ROSE GUERIN
CHARTERED ACCOUNTANTS

10 things you should know about Self Managed Superannuation Funds (SMSFs)

1. The difference between a Public Offer Superannuation Fund and a SMSF.

SMSFs have the same role as any other super fund; the difference is that the members of SMSFs are also the trustees. They **control** the investment of their contributions and the payment of their benefits. In a public offer fund, the trustees are independent individuals who control the fund.
Many people are attracted to SMSFs because they want to manage their own retirement savings.
In recent times formal complaints about public offer superannuation funds have increased to record numbers[1].
In contrast, commentators are critical about trustees of SMSFs abilities to control their own funds[2]

2. You will need a trust deed to set up an SMSF

SMSF's use trust structures. You will need to decide whether to choose a corporate trustee or individual trustees[3]. A deed is the governing instrument of a trust and details what the trustees can and cannot do.

Trust deeds are widely available from accountants and lawyers and can even be downloaded from the internet for free.

However, you should be aware that a good quality deed must as a minimum include the following:

- Be up to date with the latest changes in the law
- Allows for an SMSF to borrow
- Details what your SMSF can receive as contributions
- Considers bankruptcy protection
- Terminal medical condition benefits
- Includes estate planning and death benefit nominations
- Enables the trustee to establish and keep reserves
- Contains general deeming clauses giving trustees greater flexibility

The deed should also be flexible and enough to allow for succession planning opportunities.

Rose Guerin Chartered Accountants sources quality deeds from SMSF specialist lawyers who are leaders in their profession.

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[1] 3 September 2010 Karina Barrymore, Personal finance editor, Herald-Sun, page 73
Formal complaints about superannuation have jumped again, up almost 14 per cent in the past three months to their second highest level on record. According to the latest Superannuation Complaints Tribunal bulletin there were 661 written complaints in the June quarter, up from 582 in the previous three months. The number of disputes had been falling for almost two years.

[2] 2 September 2010 | Milana Pokrajac , Money Management
An increasing number of investors are not getting enough information and advice on self-managed superannuation funds (SMSFs) and are suffering as a result, according to Wealth Within executive director Dale Gillham. Gillham expressed his concern after dealing with a number of clients who, as trustees of SMSFs, were at risk of losing up to half of their savings to fees and fines."I've come across some people who shouldn't have had a SMSF

[3] Read Rose's article about the differences between a corporate and an individual trustee for an SMSF.

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3. Fees and Costs to run a SMSF

On Establishment of the fund

SMSF's have establishment costs which cover the cost of setting up the trust structure. These costs depend on whether the SMSF will have individual trustees or a corporate trustee. A reputable SMSF document provider will ensure that the members of the fund are provided with a well drafted Death Benefit Nomination Form[4].

On-going operating costs

There are different ways of running your own SMSF. An article in the Financial Review [5] commented that trustees who take on most of the work can run a fund for between $1500 and $3000 a year while those that have professionals doing most of the work can expect to pay between $5000 and $15,000 a year. According to the Cooper review in 2008, the average cost of running an SMSF was $6500 in operating expenses.

These expenses include preparation and lodgment of tax returns for the fund and annual compliance audits. Costs are usually charged on a time basis, so if your fund is complex and has a lot of transactions, then the operating costs of your fund will be higher.
There is also an annual Australian Tax Office (ATO) supervisory levy of $150.

Do remember that public offer funds charge fees to members such as a management fee and the fund is also subjected to fees. Public offer funds are also required to lodge tax returns and are subjected to financial compliance audits too.

4. Memberships

SMSF's are allowed in law to have between 1 and 4 members. None of the members are allowed to be employed by another member – unless they are related. All of the members must also be trustees of the fund.

TIP: If you would like more than 4 members in the fund, then consider a small APRA fund.

5. Investments

An SMSF requires an investment strategy and this strategy must be reviewed every year. A qualified advisor can assist the SMSF trustee develop an investment strategy for the fund.
Investments in your SMSF can include the following:

Listed trusts, unlisted trusts, insurance policies, managed investments, cash and term deposits, debt securities, loans, listed shares, unlisted shares, derivatives and instalment warrants, non-residential real property, residential property, artwork, and collectables (although artwork and collectables as investments are currently under review) [6].

6. Borrowing to buy a property

Recent changes to the SIS Act permit SMSFs to borrow money to purchase an investment property for their superannuation.
Limited recourse borrowing arrangement[7] laws became effective from 6 July 2010.

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[4] See Rose's article on death benefit nominations and estate planning.
[5] 1 September 2010 | John Wasiliev, Australian Financial Review, page 29
[6] http://www.ato.gov.au/superfunds/content.asp?doc=/content/00238562.htm&page=8&H8
[7] Ss67 A and 67B Superannuation Industry (Supervision) Act 1993 (SISA)

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The key features of this new Act are:

(i) Borrowing can be made to acquire a "single acquirable asset"
(ii) Borrowing can be for refinancing an existing loan
(iii) Borrowing can be for repairs and maintenance but not improvements
(iv) The asset must be held in a trust with the SMSF as sole beneficiary
(v) The rights of a lender against the SMSF trustee(s) is limited to this asset

Many banks and finance organisations offer "SMSF loans". Also, it is permitted under the Act for an SMSF trustee to arrange a related party loan to purchase the investment property.

Contract Rose Guerin for further information about borrowing to buy a property for your SMSF.

7. Tax rates

Superannuation operates in a low tax regime. The reason for this is to allow retirement savings to grow more quickly when compounded over time. Also, investing in your superannuation is attractive because of the favourable tax rates. However, investments in your superannuation cannot generally be accessed until you reach preservation age – currently age 55.
The table below summarises the tax rates applicable for Superannuation. Tax rates for excess contributions are not detailed here.

Income component [8]	**Tax rate in accumulation mode**	**Tax rate once pension starts**
Income (ie rents, dividends and interest)	15%	0%
Realized capital gains on assets held less than 12 months	15%	0%
Realized capital gains on assets held more than 12 months	10%	0%
Unrealized capital gains	0%	0%

8. Transition to retirement (TTR) pension

Individuals aged 55 or over and still working can use the TTR strategy to roll accumulated superannuation balances into a non-commutable account-based pension. Salary is sacrificed into superannuation and income is replaced by drawing a pension. Individuals paying higher marginal tax rates will benefit from this strategy. TTR strategies can be set up in your SMSF.
The legislation states that individuals must be at least preservation age (currently age 55), but the greatest impact may be achieved for individuals who are age 60 or older as the tax rate is reduced to zero.

[8] Rates are current as at 31st August 2010, and are subjected to changes in legislation.

If you are interested in receiving further information about setting up a TTR pension, contact Rose Guerin on 02 9380 8300 to arrange an appointment.

9. Contribution limits

You are able to make contributions into your superannuation subject to certain limits. If you exceed these limits your fund may attract an additional tax of up to **93%!**

Concessional Contributions – The standard cap is $25,000 per person per financial year. This cap is increased to $50,000 per financial year until 30 June 2012 if you are 50 years or older on 30 June of that year. Recommendations from the Henry Review extend this date indefinitely. Note: Personal deductible, salary sacrifice and employer contributions are all included under this cap.

Non-concessional Contributions- The standard cap is $150,000 per person per financial year. A person who is under age 65 on 1 July can bring forward the cap for the next two years to make a contribution up to $450,000 in a single financial year. Personal non-deductible contributions and spouse contributions made into the client's account are included under this cap.

10. **Are SMSF's here to stay**?

We think so!

The Cooper Review of the superannuation sector instigated by the Treasury's Nick Sherry came to a favourable conclusion about self managed super funds and the way they function. At a leading SMSF industry conference (SPAA) in February 2010[9], Jeremy Cooper is quoted as saying"

"Self-managed superannuation funds may be the future for retirement savings in Australia". He has also quoted as saying:

"In fact, one of the reasons the SMSF sector currently worked so well was that the "right people" were setting up SMSFs, and he sees the SMSF sector as "not broken", with any changes likely to be around the edges"

The article also mentions that "despite the original horror stories about losses, compliance issues and "general mayhem", the data coming in from the statistical survey put together for the Cooper review had shown the sector was actually "in very good shape".

We think SMSFs will be around for many years to come and will over time evolve to become an iconic Australian investment vehicle to support people in their retirement.

[9] http://www.investordaily.com/cps/rde/xchg/id/style/8567.htm?rdeCOQ=SID-0A3D9633-B146BD44