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"Your guide to self managed super"

Do-it-yourself (DIY) super via a self managed super fund (SMSF) is becoming an increasingly popular choice for people who want to have control of how their super monies are invested.

If you're thinking of starting your own DIY fund, make sure you discuss your options in detail with your financial adviser. There's a lot more to an SMSF than you might think and the penalties for doing the wrong thing can be as severe as a jail term. Still interested? Read on...

The key areas of compliance for an SMSF relate to:

- meeting the sole purpose test
- documenting an investment strategy and investing in line with it
- prohibition on financial assistance to members and their relatives
- in-house asset rules
- conducting all transactions at arm's length
- prohibition against borrowing
- acquisition of assets from related parties.

What is an SMSF?

An SMSF is a trust where money or assets are held and managed on behalf of up to four members to provide future retirement benefits. In most cases, all members of an SMSF must be trustees of the fund or directors of the fund's corporate trustee. The Superannuation Industry (Supervision) Act 1993 and Regulations (SIS) and related legislation govern Australian super funds and the Australian Taxation Office (ATO) is responsible for overseeing the regulation of SMSFs.

Why establish an SMSF?

The three key reasons for establishing your own SMSF are control, flexibility and investment choice. The trustee of your fund (you) decides on your fund's investment strategy and chooses what your fund invests in. Set up properly, the fund can even invest in assets as diverse as art and property.

Additionally, like all super funds, an SMSF receives concessional tax treatment. The top tax rate for the investment earnings of your SMSF is 15% – probably well below the top tax rate applicable to your own income.

It's important to note that this tax concession is only available where you operate a 'complying fund' – that is an SMSF that complies with all the rules set out by SIS and the ATO.

Understanding the rules and obligations of an SMSF

While there are benefits in establishing an SMSF, running your own fund is complex and there are many things you have to consider, including:

- your investment strategy – setting it and sticking to it
- the administration of your fund – completing all the paperwork correctly and on time
- compliance with super and other laws – and there's a lot of them.

In fact, many people who choose the DIY super path use a specialist SMSF administrator to undertake the onerous compliance activities. This allows them to enjoy the benefits of investment control and flexibility without as much paperwork.

Your fund's compliance with super laws is essential and you're legally responsible for making sure your fund complies with all the rules – even if you pay for professional advice and/or administration. While the ATOs regulatory approach to SMSFs has been focused on education and information, it's fast becoming more aggressive in its position on fund compliance.

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What else?

The sole purpose test

Underpinning the SMSF regulatory regime is the sole purpose test – the sole purpose of your fund and all its investments must be to provide retirement benefits to fund members. In line with this, trustees are required, first and foremost, to have an investment strategy which they invest in accordance with.

While there are no restrictions on SMSFs investing in collectibles such as art, the ATO has highlighted that the sole purpose test means that members cannot enjoy a benefit from the investment prior to preservation age and meet a cashing restriction, when they can legitimately access their benefits if they have retired. This means that, unless strict conditions are met – like in the case of leasing the art to a member or related party in line with the in-house asset and arms-length rules – the art can't be displayed in the trustee's home or office. The in-house asset rules mean that the particular investment can make up no more than 5% of the fund's total assets and the arms length requirement means that it must be leased to the related party at commercial rates.

Why choose Asgard?

- **Great service.** Asgard is one of Australia's most awarded investment platforms, currently administering more than $38 billion for over 400,000 investors.
- **Peace of mind.** Your money is in good hands – Asgard has over 18 years' experience in investment and super administration.
- **Solid backing.** Asgard is owned by St.George*, one of Australia's largest and most respected service companies.
- **Make choices.** We have one of the largest investment menus in the industry, giving you access to over 330 of the best managed investments.
- **Have control.** Choose from a range of preset managed investment portfolios or build your own from managed investments and shares.
- **Save money.** You can save on transaction costs and paperwork by keeping your investments in one place.

* Please note an investment in Asgard product is not a deposit or liability with St.George. St.George does not guarantee your capital or the performance of your investment.

Separation of assets

A fund must also maintain its assets separately from those of a business in which one or more of the trustees is involved. For example, if assets are held in the name of one of the trustees rather than being clearly held as part of the fund, the fund risks the loss of the asset if the trustee is declared bankrupt or if their business is placed in receivership.

Restrictions on investments

Yes, even with an SMSF, there are still lots of rules and regulations around what you can and can't invest in. These rules are designed to help ensure that the assets of an SMSF will be available to provide retirement income. SMSFs are restricted in the investments they can make.

Business real property

One of the concessions that SMSFs enjoy is their ability to invest up to 100% of the fund's assets in business real property – though an issue for trustees to consider is whether this lack of investment diversification is a prudent investment strategy. It should also be remembered that it is very difficult for residential property to fit the conditions necessary for it to be considered 'business real property'.

Fiduciary responsibilities

The meeting of fiduciary responsibilities by SMSFs is also important, particularly in relation to the fund holding its own bank account (rather than banking being done through personal accounts of one or more of the trustees) and not overdrawing that account.

What next?

Contact your financial adviser to discuss what super options are available to you and what solution may best suit your circumstances and goals.

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