

6 Members & Succession Planning for your SMSF

Graeme Colley

Executive Manager,
SMSF Technical and Private Wealth, Super Concepts

February 2021

What you need to know



The content of this presentation has been prepared to provide you with general information only. It is not intended to take the place of professional advice and you should not take action on specific issues in reliance on this information. In preparing this information, we did not take into account the investment objectives, financial situation or particular needs of any particular person. Before making an investment decision, you need to consider (with or without the assistance of an adviser) whether this information is appropriate to your needs, objectives and circumstances. You should obtain a copy of the relevant Product Disclosure Statement (PDS) before making a decision to invest in any financial product.

Any advice in this presentation is provided by SMSF Administration Solutions Pty Ltd, ACN 097 695 988, AFSL No. 291195 which is part of the AMP group of companies.

This session will cover

- Understand the provisions of the legislation
- Issues with State and Territory laws
- Are 6 members a good idea?
 - Establishment and administration
 - Fund investments
 - Benefit payments

Treasury Laws Amendment (2019 Measures No.1) Bill 2019

- Original announcement 27th April 2018:
 - Government announces increase in SMSF and SAF membership (small funds) from 4 to 6 members
- Measure originally proposed to take effect from 1 July 2019
- Original announcement gave the Government at least 8 months to draft the legislation and release it for comment if necessary

Taxation Laws Amendment (self-managed superannuation fund) Bill 2020

- Introduced on 2 September 2020 to House of Representatives
- Referred to Senate Economic Legislation Committee on 3 September 2020 – report handed down on 4 November 2020
- Recommendation that the bill pass the house – helps simplification and reduce costs
- If passed the legislation will take commence on 1st day of the quarter (1 January, 1 April, 1 July or 1 September) after it receives Royal Assent. Small funds can have 6 members from that date.

Taxation Laws Amendment (self-managed superannuation fund) Bill 2020

- Increases number of small fund members to 'no more than 6'
- Changes signature requirements for document signing
- Amends the superannuation standards to allow the increase in small fund members
- Impact of change on State and Territory laws

Taxation Laws Amendment (self-managed superannuation fund) Bill 2020

- (s35B(3)(a) and (b) of the Superannuation Industry (Supervision) Act 1993:
 - One or 2 directors of corporate trustee – all directors to sign
 - More than 2 directors then at least half to sign
 - 2 individual trustees – all trustees to sign
 - Otherwise – at least half of the trustees to sign

Taxation Laws Amendment (self-managed superannuation fund) Bill 2020

- Amendments to superannuation standards in SIS Act and ITAA '97
- SIS Act – carve outs for:
 - Registration as RSE, MySuper products, direction of trustee, promoting financial interests of beneficiaries, increase in fund members and appointment of member representatives
 - Related party acquisitions
 - Insurance exclusion does not apply
 - Part 8 associates, in-house assets

Taxation Laws Amendment (self-managed superannuation fund) Bill 2020

- ITAA '97
 - disregarded fund assets (Division 295)
 - outstanding balance of limited recourse borrowing in total super balance

Issues with the increase in members – State and Territory laws



- Some State and Territory laws restrict the number of trustees a trust can have to less than six.
- For example:
 - Trustee Act (NSW) 1925 – section 6, Part 2 Division 1
 - Trustee Act (Vic) 1958 – sections 40 and 42
- Can be avoided by appointment of a corporate trustee.

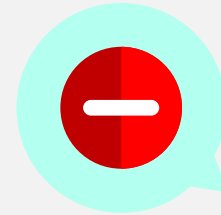
Increase from 4 to 6 members

- How many members is a good idea?
- impact of the increase in SMSF members on decision making and fund administration
- difficulties from increase in SMSF members on investments and benefit payments
- benefits of increasing SMSF members from a wealth transfer angle



POSITIVES

- Caters for larger families
- Corporate Trustees
- Reduces costs
- Australian Super Fund definition



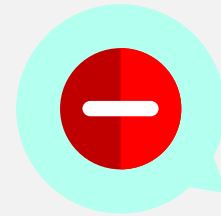
NEGATIVES

- Trust Deed provisions – number of members
- Individual Trustees
- Reduced efficiencies
- Control – incl appoint and remove



POSITIVES

- Pooling of assets – greater purchasing power
- Taxation strategies – i.e. franking credits



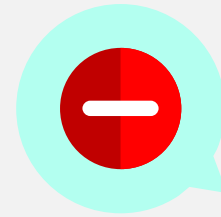
NEGATIVES

- Indecisive decision making
- Illiquid investments v cash flow
- Naming conventions
- Names on investment documents
- Issues with significant 'lumpy assets'



POSITIVES

- Generational wealth transfer
- Streamlined estate planning



NEGATIVES

- Relationship breakdown
- Elder abuse

Considerations

If you were to increase the number of members in an SMSF who would you target to add?

- siblings and their family
- children of fund members
- business associates
- immediate family

Considerations

Which of the following would influence you to add more members to an SMSF?

- cost reduction
- better investment opportunities
- estate planning
- shared responsibility

Questions



SMSF education services



SMSF Specialist

Industry-recognised.
Comprehensive. Confers
RG146 SMSF compliance.



SMSF Masterclass

Become expert in a key
area of self-managed
superannuation.



SMSF Online Training

Self-paced online learning
for SMSF proficiency and
CPD points.

superconcepts.com.au/SMSFcourses

Thank you!