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SELF MANAGED SUPERFUNDS

Introduction

A self-managed superfund (**SMSF**) is a fixed trust structure that can be used to manage retirement savings on behalf of its members.

SMSFs are established for the sole purpose of providing retirement benefits to members; however, the benefits can also be passed to beneficiaries upon death. Importantly this passing of wealth does not occur under a will; the law and the trust deed prescribe how this occurs.

There are strict limits on the amount of wealth you can contribute into a SMSF – and significant penalties if you overshoot these.

A SMSF can have 1 to 4 members. Like any trust, a SMSF requires a trustee. This can be a company or it can be a minimum of 2 natural persons.

A SMSF is established by a trust deed that we prepare. Thereafter, there are various compliance and notification steps the trustees must follow – your financial adviser would generally assist with these.

Why a SMSF?

The principle advantage of choosing a SMSF over another entity is the tax concessions applicable generally to superannuation funds.

The principle advantage of SMSFs to other types of superannuation funds (e.g. retail or public funds) is the fact that a SMSF (and its investments) can be controlled and managed by you and not institutional trustees.

Other advantages of SMSFs include asset protection (in that superannuation is in general terms a robust structure should you suffer personal insolvency), pension planning (in that flexible pension streams can be established once you reach retirement) and SMSFs are permitted to borrow monies to fund the purchase of business real property – a great way for you to use your superannuation to fund the purchase of your business premises.

Why not a SMSF?

On the other hand, a SMSF is not appropriate for a large number of investments; indeed, the law prohibits SMSFs from engaging in many activities (e.g. conducting a business) and participating in many investments. By way of example, SMSFs are prohibited from borrowing other than for a handful of permitted purposes (including the one mentioned above). Similarly, SMSFs are prohibited from non-arm's length and related party transactions (e.g. the purchase of your family beach house for private purposes) besides certain very narrow exceptions.

Another reason why a SMSF may not be appropriate for holding particular property is that, once within the superannuation world, that property cannot be taken out of the superannuation world except as permitted by law. This can be very restrictive unless planned properly.

Final Thought

SMSFs are heavily regulated. The ATO administers SMSFs. The burden of complying with this regulation and administration lies on the trustees - and the penalties for non-compliance can be catastrophic.

For these reasons, you should ensure you are well and properly advised by an appropriately experienced and skilled financial adviser and/ or accountant before establishing a SMSF.

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