



Thinking about Self Managed Super?

Is a self managed superannuation fund right for you? There are many issues to consider before making the commitment to establish a self managed superannuation fund, such as:

- the financial and time burdens of operating a self managed superannuation fund
- your responsibilities as a trustee to comply with the legislation, and
- determining whether you have a sufficient amount of money to contribute to the fund to make it viable.

BJ Carey & Company has extensive knowledge in supporting the administration and management of self managed superannuation funds. Because we are a combined accounting and financial planning firm we are able to offer and tailor investment plans to create the most tax effective and wealth creating benefit for you and your fund.

For your information we have included the following documents to assist you in making the important decision of whether to start your own self managed superannuation fund:

- "Thinking about self-managed super" – ATO publication
- Hints & Tips
- BJ Carey Cost List



Hints & Tips

Administering a self managed super fund involves time and consideration. We believe you should be made aware of all aspects of a self managed superannuation fund **before** you create your new fund. We have listed many of these below:

Sole Purpose of a Self Managed Super Fund (SMSF)

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 up to five years can apply to you, your fund and the recipient of the early release.

Super Fund Trust Deeds

Self managed super funds hold the member's superannuation benefits in trust for their retirement therefore there must be a trust deed to document and legalise this. Each fund must create a deed on creation of the fund and it is the duty of the trustees to keep this deed up to date with legislation and changes of the fund.

Members

Each self managed superannuation fund regulated by the Australian Taxation Office can have no more than four members. The Australian Prudential Regulation Authority (APRA) regulates larger funds.

Trustees

All types of trusts require trustees. These are the people who must maintain the integrity of the fund and ensure all regulations, legislation and laws are followed. All members of a self-managed super fund must be a trustee OR there must be a corporate trustee in place. This is a common occurrence if the fund has only one member. A trustee or a director of a corporate trustee cannot be paid for their services as a trustee. All trustees must complete a Trustee Declaration within 21 days of becoming a trustee or a director of the corporate trustee.

Investments

The sole purpose of a superannuation fund is to enable you to save and plan for your retirement. The trustees have certain duties and responsibilities when making investment decisions. They are designed to protect and increase your member's

benefit for retirement. An investment strategy needs to be prepared and implemented and reviewed regularly. The strategy needs to reflect the purpose and circumstances of your fund and set out your investment objectives detailing the investment methods that the fund will adopt. There are harsh penalties for investing in assets which contravene the rules and regulations for self managed super funds.

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.

The two main types of contributions are concessional and non-concessional. Concessional contributions is when the employer or member receive a tax deduction for making the contributions e.g. employer 9% super guarantee. Non-concessional contributions are contributions that are not used as a tax deductible expense. Both these types of contributions have a maximum cap per annum applicable to them.

Other types of contributions can include:

- Eligible spouse contributions
- Super Co-contributions
- In specie contributions

Payment of Benefits

No benefits should be withdrawn from the fund until one of the 'conditions of release' is met by the member. These include retirement, permanent/temporary incapacity, severe financial hardship or compassionate grounds. All these conditions have further requirements to be met before any benefits are released.

Income Tax Return

Just like every individual tax payer the fund must lodge an income tax return every year. The tax rate for the fund is 15%. This rate is applicable to the total taxable income of the fund including concessional contributions and income from investments less deductible expenses.

Supervisory Levy

This is an administration levy enforced by the Australian Taxation Office every year your fund is required to lodge an income tax return. The annual fee is \$150 and is included in the funds income tax return.

Audit

The trustees of the fund must appoint an approved auditor to audit the fund each year, at least 30 days before the due date of the SMSF annual return. The auditor will provide the fund with an audit report, bring to the attention of the Australian

Taxation Office and the trustees, any concerns about the fund's financial position or its compliance, and report certain contraventions of the super law that they may identify during the audit.

Record Keeping Requirements

Certain documents must be kept for a minimum of five years while others are a minimum of ten years. The trustees must be aware of what documents are to be retained and for how long.

Documentation

Trustees of a fund must document important events and movements within the fund. These events include but are not limited to:

- acceptance of a new member/trustee
- resignation of a member/trustee
- change in trustee
- investing in a new investment
- selling an investment
- receiving a contribution
- starting a pension or transition to retirement income stream
- rolling a member into another fund

Rules and Regulations

Self managed super funds are regulated by the following laws:

- Superannuation Industry (Supervision) Act 1993 (SISA)
- Superannuation Industry (Supervision) Regulations 1994 (SISR)
- Income Tax Assessment Act 1997 (ITAA 1997)
- Tax Administration Act 1953 (TAA 1953)
- Corporations Act 2001
- Other general rules, such as those imposed under other tax and trust laws

Changes to the Fund

The trustee must notify the Australian Taxation Office within 28 days if there is a change in the following:

- Trustees
- Directors of the corporate trustee
- Members
- Contact details
- Address