

Quarterly Newsletter – December 2014

Corporate Trustees of Self-Managed Superannuation Funds

All SMSFs must have a trustee who is responsible for ensuring that the superannuation fund is properly managed and that it complies with the *Superannuation Industry Supervision Act* (SISA) and other legal obligations. A trustee can be either a corporate trustee (i.e. a Pty Ltd company where the members of the SMSF are all directors) or all the individuals who are members become individual trustees.

Generally, we advise that there are five main benefits in having a corporate trustee rather than individual trustees. They are as follows:

1. Sole member funds

A single member fund must have two individuals as trustee (including the member) whereas if the trustee is a company, a sole director company is permissible. This allows the fund to continue if (for example) a spouse passes away or there is a separation.

2. Administrative efficiency

Adding another member to an SMSF with individual trustees requires the new member to also become a trustee. As SMSF assets must generally be held in the trustee's name, this will require transferring the title of all assets to include the new trustee. This must also happen in reverse when a member leaves a fund.

With a corporate trustee, all that is required when members are admitted, or cease membership, is that the person becomes, or ceases to be, a director of the company. No change to the legal title is required as the assets remain vested in the company which continues to act as trustee.

3. Liability issues

If individual trustees are sued for their actions in managing the fund, it could place their personal assets at risk. On the other hand, a director of a company is better protected under the limited liability rules.

4. Succession issues

As a company has an indefinite life span, a corporate trustee can make control of the fund more certain in the circumstances of the death or incapacity of a key member. Arrangements can be made for control of the corporate trustee to be transferred in line with the deceased member's estate planning wishes.

5. Lump sum benefits

A fund that has a corporate trustee may pay benefits in the form of a lump sum or a pension. On the other hand, funds with individual trustees must show in the trust deed that the fund was established for the sole or primary purpose of providing old aged pensions.

Downside

There are a few downsides to having a corporate trustee, the main ones being that they are subject to additional laws (contained in the Corporations Act 2001) and there are additional costs with the establishment, maintenance and administration of the company.

Christmas Office hours

Please note our office will be closed over the Christmas and New Year period from Tuesday the 23rd of December and reopening Tuesday the 6th of January.

We wish you a safe and pleasant holiday season.

Sincerely,



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