

## Sherrin Partners – Education Flyer

### Self Managed Superannuation Fund (SMSF)

For investors seeking to own investments within superannuation or gain greater control of their superannuation portfolio, Self Managed Superannuation Funds can be an attractive alternative.

Self Managed Superannuation Funds can facilitate all major superannuation functions including:

- Accepting new superannuation contributions.
- Housing superannuation funds received from a change in employment.
- Paying a retirement income

Other advantages of Self Managed Superannuation Funds include:

<b><u>Direct Investment Choice</u></b>	You can invest directly in your own chosen combination of investments, for example, shares, property, fixed interest investments, managed funds and cash. You may also include business real property (commercial property).
<b><u>Access to Wholesale Managed Funds</u></b>	You may gain the benefit of access to wholesale managed funds where the investment charges are lower than retail managed funds.
<b><u>Consolidation</u></b>	You have the ability to have up to four members in a Self Managed Superannuation Fund. You are therefore able to combine your superannuation benefits into one strategy to reduce ongoing costs and increase the potential for compounding capital growth.
<b><u>Tax Planning</u></b>	You have the ability to reduce taxation liabilities within the fund by selecting a tax effective mix of investments, including franked dividend shares. Investment earnings are subject to tax at a maximum rate of 15%.
<b><u>Estate Planning</u></b>	Self Managed Superannuation Funds provide estate planning opportunity where there is more than one member in the fund. It allows you to effectively deal with excess superannuation benefits and distribute superannuation assets upon your death in a tax efficient manner.

## **Considerations in Establishing Self Managed Superannuation Funds**

### **The Sole Purpose Test**

To meet the Sole Purpose Test, SMSFs must be established for one of the following purposes:

- The provision of benefits to members upon retirement or
- The provision of death or ancillary benefits to members.

Trustees of funds established for purposes other than these may incur fines of up to \$200,000, or face criminal prosecution with two years imprisonment.

### **Investment Guidelines**

Legislation requires that the trustees of SMSFs prepare and implement an investment strategy having regard to:

- The Risk/Return profile of selected investments in light of the investment horizon.
- The diversification of fund assets.
- The liquidity of fund assets.
- The ability of the fund to meet current and prospective liabilities.

This strategy must be documented and continually monitored and updated.

In addition, a SMSF may only purchase certain types of investments from you or an associate. A fund can only acquire the following assets from a member:

- Shares listed in Australia or on an approved overseas stock exchange.
- Units in widely held unit trusts.
- Business real property used wholly for any commercial business, but not for investment.

The transfer of any other assets may attract a penalty of up to a one year gaol term.

### **In House Assets Test**

An in-house asset of a super fund is an asset that is:

- a loan to, or an investment in, a related party of the fund
- an investment in a related trust of the fund
- an asset of the fund that is subject to a lease or lease arrangement between the trustee of the fund (you), and a related party of the fund.

Generally, as a trustee of an SMSF you cannot lend to or invest in a related party or related trust of the fund, where the loans, or the values of the assets that are the subject of the investment or lease arrangement are greater than 5% of the market value of the fund's total assets.

If your SMSF has in-house assets with a value of more than 5% of the market value of the fund's total assets, you risk one of the following:

- disqualification
- the fund being made non-complying
- a range of other penalties

- the inability to purchase further in-house assets
- prosecution.

### **Self-Managed Funds Cost Considerations**

The costs associated with establishing a SMSF fund may include the following:

- Preparation of a trust deed including updates following legislative changes
- Costs of using and establishing superannuation trustees for the administrative framework and,
- Tax return, audit and Australian Prudential and Regulation Authority (APRA) return fees.

### **When are Self-Managed Funds Appropriate?**

A SMSF is most appropriate for investors who:

- Prefer to have direct control over their retirement funds.
- Wish to be involved in investment decisions.
- Wish to gain from the flexibility and estate planning benefits associated with SMSFs.

### **What Level of Support is Appropriate?**

While all SMSFs feature investment discretion, you can choose the extent of administration support, investment reporting and compliance. Broadly speaking you may choose from:

- An institutional, or 'approved' trustee.
- A professional administration service for all services required in conjunction with the use of a financial adviser for investment decisions and other key decisions such as commencing a pension, contributions to and withdrawals from the fund.
- An accounting firm for compliance and tax returns, in conjunction with the use of a financial adviser for investment decisions and other key decisions such as commencing a pension, contribution to and withdrawals from the fund and then completing the trustee responsibilities yourself.

From your perspective, the major difference between the three options is who is responsible for the prudent management of the fund. If an institutional trustee structure is employed, you will not have any responsibility in this regard.

The Superannuation and Insurance Supervision (SIS) legislation codifies some of the most important fiduciary duties of trustees in formal covenants. The codified duties exist alongside trustee duties under common law. For trustees, SIS means their basic duties are clearly spelt out. For members, SIS establishes statutory rights to civil action for loss or damage due to breach of covenants.

If an institutional trustee is not employed, then each member of the fund is a trustee with full responsibility for the management of the fund.

In summary, the trustee is responsible for compliance with a range of investment related requirements including:

- a) The investment strategy covenant.
- b) Various restrictions on investments and benefits including those related to:

- lending to members or their relatives
- acquiring assets from members or their relatives
- in-house assets
- arms-length transactions
- borrowing by the fund
- member reporting obligations
- contribution standards
- benefit payments standards.