



 **HEWISON**
PRIVATE WEALTH

THINKING ABOUT TOMORROW, TODAY.

**And Today:
You are understanding Self-Managed Superannuation Funds**

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About SMSF's

Setting up a SMSF can provide you with many benefits, but they can also be more complex and require a higher degree of skill and time to manage than other super funds.

To help you make an informed decision on whether an SMSF is right for you, we have put together this comprehensive guide to establishing and administering a SMSF.

Our Advisers work with individuals, families, professionals, and business owners to construct and deploy investment strategies that build, grow, manage, and protect their wealth. As part of this, Hewison Private Wealth offers specialist SMSF knowledge to assist you with deciding if an SMSF is right for your circumstances, and help you with the required steps to set up and manage your fund.



About SMSF's



What is a SMSF?

Self-Managed Superannuation Funds (SMSFs) are private superannuation funds that may be established for up to 6 members. They are operated under a governing trust deed that must comply with the requirements of the Superannuation Industry Supervisions Act (SIS) and are controlled by the trustees on behalf of the members.

In essence, an SMSF is an investment portfolio belonging to the individual members but operated under the umbrella of a trust deed.

SMSF's provide greater investment flexibility, interesting tax management opportunities, and estate planning possibilities – but these advantages come with responsibilities.

Basically, it's your own super fund.

Trustee Responsibilities

If you set up a SMSF, ultimately, you're in charge – you make the investment decisions for the fund, and you're held responsible for complying with superannuation and tax laws. You must have the time and skills to dedicate to managing the fund. This is when an adviser at a firm, such as Hewison Private Wealth, can assist you with designing a tailored investment strategy and with the ongoing administration and management of your fund, but the ultimate responsibility rests with you.

You will be responsible for managing the fund and making decisions that affect the retirement interests of each fund member, including yourself.

As a trustee or director, you must:

- Act honestly in all matters concerning the fund;
- Act in the best interests of all fund members when you make decisions;
- Manage the fund separately from your own superannuation affairs;
- Know, understand and meet your responsibilities and obligations;
- Ensure that the SMSF complies with the laws that apply to it.

All trustees and directors are equally responsible for managing the fund and making decisions – this means that you are responsible for decisions made by other trustees, even if you're not actively involved in making the decision.

You can appoint other people to help you or provide services to your fund, such as an accountant, administrator, tax agent or financial planner. Should you choose to engage Hewison Private Wealth, we can assist with many of the obligations through our Private Wealth Management service offering and strong relationships with accounting partners. However, the ultimate responsibility and accountability for the SMSF's actions lie with you, as trustee or director.

It's similar to creating your own company. You can hire an Accountant – but you're accountable.

Super Funds Comparison

There are differences between SMSFs and other super funds, but they all serve a common objective: providing retirement benefits to their members.

Here are some of the key differences:

| SMSF | Other super funds. Such as industry and retail super funds. |
|--|---|
| Members and trustees | |
| <p>SMSFs can have a maximum of 6 members.</p> <p>All members are either individual trustees or directors of a corporate trustee of the fund. This means all members are involved in managing the SMSF.</p> | <p>Generally, no limit on the number of members.</p> <p>Professional, licensed trustees are responsible for managing the fund.</p> |
| Responsibility | |
| <p>Trustees are expected to have some basic knowledge of tax and super laws and must make sure their fund complies with those laws. Compliance risk is borne by the SMSF trustees, or the directors of the corporate trustee, who can be personally fined if their fund breaches the law.</p> <p>Hewison Private Wealth can assist you in understanding these obligations.</p> | <p>Compliance risk is borne by the professional licensed trustee.</p> |
| Investments | |
| <p>Trustees develop and implement the fund's investment strategy and make all investment decisions.</p> <p>SMSF's can invest in a wide range of investment options from traditional asset classes such as direct equities and term deposits to direct property and unlisted trusts. Some of these investment options, such as direct property and specific unlisted trusts are only available via an SMSF.</p> | <p>Most funds allow you some control over the mix and risk level of your super investments, but you generally can't choose the specific assets your super will be invested in.</p> |
| Insurance | |
| <p>Trustees must consider whether to purchase insurance for their members.</p> <p>Insurance will need to be purchased on an individual contract basis and generally requires medical underwriting. Policies held on an individual contract basis are guaranteed renewable, meaning that if premiums are paid the policy will be renewed on the same terms.</p> | <p>Most funds offer default group insurance cover to members.</p> <p>These offerings are often age based, don't require underwriting and sums insured generally reduce over time as you age. Many member insurance policies are conditionally renewable. This means that there is no guarantee that the same benefits will be renewed every year, and the fund can change policy conditions every year if they choose to.</p> |
| Regulation | |
| <p>SMSF's are regulated by the Australian Taxation Office (ATO). Trustees are required to engage with them to manage their fund.</p> | <p>Regulated by the Australian Prudential Regulation Authority (APRA). Generally, members don't have to engage with APRA.</p> |
| Complaints and disputes | |
| <p>The ATO is not involved with resolving disputes among members. Disagreements can be resolved through alternative dispute resolution techniques or in court, at the members' own expense. There is no government compensation scheme.</p> | <p>Members have access to the Australian Financial Complaints Authority (AFCA) and may be eligible for statutory compensation.</p> |
| Fraudulent conduct and theft | |
| <p>No government financial assistance is available to SMSFs.</p> <p>Members may have legal options under Corporations Law but there is no guarantee that compensation will be awarded.</p> | <p>Members may be eligible for government financial assistance in the event of fraud or theft.</p> |

Benefits

SMSFs provide many benefits over other superannuation funds. Once again, this freedom comes at the cost of your responsibility.

Benefits of a SMSF include:

Access to more investment options

Having an SMSF provides greater choice and freedom to access investments that are not available in other super funds. This includes assets like direct property, art, collectibles, and physical gold.

You are also able to access to some unlisted investment trusts not available in other super funds.

Another advantage of an SMSF is the ability to borrow to invest in property, using a Limited Recourse Borrowing Arrangement (LRBA), which is not available in other funds. Although it may be a good option to help expand your investment portfolio, this can be a complex strategy, so getting the right advice is paramount. The Australian Taxation Office (ATO) has warned investors of the dangers of over-investing (and over borrowing) into property within SMSFs.

Control

With a SMSF, not only do you have greater control over how your super is invested while working, but you also decide how it's paid once you retire.

You choose what goes in, what comes out – and when it does.

Greater scale to access opportunities

Because you can combine your super balance with up to six other members, bringing this money together creates one 'pool' of funds for investment (rather than having separate member accounts). This scale can provide access to investment opportunities that may not be available to you as an individual investor.

Having scale may also help to reduce costs. This is because you can pool your assets and share expenses, leading to potential cost savings, that may impact the size of the funds available for investment growth.

Combined assets, combined expenses, combined strike force.

Estate planning

An SMSF can provide greater flexibility and control if a member were to pass away. SMSF trust deeds can provide for how and to whom death benefits should be distributed.

The deed may also allow for cascading death benefits and/or a death benefit agreement which is not required to be renewed every three years. These options are not available in most other super funds. A SMSF may also allow the distribution of member benefits in a tax effective way.

In other words, financial options can be dealt with in a more specific manner in case of unfortunate events.

Overall a SMSF offers extra financial flexibility and freedom – but you must take all the responsibilities into account before you can take the dollars into yours.



Considerations

Responsibility

Managing an SMSF takes time and skill. As the trustee, you need to ensure the fund complies with all relevant regulations otherwise you could face severe consequences for getting it wrong.

If the fund is deemed to have breached its compliance responsibilities, penalties can include fines and civil or criminal proceedings. Depending on the offense, tax penalties could apply, such as fund earnings being taxed at the top marginal tax rate as opposed to the concessional super tax rate of 15%.

Expertise

As a trustee or director, you'll require a certain level of financial and investment expertise to run your SMSF.

You will be responsible for creating and implementing the fund's investment strategy to benefit members, focusing on providing retirement benefits.

You can appoint professional advisers such as Hewison Private Wealth to assist you in creating and managing the investment strategy, however, ultimately you will be responsible.

Time

The administration and management of your fund can be time demanding, and you must consider whether you have the time available to dedicate to this.

Even if you appoint professionals such as Hewison Private Wealth to assist you with simplifying the management of your fund, ultimately it will take more time to make decisions and manage than with other super fund structures.

That said, many SMSF investors enjoy the sense of involvement and purpose that running their own fund brings.

Higher insurance costs

Public super funds can often provide lower-cost insurance to their members than SMSFs. This is because they have large membership bases and can negotiate discounted bulk premiums directly with insurance providers, whereas individual policies are underwritten based on your own health and circumstances and therefore can be more expensive. Insurance terms and conditions can differ substantially from one fund to another, so it is important to review insurance prior to changing any super fund.

Government compensation and dispute resolution schemes

Unlike other funds, SMSFs cannot access government compensation schemes in the event of fraudulent conduct or theft.

Disagreements between trustees or directors can only be resolved through alternative dispute resolution techniques or in court, which may incur higher costs.



Costs

There are costs to both set up and run a SMSF. Every year that you have an SMSF, you'll need to pay for a tax return to be completed, an independent audit and a separate ATO supervisory levy. Many of the costs to run a SMSF are fixed, so as your SMSF balance grows, the costs on a percentage basis of your fund becomes less. However, if your fund value is more modest, the fixed costs may represent a large percentage of your fund balance.

Most SMSFs also pay for additional help, such as:

- Preparing the SMSF annual return.
- Valuations of the SMSF's assets.
- Actuarial certificates for SMSFs paying income streams (pensions).
- Financial advice.
- Legal fees, for example if the trust deed needs to be amended.
- Assistance with fund administration.

Overview of costs

| Stage | Costs |
|---|---|
| Setting up a SMSF | Legal costs for setting up a trust and costs to purchase investments. |
| Managing a SMSF (responsibilities as an SMSF trustee) | You should consider the time involved in managing a SMSF, which is an 'opportunity cost' for trustees or directors. |
| Administering and reporting | Annual ATO SMSF supervisory levy, annual independent audit fee, costs to produce the fund's annual financial statements and tax return, and (when required) the fee for annual actuarial certification. |
| Winding up an SMSF | Costs to sell investments and pay member benefits and produce the fund's final financial accounts and tax return. |

It's important to compare what a SMSF will cost you with what you will gain from it – making sure it's a wise choice.

Skills Required

Your skills to properly manage a SMSF will need to range from legal to financial to some understanding of management to ensure you make the right decisions for every member of the fund.

As a trustee of an SMSF you'll be responsible for operating your fund within the law. If you don't, you may face penalties and your fund may suffer tax consequences.

A Hewison Private Wealth Adviser can assist you with understanding and managing these obligations, but the ultimate responsibility will rest with you.

You'll also need to make investment decisions for the SMSF that are in the best financial interests of all members. You will need to formulate and give effect to an investment strategy that is reviewed and updated regularly, while continuing to understand and comply with the restrictions

A Hewison Private Wealth Adviser can assist you in tailoring an investment strategy specifically designed to meet your retirement needs.

Advisers Help

You can engage SMSF professionals, such as Hewison Private Wealth, to help you to set up and run your fund. It is wise for us to be involved right from the start since the decisions you make at the start can affect our ability to help you later on.

Hewison Private Wealth may assist you in different ways by:

- Working with our accounting partners to help set up your fund's financial systems and, once you are operating, the accountants can prepare your fund's accounts and operating statements.
- Our ongoing administration service can assist with administrative tasks during start-up and, afterwards, help you manage the day-to-day running of your fund and meet your reporting and administrative obligations.
- Working with a legal practitioner to prepare and update your fund's trust deed.
- Helping you prepare an investment strategy and advise you about different types of investment and insurance products.
- Referring you to an SMSF auditor to audit your fund.
- Working with tax agents who will complete and lodge your SMSF annual return, provide tax advice and represent you in your dealings with the ATO.

Note that if you use Hewison Private Wealth to help you set up your fund, you're still responsible for making sure it's done correctly.

Set Up Process

Your SMSF needs to be set up correctly so that it's eligible for tax concessions, can receive contributions and is as easy as possible to administer.

To set up an SMSF you need to:

- Consider appointing professionals to help you.
- Choose individual trustees or a corporate trustee.
- Appoint your trustees or directors.
- Create the trust and trust deed.
- Check your fund is an Australian super fund.
- Register your fund and get an ABN.
- Set up a bank account.
- Get an electronic service address.
- Prepare an exit strategy.

Hewison Private Wealth can assist you with completing all the steps required to set up your SMSF and ensure that it is easy as possible to administer.



Trustee Structure

You can choose one of the following structures for your fund:

- Individual trustees (restrictions may apply, see below).
- A corporate trustee (essentially, a company acting as trustee for the fund).

A Hewison Private Wealth Adviser can discuss these options with you and recommend an appropriate structure.

A comparison of the different requirements, costs and penalties of each structure is outlined below:

| Individual Trustees | Corporate Trustee |
|---|--|
| Trustee Requirements - multiple member funds | |
| <ul style="list-style-type: none"> • 2 to 6 members. • Each member of the fund must be a trustee, and each trustee must be a member of the fund. • A member cannot be an employee of another member – unless they are relatives. | <ul style="list-style-type: none"> • 2 to 6 members. • Each member of the fund must be a director of the corporate trustee, and each director of the corporate trustee must be a member of the fund. • Directors of corporate trustees need to have a director identification number. • A member cannot be an employee of another member – unless they are relatives. |
| Trustee Requirements - Single member funds | |
| <ul style="list-style-type: none"> • There must be 2 trustees. • One trustee must be a fund member. • If the fund member is an employee of the other trustee, the fund member and the other trustee must be relatives. | <ul style="list-style-type: none"> • The corporate trustee company can have one or two directors. • The fund member must be the sole director or one of the two directors. • Directors of corporate trustees need to have a director identification number. • If there are two directors and the fund member is an employee of the other director, the fund member and the other director must be relatives. |
| Costs | |
| <ul style="list-style-type: none"> • There are no ASIC fees, so establishment costs and ongoing administrative requirements are less. • A trustee cannot be paid for their duties or services as a trustee. | <ul style="list-style-type: none"> • ASIC charges a fee to register a corporate trustee for the first time. • There is an ASIC annual review fee, which is lower if the corporate trustee acts solely as a super fund trustee, but higher if the corporate trustee also performs another function, such as running a business. • It's free to apply for a director identification number. • A corporate trustee cannot be paid for its services as a trustee, and directors of the corporate trustee cannot be paid for their duties or services as directors in relation to the fund. |
| Ownership of assets | |
| <ul style="list-style-type: none"> • If an individual trustee is removed or another added, you must change the titles of the SMSF's assets. This can be costly and time-consuming. • State government authorities may charge a fee for title changes. • Some financial institutions also charge a fee for title changes. | <ul style="list-style-type: none"> • Recording and registering assets can be simpler, particularly for changes in membership. • When a person starts or stops being a member of the SMSF, they become, or cease to be, a director of the corporate trustee. • You must notify the ATO and ASIC of any change in director. • The corporate trustee doesn't change, so the titles of the SMSF's assets are unchanged. |
| Separation of assets | |
| <ul style="list-style-type: none"> • Fund assets must be in the fund's name. • Fund assets must not be combined with director's personal assets. • Companies have limited liability, so a corporate trustee offers greater protection if the trustee is sued for damages. | <ul style="list-style-type: none"> • If super laws are breached, administrative penalties are levied on the corporate trustee. • Penalties may be imposed if the directors of a corporate trustee do not have a director identification number. |
| Penalties | |
| <ul style="list-style-type: none"> • If super laws are breached, only administrative penalties are levied on each trustee. | <ul style="list-style-type: none"> • If super laws are breached, administrative penalties are levied on the corporate trustee. • Penalties may be imposed if the directors of a corporate trustee do not have a director identification number. |
| Succession | |
| <ul style="list-style-type: none"> • Where changes in trustees occur, the fund is not likely to continue to operate as usual unless an appropriate succession plan has been prepared. | <ul style="list-style-type: none"> • A corporate trustee continues in the event of a member's death. • In the event of the death or incapacity of a member, control of an SMSF and its assets by a corporate trustee is more certain. |

Appointing trustees or directors

You need to ensure that the people who become trustees or directors of the SMSF:

- Are eligible to be a trustee or director.
- Understand what it means to be a trustee or director.

All trustees and directors must:

- Consent in writing to their appointment.
- Sign the Trustee declaration stating they understand their responsibilities (this must be done within 21 days of becoming a trustee or director).

You must keep these documents on file for the life of the SMSF and for 10 years after the SMSF winds up. The ATO may impose penalties if you don't comply.

All trustees and directors are bound by the trust deed and are equally responsible if its rules aren't followed.

To become a director of a corporate trustee, you will need a director identification number (Director ID). This is a unique identifier that a director will apply for once and keep forever. You can apply for a Director ID on Australian Business Registry Services (ABRS) online. You will need to apply for your director ID yourself to verify your identity. No one can apply on your behalf.

Anyone 18 years old or over can be a trustee or director of a super fund so long as they're not under a legal disability (such as mental incapacity) or a disqualified person.

A disqualified person is anyone who:

- Has been convicted of a dishonest offence, in any state, territory or a foreign country;
- Has been issued with a civil penalty order;
- Is currently bankrupt or insolvent under administration;
- Has been previously disqualified by the ATO or Australian Prudential Regulation Authority (APRA).

In the long run, remember that disagreements between trustees and/or directors are your responsibility. You want to choose people who you can trust today – and tomorrow.



Fund Residency Conditions

Your SMSF needs to be what is called a “resident regulated super fund” at all times during the financial year to receive tax concessions.

An SMSF is an Australian super fund if it meets all 3 of these residency conditions outlined below:

1. The fund was established in Australia, or at least one of its assets is located in Australia.
2. The central management and control of the fund is ordinarily in Australia.
 - This means the SMSF’s strategic decisions are regularly made, and high-level duties and activities are performed in Australia. It includes;
 - Formulating the investment strategy of the fund.
 - Reviewing the performance of the fund’s investments.
 - Formulating a strategy for the prudential management of any reserves, and;
 - Determining how assets are to be used for member benefits.
 - In general, your fund will still meet this requirement even if its central management and control is temporarily outside Australia for up to 2 years. If central management and control of the fund is permanently outside Australia for any period, it will not meet this requirement.
3. The fund either has no active members or it has active members who are Australian residents and who hold at least 50% of either:
 - The total market value of the fund’s assets attributable to super interests, or;
 - The sum of the amounts that would be payable to active members if they decided to leave the fund.

Overseas Members

If members are planning to go overseas for an extended period, you should seek professional advice about maintaining the residency status of your SMSF. The rules can be complicated.

If a member of your fund becomes a non-resident but still wishes to make or receive contributions, they should do this outside their SMSF, for example through a retail or industry super fund. They can then rollover the contributions to their SMSF when they return as an Australian resident.

If your SMSF fails the residency test, you should roll over your funds to a ‘resident regulated super fund’ and wind up the SMSF. Otherwise, your fund will become non-complying.



Exit Strategy

Future thinking consists of working for the best – and planning for the worst.

Even when you're setting up your SMSF, you need to consider what happens when your SMSF ends, or 'winds up'.

Sometimes SMSFs become difficult to manage because of an unexpected event such as:

- A relationship breakdown between the trustees.
- An illness or accident that leaves a trustee incapacitated (and unable to perform their role as a trustee).
- A trustee passes away.

Having an exit strategy may reduce the impact of 'unexpected' events. As part of your exit strategy, some of the things you should consider are:

- Ensure all trustees can access the SMSF's records and electronic transaction accounts.
- Include specific rules in your fund's trust deed that are triggered by events that could otherwise lead to the fund becoming unmanageable.
- Members to make binding death benefit nominations (and renew them every three years) or a binding death benefit agreement which does not need to be renewed.
- Encourage members to appoint an enduring power of attorney.
- The likely costs involved in winding up an SMSF.

Hewison Private Wealth can help you organise exit strategies and share insights on how to handle such situations.

Further Information

Further information regarding setting up and running an SMSF is available on the ATO's website <https://www.ato.gov.au/Super/Self-managed-super-funds/>



**To learn more
about establishing
a self-managed
superannuation fund,
contact us today for a
secure tomorrow.**

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Please note, this guide was written in January 2024.
Superannuation rules, tax rates, other costs outlined etc. are subject to change.

Any financial product advice provided in this booklet is general in nature. It does not take into account your needs, financial situation or objectives. Before acting on the advice, you should consider whether it is appropriate to you in light of your needs financial situation and objectives and seek specialised advice from a qualified financial adviser. Updated January 2024.

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