollovers

A contribution can be certain assets transferred to your SMSF (called an in specie contribution) or money deposited into your SMSF financial institution account on behalf of a member.

A rollover is when a member transfers some or all of their existing super between funds.

There are some things you need to do for contributions and rollovers to be successful. Make sure:

- you obtain an active electronic service address (ESA) that offers contributions and rollover services
- you advise us of your ESA – as you can only record one ESA with the ATO check that your ESA provider offers both services should you require this
- your SMSF has an Australian business number (ABN)
- your SMSF has a 'Complying' or 'Registered' status on Super Fund Lookup
- you have a unique financial institution account for your SMSF recorded with the ATO
- member and fund details held by the ATO, the sending fund, and the receiving fund are up-to-date and identical
- you contact the transferring fund to understand any proof of identity (POI) requirements.

Contributions

It is your responsibility to make sure you properly document contributions, including the amount, type, and breakdown, and allocate them to the members' accounts within 28 days from the end of the month in which your fund receives them. You must also report all contributions in the SMSF annual return (SAR).

Whether the trustee can accept the contribution will depend on certain factors, including:

- the type of contribution
- whether you have the member's tax file number (TFN) – if not, you can't accept member contributions, however you can accept mandated employer contributions, and
- the age of the member.

If the contribution is not acceptable, it must be returned within 30 days.

Before members make a contribution to an SMSF there are some things they need to be aware of as this can have financial implications.

SMSF members need to be aware of the limits on the amount which can be contributed for them each financial year without having to pay extra tax. These limits are called ‘contribution caps’.

If the total contributions for them in a year exceeds these caps, they may be liable for additional tax on the excess contributions.

Rollovers

Often SMSFs receive rollovers from their members shortly after the fund has been established or when a new member has joined. Rollovers can be made into or out of the SMSF. Generally, all rollovers must be processed electronically, using a data message and a separate payment transfer.

Before a member initiates a rollover, there are some preparation steps required to ensure it’s successful. Check your fund and member details are up to date and accurate, this includes an ESA that is rollover enabled, ABN, Super Fund Lookup status and financial institution account details.

If the member doesn't provide all the required information, or where their details with the other fund are not an exact match with the ATO record, the rollover will be delayed or rejected.

Managing your fund’s investments

A key responsibility for a trustee is to manage the fund’s investments in accordance with tax and super law, your fund’s trust deed and investment strategy.

All investments by your SMSF must be made on a commercial arm's length basis. The purchase and sale price of fund assets should always reflect true market value, and the income from fund assets should always reflect a true market rate of return.

Sole purpose test

The sole purpose of your fund is to provide retirement benefits to your members, or their dependants if a member dies before retirement. To be eligible for tax concessions normally available to super funds, your SMSF must meet the sole purpose test. Failing to meet the sole purpose test is very serious. In addition to the fund losing its concessional tax treatment, trustees could be disqualified and face civil and criminal penalties.

Your fund's investment strategy

It's a legal requirement to create and implement an investment strategy for your fund which considers each member's circumstances.

Your fund's investment strategy is a plan for making, holding, and realising assets consistent with your investment objectives and the members' retirement goals. It should set out why and how you've chosen to invest your members' retirement benefits to meet these goals.

Reviewing your investment strategy

Review the strategy at least annually, or when there is a significant event including:

- a market correction
- when a member starts receiving a pension
- when a member joins or leaves the fund.

You should document any decisions or changes you make to your SMSF during the review.

Evidence of a review should be given to the fund's auditor.

Ownership of your fund's assets

As trustee you need to ensure the fund has clear ownership of its assets and they are secure in the event of a creditor dispute.

All fund assets must be kept separate from the personal assets of the trustees and should be in the name of the fund, or the trustees in capacity as trustee of the fund.

This ensures the assets are recorded in a way that distinguishes them from anyone else’s personal or business assets and clearly shows legal ownership by the fund, not the individual.

Investment restrictions

Investment restrictions exist to protect members by making sure fund assets are not exposed to undue risks, such as a business failing.

While there are some exceptions, generally your SMSF must not:

- lend or provide financial assistance to members or related parties
- acquire assets from a member or related parties
- use collectables and personal use assets in a way that provides a present-day benefit
- allow trust distributions owing to the SMSF to remain unpaid
- breach the in-house asset rules
- borrow money.

Carrying on a business in an SMSF

SMSFs are not prohibited from carrying on a business, but the business must be:

- allowed under the trust deed

- operated for the sole purpose of providing retirement benefits for fund members.

The rules governing SMSFs prohibit or limit some activities available to other businesses, such as entering into credit arrangements or having overdrafts. You should get professional advice before running a business through your SMSF.

Paying super benefits

As trustee you have important responsibilities in working out if, and when, a member can receive their benefits. You must also understand how the different benefits in your fund are treated, for example preserved benefits, restricted non-preserved benefits, and unrestricted non-preserved benefits.

Just like other superannuation funds, when you have an SMSF, members can't access their retirement benefits until they meet a condition of release.

Before you release any funds, it is your responsibility as trustee, to ensure the member is entitled to access their super under super laws and the governing rules of your fund. Additionally, some conditions of release have cashing restrictions affecting the amount, and manner in which the benefits may be released.

If the member has met a condition of release, make sure you keep records and proof that shows they have met all the requirements. Your auditor will need to make sure you haven't illegally released any benefits.

The most common situations when a member can access their super are when they:

- reach 60 years of age and intend to never work again
- reached 65 years of age (even if they haven't retired).

There are limited circumstances in which super benefits can be released early. These circumstances include:

- compassionate grounds
- severe financial hardship
- a terminal medical condition
- permanent incapacity
- first home super saver scheme.

Types of Benefits

Benefits to members may be paid in the form of a lump sum or an income stream.

Benefits can also be paid as a combination of both, as long as super laws, and your fund's trust deed, allow it. When a member has died, the benefits are paid to their dependant beneficiaries or the deceased estate.

When a member wants to commence receiving a super benefit, they need to provide the trustee with a written request confirming a condition of release has been met and notifying of their intention to access benefits.

The member needs to advise what type of super payment they're seeking (lump sum, income stream or both). They also need to identify the account from which it will be paid (if applicable). It's important you document this at the time the payment is requested and record it in trustee minutes.

Pensions that satisfy the minimum pension standards will generally be treated as super income stream benefits for income tax purposes. This means the fund may be able to claim an exemption for the income earned on pension assets, called exempt current pension income (ECPI).

When a member dies, the SMSF generally pays a death benefit to a dependant or other eligible beneficiary of the deceased. A super death benefit can be paid either as an income stream or a lump sum, or a combination of these depending on who will receive it.

Reporting and administration

Each fund is unique so reporting obligations may vary.

Your key obligations are to:

- understand how SMSF income is taxed
- value your fund's assets and prepare your financial statements
- arrange and receive an SMSF audit each income year
- lodge the SMSF annual return
- meet PAYG obligations
- report transfer balance cap events
- keep records
- notify the ATO of any changes.

Lodgment of the annual return is an essential compliance obligation and is used to report the fund's:

- income tax
- super regulatory information
- member contributions.

You should allow plenty of time to meet these obligations and ensure you lodge on time to avoid penalties.

Understand how your fund is taxed

Just like other entities SMSFs must pay tax on their taxable income. Generally, the income of your SMSF is taxed at a concessional rate of 15%.

To be eligible for this rate, your fund must be a 'complying fund' that follows SMSF rules and laws. 'Non-complying' funds and non-arm's length income (NALI) are taxed at the highest marginal tax rate of 45%. The most common types of assessable income for complying SMSFs are assessable contributions, net capital gains, interest, dividends, and rent.

Concessional contributions are contributions made into your SMSF that are included in the SMSF's assessable income.

Generally, non-concessional contributions are contributions made into your SMSF that are not included in the SMSF's assessable income.

A rollover isn't included in the assessable income of your fund unless the rollover amount includes an untaxed element. If the rollover contains an untaxed element, you must include this amount in the assessable income of your fund, in the financial year in which the rollover occurs, up to the untaxed planned cap amount.

An SMSF may be able to claim an exemption for the income earned on retirement phase income stream assets, called exempt current pension income (ECPI). When calculating the amount of income that is exempt from income tax, NALI and assessable contributions are excluded from the calculation.

Value your fund's assets and prepare financial statements

SMSF assets must be valued each income year to prepare your fund's financial statements and lodge the SMSF annual return (SAR).

You must value your fund's assets at their market value.

The person conducting the valuation must base their valuation on objective and supportable data. It's usually the valuation process undertaken, rather than who conducted it, that determines the acceptability of a valuation.

Once you have valued your fund's assets you must prepare a statement of financial position and an operating statement each year. You must sign these financial statements and provide them to your auditor before the annual audit.

Arrange and receive an SMSF audit

Before you can lodge your SAR you must have an SMSF auditor undertake an independent audit of your fund.

The auditor will examine your fund's financial statements and assess whether your fund has complied with super law. You need to appoint an auditor to audit your fund each year, no later than 45 days before you need to lodge your SAR.

Make sure your auditor is registered with the Australian Securities & Investments Commission (ASIC) – if they are they'll have an SMSF auditor number, which you need to provide on your SAR.

Lodge your SMSF annual return

You must lodge a SMSF annual return (SAR) each financial year, even if your fund does not have a tax liability.

It's important you lodge by the due date, as if it's more than 2 weeks overdue, the Super Fund LookUp (SFLU) status may change to 'regulation details removed', thereby restricting the SMSF from receiving rollovers and employer contributions.

You are required to pay a supervisory levy to the ATO on an annual basis. You need to pay the supervisory levy with your SAR. The amount payable is stated on the return.

Corporate trustees must lodge ASIC company returns each year by the due date and ensure payment of annual fees.

PAYG withholding obligations

You may have pay as you go (PAYG) withholding obligations to withhold tax for super benefits you pay.

You must withhold tax from super benefits you pay to recipients who are:

- under 60 years and the benefit is an income stream (pension) or a lump sum
- 60 years or over and the benefit is a pension which is a capped defined benefit income stream
- under 60 years, where the death benefit is a pension that is a capped defined benefit income stream, and the deceased member was 60 years or over when they died.

You also need to withhold tax from superannuation death benefits paid to a non-dependant.

Reporting transfer balance cap events

An SMSF must report certain events that affect a member's transfer balance account.

Use the super transfer balance account report (TBAR) to advise the ATO:

- a transfer balance account event has occurred
- if you are responding to a commutation authority notice that has been issued to your SMSF

- if you are correcting information about a transfer balance account event you have previously reported.

Record keeping requirements

Keeping good records is more than just knowing which records to keep and for how long. It involves having a system for organising and maintaining records that makes it easier for you, and any SMSF professional you use, to:

- complete the fund's independent audit each year, and
- lodge your fund's annual return.

It may also help reduce audit and administration costs for your fund.

Remember, as a trustee it is your responsibility to ensure proper and accurate tax and super records are kept.

Depending on the type of records, you must keep them for either 5 or 10 years.

Notify the ATO and ASIC of changes

You need to notify the ATO within 28 days if there are any changes to your fund.

It’s also important to keep your fund details up to date as missing or mis-matched details can cause processing delays or prevent you from receiving an ATO protective alert.

Make sure your trustees’ individual contact details such as their mobile number and email address are kept up to date with the ATO. To safeguard your retirement savings and reduce the risk of fraud and misconduct, the ATO issues protective alerts via text or email when a change of details is requested, such as adding a new member to an SMSF, changing the authorised contact or when the SMSF electronic service address or bank account details are changed.

Consider professional advice

You may need an SMSF professional to help you establish your fund, for the ongoing running of your fund and to help you wind up your fund.

While you can do a lot yourself some professional support is mandatory.

Choose someone who is qualified, registered, licensed, and right for you and your circumstances.

Even if you use a professional to help with your fund, responsibility for the fund still rests with you.

Help and more information

The ATO and ASIC are co-regulators of the SMSF sector.

Keep up to date with SMSF news and alerts at ato.gov.au/SMSFnews

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