Self Managed *Superannuation Funds*

What is a SMSF?

The self-managed superannuation fund (SMSF) is one of three options that investors face when considering how best to administer their retirement savings. It is important that you always keep in mind that superannuation is an 'entity structure' similar to a family trust, rather than a product; therefore the options for management are in your hands at all times.

Who should use an SMSF?

SMSF's are not the best option for everyone; they have their own benefits and drawbacks. Rather than to dictate who should or shouldn't use an SMSF to manage their own retirement assets, we prefer to pose the following questions and assist investors to determine if it is the right option for them.

- **How much do you have in super?** For many people, this is the deciding factor. The fee structure with SMSF is simple; you must pay an accountant to prepare an annual tax return and an auditor to review it. In our experience, the cost of a high quality tax return and audit is around $2,000 per year; on a balance of $200,000 this equates to 1%, which is broadly in line with industry super fund fees. On a balance of $100,000 however, this would be the most expensive option. The benefit of SMSF's is that your cost will remain fixed regardless of the size and therefore becomes by far the most attractive on cost basis once your balance exceeds around $250,000.

- **How much time to you have to manage your SMSF?** Whilst many investors engage financial advisers and accountants to assist in managing and administering their SMSF's the ultimate responsibility always remains with the trustees. In addition, the trustees remain liable in the event that the SMSF breaches any part of the superannuation legislation. Among other tasks the trustees must ensure that the fund remains compliant with contribution rules, creates and abides by an investment strategy and that its sole purpose is always to provide retirement benefits. As you would expect, this can involve a great deal of time.

- **Do you have experience with investing?** SMSF's offer the trustees and members complete control over the investment process including preparing an investment strategy and identifying investments that are appropriate for the fund. This is not a task that should be undertaken by novice investors or those who have not had experience with investing into share markets. The number of available investments is nearly unlimited and the skills required to effectively understand the reward and risk of investment opportunities cannot be learned in a matter of days. In addition, unfortunately there are small pockets of people in the investment industry that are out to take advantage of inexperienced investors.

- **Do you want choice and flexibility?** The SMSF structure provides a substantial amount of flexibility in terms of not only investments but also strategic opportunities, contribution strategies, estate and taxation planning. The structure is therefore suited to

those who wish to exercise choice in their investments and who may wish to hold alternative assets such as real property, commodities, artwork and the like. In terms of strategic opportunities, the SMSF structure allows investors to control their estate planning wishes more closely, to gear into residential or other property should they so choose, or even to own their own business premises and pay themselves rent.

- **Do you plan to remain in Australia for the foreseeable future?**
  An important consideration when establishing an SMSF is where you plan to spend your retirement. One of the primary rules to ensure SMSF remain complying is that the 'central management and control' of the fund must remain in Australia. This relates specifically to the major strategic and investment decisions rather than administration. If you fail to meet this test than you will lose the tax benefits associated with the superannuation environment. This test requires the majority of the trustees to remain residents of Australia whilst allowing for 'temporary absences' of up to 2 years.

What are the benefits of an SMSF?

There are many reasons behind the popularity of SMSF's outside of the substantial tax concessions afforded to the superannuation environment in general. These include:

- The structure affords investors **full control** over the investment decisions for their retirement assets. The trustees have the full capacity to decide what investment strategy they wish to implement, the individual assets they would like to invest into and the appropriate allocation to each. This compares favourably to the industry and retail super fund alternatives which heavily restrict the number of available investments.

- SMSF's allow you the trustees to tailor, develop and amend their **investment strategy** as well as to time their investments in any way they see fit rather than simply implement the buy and hold approach required by the alternatives.

- SMSF's provide trustees with a near **unlimited range of investment options** including direct Australian and international shares, term deposits from every available bank, local and international fund managers, real property, gold and other precious metals, artwork and other collectibles.

- An important benefit of SMSF's is that they afford the members and trustees **full transparency** into the underlying investments and asset class allocation. This means that they know the characteristics of every investment they hold as opposed to investing through the opaque industry super fund structure in which investors are informed only of the major holdings.

- The most popular reason for creating an SMSF is that it is the most **cost effective** structure by far once balances exceed around $250,000. The costs of administering SMSF's are continuing to fall and will always remain fixed on an annual basis. If the trustee wishes to run the administration themselves, the only cost incurred will be the fixed fee tax return. Therefore, as the balance increases, the cost effectiveness in comparison to the industry and retail alternatives is not even a competition.

- The growing popularity of SMSF in recent years has been driven in part by the ability for investors to now invest directly into residential property and also to do this using **borrowings through the SMSF**.

- The SMSF is incredibly **flexible** in terms of implementing contribution, estate planning, taxation, Centrelink and other strategies. These allow investors to make the most out of their situation and not be restricted by the requirements of product providers.

What are the drawbacks of an SMSF?

The consistent growth in the number of SMSF's each year is no doubt impressive; however, it is important to keep in mind that by no means are they for everyone. There are of course many responsibilities and drawbacks that result from managing your own SMSF, even if you engage a financial adviser for support. These include:

- Managing and administering an SMSF is **time consuming**. Trustees retain ultimate responsibility and therefore must ensure the administration, paperwork and records are accurate and up to date; this can be particularly difficult when investing into direct shares. Trustees must also be involved in the annual tax return and audit process.

- SMSF trustees should have at least a basic level of **investment knowledge and experience** to avoid damaging mistakes. Managing ones own retirement capital is fraught with danger; SMSF trustees should have a minimum level of knowledge on the operation of capital markets, the basic theories of investing and the risks of investing.

- The penalty should an SMSF lose its 'complying' status, is that all earnings will be taxed at the top marginal rate, thereby giving up the entire benefit of the superannuation environment. The flexibility of SMSF's mean that it can be easy to break the rules for inexperienced investors; something that is unlikely to occur using an industry or retail fund.

- The structure of SMSF's is such that trustees may use the structure to invest into a single asset; increasing the risk and reliance on its performance for their retirement. Therefore, the risk of poor diversity is an important one for trustees to keep in mind.

- The fixed cost nature of SMSFs is attractive for those with higher balances, however, for those with lower balances (under $250,000) the cost can be prohibitive and expensive. It is therefore important that investors compare each option available to them and consider the level of contributions to come in the future.

- In our experience the majority of SMSF have a dominant trustee who controls the majority of the investment decisions and strategy. This holds substantial risk in the event that the dominant trustee passes or implement strategies that are not appropriate for the members.

- There are many responsibilities placed on the trustees, the two most important being the sole purpose and in-house assets test. The legislation in this regard is not always clear and can lead to substantial penalties for non-compliance.

- The risk of losing interest is also something that we see regularly whereby the trustees feel it has become all too hard to keep up with the administration, investment analysis and implement. The normal result is a dormant, higher risk portfolio that underperforms.

Who should the trustees of your SMSF be?

There are two ways to organise the trusteeship of an SMSF:

- As individuals; or
- As a company (corporate trustee)

In our view, the preferred structure for any entity is to utilise a corporate trustee structure due to the many benefits that it provides.

The corporate trustee structure affords the members of an SMSF the flexibility to take lump sums or pensions from the fund once a condition of release is met. Under current legislation members are actually precluded from making lump sum payments if they have only individual trustees.

The corporate trustee structure also provides greater stability for the SMSF should one of the directors pass away. It is a simpler process to appoint another director, as opposed to having to appoint another Trustee (SMSFs are not allowed to have only one individual trustee), which requires re-registering each individual asset to add the new Trustee's name. This is also an issue if a Trustee leaves the fund for personal reasons or is declared bankrupt.

The corporate trustee structure also adds another layer of asset protection if an individual trustee is sued, as there is no chance the superannuation assets could have been registered in the wrong name or co-mingled.

Structuring a Corporate Trustee

The preferred shareholding structure for a corporate trustee company is to issue an even number of shares to ensure ownership can be easily divided amongst the relevant parties. In our experience, the most divisible number of shares is 12, which takes into account the fact that SMSF's are limited to having a maximum of 4 individual members. Having 12 shares provides flexibility in the future should you decide to admit other family members to the fund in the future. Importantly, every member of the SMSF is required to also be a Director of the corporate trustee in order to comply with current legislation.

What tax is payable on income within an SMSF?

Income earned on investments held through the superannuation environment, regardless of the structure, is dividend into two categories:

- Income derived from those assets funding retirement pensions;

- Income derived from those assets not funding retirement pensions (accumulation).

Investment income that is derived from assets funding pensions is exempt from any income tax. Any other income or realised capital gains is assessable at a flat rate of 15%. For assets held over 12 months, a discount of 33% applies, whereby the realised gain is taxed at a discounted rate of 10%. As with any other entity, where income tax is likely to be payable this is recorded in an annual tax return and quarterly instalments may also be payable.

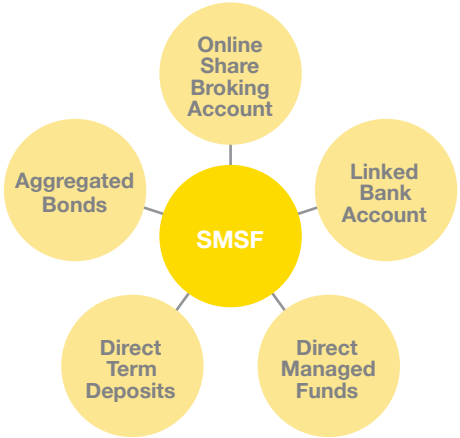
If the investment income includes franked dividends, the associated imputation credits form part of that income, either assessable or exempt. The fund, alongside individual investors, is entitled to a tax credit for the imputation credits; if the credits exceed the income tax payable the excess is refundable.

How do you invest through an SMSF?

In general terms, there are two primary methods through which you can invest via an SMSF; doing it yourself (DIY) or engaging the services of a financial adviser. In this article, we outline the differences in the manner through which these two types of investor are able to invest their superannuation assets.

DIY Investors

The options available for DIY investors to invest their SMSF balances have increased exponentially in recent years and will continue to do so. In our experience, DIY investors typically invest their SMSF using the following structure:



Under this structure, the trustees generally act as the administrators of the portfolio and carry the responsibility to manage the receipt and recording of dividends and distributions and the payment of pensions and taxation. In addition, they must compile all relevant information for the completion of the annual SMSF tax return.

There are many options for each of the various investment structures outlined above, which include the following:

- **Online Share Broking Accounts**: Investors typically utilise one of the major online broking provides including Commsec, ANZ E*Trade, NAB Trade, CMC Markets and Westpac Broking and Macquarie Prime to access Australian equities and exchange traded funds (ETFs).

- **Linked Bank Account**: If investors wish to pay the lowest possible fees to their online broker they are typically required to hold a bank or cash management account with the underlying institution being the Commonwealth Bank, ANZ, NAB, Macquarie and Westpac.

- **Direct Managed Funds**: Investors can access managed funds directly through the issuers such as Platinum, AMP, Colonial First State and Vanguard via downloading an application. They can also access these funds through the ASX's mFund service or through InvestSMART, a specialist managed fund broker.

- **Direct Term Deposits**: Term deposits and Australian shares typically represent the major assets of DIY investors. Term deposits are typically accessed directly with each bank or financial institution and established via the standard application process.

- **Aggregated Bonds**: Following the GFC DIY investors demand for lower risk investments and alternatives to term deposits has increased. This has seen an influx of companies offering access to Government and Corporate Bonds via aggregation, whereby your money is pooled with other investors to purchase a wholesale bond. The institutions offering this service include FIIG and Endowment Bond Exchange.

What is the sole purpose test?

The sole purpose test is the primary governing rule of all SMSF's. The sole purpose test is applied by the Australian Tax Office and requires that all regulated super funds must be established and maintained solely for the purpose of providing benefits to their members upon their retirement or death. The sole purpose test must be continually met in order for an SMSF to retain the tax advantaged nature provided by the Superannuation Industry (Supervision) Act.

Under the sole purpose test, trustees must ensures that any decision made in relation to the SMSF including the acquisition, use and sale of fund assets, relates solely to the provision of retirement benefits. That is, the members or any other related party must not use or in any way drive a benefit from the assets of the SMSF.

The most common breaches of the sole purpose test include:

- Investments that offer a pre-retirement benefit to a member of associate, such as rental of a residential property;
- Providing financial help or a pre-retirement benefit to someone, to the detriment of the SMSF;
- Members of the SMSF having the benefit of the fund's investment in collectables such as art and wine.

It is important that trustees keep in mind that a contravention of this test is extremely serious. At best it can lead to the SMSF losing its concessional taxation treatment and at worst it can see the trustees facing civil and criminal penalties.

What is the in-house assets rule for SMSF's?

In support of the sole purpose test, the SIS Act also applies an in-house assets rule to SMSF trustees to ensure it is truly being used to finance their retirement. The rule requires that the total amount of an SMSF's in house assets must not exceed 5% of the value of its total assets. The in-house assets rule is tested both at the point that an in-house asset is acquired and at the end of each financial year.

What is an in-house asset?

The ATO defines an in-house asset as being:

- A loan to, or an investment in, a related party of the fund;
- An investment in a related trust of your fund;
- An asset of the fund that is leased to a related party and not exempted under the SIS Act.

Who is a related party of an SMSF?

The list of related parties of SMSF's is exhaustive and includes the following:

- All members of your fund;
- Associates of fund managers including:
  - Relatives of each member
  - Business partners of each member
  - Any spouse or child of those business partners
  - Any company a member controls or influences; and
  - Any trust the member controls
- Standard employer sponsors, which are employers who contribute to your super fund for the benefit of a member, under an arrangement between the employer and a trustee of your fund;

In addition, the relatives of a member mean any of the following:

- A parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendent or adopted child of the member or their spouse; and
- A spouse of any individual specified above.

What assets are exempt from the in-house assets rule?

The major exemption from the in-house assets rule is 'business real property' or BRP. BRP is defined as business property owned by the fund and leased to a related or unrelated party of the fund. To be considered BRP the asset must be used wholly and exclusively in one or more businesses carried on by an entity. In order to meet this definition that asset must be tenanted under a legally enforceable and arm's length lease agreement.

There are several other exemptions outside of BRP including:

- An investment in a widely held unit trust such as a managed fund;
- A deposit with an ADI;
- A life policy issued by a life insurance company;
- An investment in a pooled superannuation trust made on an arm's length basis;
- Property owned by the SMSF and a related party as tenants-in-common;
- An investment in certain unit trusts or companies that meet prescribed conditions.

What is an investment strategy?

Under legislation introduced in 2012 all SMSF trustees are required 'to formulate, review regularly and give effect to an investment strategy'. By definition, investment strategies must be in written format and address the following areas among others:

- Diversification across assets and asset classes;
- The risk and return likely from each investment, to maximise member returns;
- The liquidity of the funds assets and ability to fund its liabilities;
- The funds ability to pay benefits and other costs as they occur;
- The member's needs and circumstances;
- Whether the trustees should hold insurance cover for members of the fund.

In our experience, the formulation and implementation of a detailed investment strategy is instrumental to the long-term success of all investors, including SMSF trustees.

Investors need to consider the investment strategy as the philosophy and procedure through which they intend to achieve the ultimate goal of funding their own retirement. The ability to take complete control over one's retirement assets is a huge responsibility and one that very few nations in the world offer to their citizens. It provides great opportunities but also opens trustees up to substantial risks as investors with, in most cases, no formal training in finance or investments, controlling over $1 trillion in retirement savings and their own futures.

Your investment strategy dictates the way your SMSF is invested on a daily basis. It sets out the investment objectives of your fund, considers the personal circumstances of every member, and outlines how they will be achieved. The investment strategy should provide minimum and maximum allocation to various asset classes and these should be based on extensive research and understanding of the underlying investments. Importantly, the SMSF must include a consideration of life and other insurances for each of the members.

In our business, we build tailored investment strategy documents for each investor that we work with. This is the first and most important step in establishing a long term relationship and in our firm is called an Investor Policy Statement. We do not stop at the basic asset class allocation and risk-return dynamics required by the law, rather, we include a number of additional sections to ensure every aspect of each investors strategy is covered. This includes:

- Minimum cash holdings;
- Risk management strategies such as stop-losses, capitation protection triggers;
- Performance benchmarks;
- Ethical considerations and investment biases;
- Minimum income requirements;
- The policy on managed versus direct investments;
- The administration and compliance approach;
- The purpose, entry and exit strategy for every investment;
- Reporting and review requirements.

The implementation of an investment strategy, or Investor Policy Statement, is not a set and forget strategy; this fact is now enshrined in legislation. As an SMSF trustee you have a obligation to act prudently for the members of your SMSF and part of this requires a comprehensive review and amendment of your investment strategy at a minimum annually.

What is my responsibility for an audit?

The superannuation legislation requires that all SMSF's have their accounts, statements and compliance with relevant legislation audited at least once per year. It is the sole responsibility of the trustees of the SMSF to ensure the auditor is provided with all relevant documents to complete the audit.

The auditor's role is to ensure the fund is complying with all relevant law, regulations and codes of practice and they must provide an opinion on the status of the fund. The findings of the auditor must be reported to the trustees, in writing, highlighting any compliance, financial or liquidity issues. Importantly, the auditor must report all relevant contraventions to the Australian Tax Office.

SMSF's must only use approved SMSF auditors, which are regulated by the Australian Securities and Investment Commission.

What records must I keep?

Under the SIS Act, SMSF trustees are responsible to ensure that accurate records of the actions of their SMSF are kept for tax purposes. The types of information required include transactional and ownership information as well as written and executed minutes of important investment decisions made by the trustees. These documents may be required by the fund's approved auditor or the ATO as requested.

The trustees of the fund must take minutes of all decisions including why particular investments or strategies were selected and whether all trustees agreed with each decision. This does not mean you need to minute every ASX-listed share you wish to purchase, but rather the underlying strategy.

One of the primary reasons behind this record keeping requirement is to ensure that there is sufficient documentation to prove that any investment that was made was agreed on by all trustees and that sufficient consideration had been made into the potential returns and risks of the investment. This will assist in the uncommon case that members take action against trustees for poor investment performance.

According to the ATO website, there are two groups of records that must be kept, those for five years and those for ten years.

These are as follows:

5 Years Minimum	10 Years Minimum
Accurate accounting records explaining the transactions and financial position of the SMSF	Minutes of trustee meetings and decisions, including the investment strategy, major new investments.
Annual operating statement and annual statement of the SMSF's financial position	Records of changes to the trustee/s
Copies of all SMSF annual returns lodged	Trustee declarations recognising obligations and responsibilities of each trustee since 30 June 2007
Copies of any statements required by the ATO or other super funds	Members written consent to be appointed as trustee
	Copies of all reports given to members.
	Documented decisions about storage of collectables and personal-use assets

Finally, SMSF trustees must keep all records in writing and in English. If they happen to be electronic records that must be verifiable by the ATO.

How to protect your SMSF assets?

In order to ensure your SMSF assets remain protected from legal action or bankruptcy it is important that they are managed completely separately to the assets of the trustees. In particular, each asset should be clearly owned and registered in the name of the SMSF in its entirety.

Specifically, SMSF assets should be recorded in a way that distinguishes them completely from your personal or business assets and in a manner that would be clear to a prudent that ownership is separate. Each asset should either be in the name of the individual trustees as trustee for the fund or the corporate trustee as trustee for the fund. The assets must not be held in name of the trustee as an individual.

One of the most effective ways to express clear ownership of SMSF assets is to utilise a corporate trustee structure rather than individual trustees. This markedly reduces the risk of the ownership of any assets being disputed. In addition, it provides the added benefit of simplifying the process of changing the Directors or Trustees, in that only the details of the company need to be changed not the registered name of each individual investment. If you have individual trustees and one trustee changes, you would need to change the registered name of every single investment of the fund to include the new trustee or remove the old one.

Insurance through your SMSF

One area that many SMSF Trustees do not pay much attention to is holding insurance cover through their fund. Unfortunately, one of the major benefits lost by leaving the industry super fund space, as many SMSF Trustees do, is the loss of default insurance cover. This is one of the reasons the Federal Government has included a requirement for trustees to consider their insurance needs within the SMSF's investment strategy each year.

Under current legislation, SMSFs are allowed to purchase Life, Total and Permanent Disablement and Standard Income Protection insurance policies for their members. The only major restriction at this stage, however, is that the TPD insurance can only carry an 'any occupation' definition.

There are of course advantages and disadvantages of holding insurance through your SMSF rather than in your own name, the advantages include:

- The fact that your family is provided with a payment upon your death, disability or illness;
- The ability to pay your insurance premiums from pre-tax income, i.e. your Super Guarantee contributions, rather than from your own disposable income.
- The premiums are a tax deductible expense of your SMSF and hence reduce the income tax payable within the fund.

Some of the disadvantages include:

- Policies taken out through your SMSF are typically arranged directly through an insurance company; therefore they may not enjoy the same discounts as those held through industry super.
- Due to the tax deductible nature of the premiums, a portion of the life insurance proceeds may be taxable in the hands of the beneficiaries, particularly if they are adult children. This is due to the fact that the insurance component will typically be considered taxable un-taxed component and may be taxed at a rate of up to 32%.
- The contributions that you make to fund your superannuation contributions will count towards your concessional contributions cap each year.
- The use of accumulated assets within your SMSF to fund the premiums will reduce your retirement balances if your contributions slow.
- The benefits and features of the insurance policies available may differ from those held directly.
- Additional conditions of release must be met to allow the distribution of the life insurance proceeds once they have been paid into your SMSF.

How can I use my SMSF to purchase residential property?

It is not widely known, but borrowing is ordinarily prohibited within the superannuation environment. It was in fact the third stage of Telstra's privatisation, structured as an instalment warrant, which brought this issue to the fore.

The initial introduction of the Instalment Warrant Borrowing Exemption in 2007 created a number of concerns for prudential regulators, so much so that it was subsequently replaced by the Limited Recourse Borrowing Exemption in 2010.

Put simply, an LRBA requires a super fund (generally a SMSF) Trustee to take out a loan from a third party lender to purchase a single asset to be held in a separate trust (a Bare Trust). Any investment returns must go to the SMSF Trustee and if the loan defaults the lenders rights are limited to the asset held in the separate trust; i.e. there is no recourse to other assets held in the SMSF. More specifically, to be considered an LRBA the agreement must satisfy each of the following criteria:

- Borrowed monies are used to acquire a 'single acquirable asset' including expenses, maintenance or repair, but not to improve the asset;
- The 'single acquirable asset' is held on trust so that the super fund Trustee has the beneficial interest;
- The super fund Trustee has the right to acquire the asset by making one or more payments;
- Any rights the lender has are limited to rights relating to the 'single acquirable asset';
- The 'single acquirable asset' is not subject to a charge other than that provided in relation to the borrowing;
- Where the 'single acquirable asset' is replaced, the replacement asset is specifically permitted under the legislation.

What are the penalties placed on SMSF trustees?

Given the size of the superannuation pool in Australia and the recent growth in the number of SMSF's the ATO's responsibilities in regulating this group of trustees continue to increase.

In order to ensure that SMSF trustees comply with all relevant super laws the ATO is provided under legislation with a broad range of actions and penalties that they can apply. These include the following:

- **Education direction**: Requires SMSF trustees to undertake a course of education in order to improve their competency and understanding of superannuation laws and regulations.
- **Enforceable undertaking**: Is initiated by the SMSF Trustee in order to rectify a contravention including an undertaking to stop the behaviour, the rectification strategy and how long it will take.
- **Rectification direction**: These directions are issued by the ATO and generally involve putting into operation managerial or administrative arrangements that could be expected to reduce the likelihood of future contraventions.
- **Administrative penalties**: From 1 July 2014, SMSF trustees are personally liable to pay administrative penalties, some of which include breaches of the following rules:
  - Borrowings: $10,200
  - In-House Assets: $10,200
  - Duty to Keep Minutes: $1,700
  - Accounts and Statements: $1,700
- **Disqualification of a trustee**: The ATO can disqualify SMSF trustees for convening super laws or if they believe they are not 'fit and proper persons'.
- **Civil and criminal penalties**: Civil and criminal penalties may apply where SMSF Trustees have contravened the following provisions: sole-purpose test, lending to members, borrowing rules, in-house asset rules, arm's length investment rules and illegal early release schemes.
- **Allowing the SMSF to wind up**: Following a contravention the ATO may decide to up the SMSF on behalf of the members.
- **Notice of non-compliance**: Serious contraventions of super laws may result in an SMSF being issued with a notice of non-compliance which would see the earnings of the fund taxed at the highest marginal tax rate.
- **Freezing of an SMSF's assets**: The ATO may give a trustee or investment manager a notice to freeze an SMSF's assets where it appears that conduct by the trustees or investment manager is likely to adversely affect the interests of the beneficiaries to a significant extent.

When do I need an actuarial certificate?

The number of SMSF's drawing income streams from their accumulated benefits continues to grow along with the age of the Australian population. In 2014, the tax office estimated that around 90% of the total value of SMSF tax deductions related to the exempt current pension income benefit provided to those drawing a retirement pension. Many of these same SMSF's, however, operate both accumulation and pension accounts for each of their members. It is in this circumstance where things can become tricky.

As part of the process of establishing an income stream, consideration needs to be given to whether the assets will be segregated between each pension and accumulation account, or whether all assets of the fund will remain pooled (unsegregated).

Should the trustees with to retain all assets of the fund in a pool or unsegregated environment, which is the most preferable situation, they will be required to obtain an actuarial certificate each year. The role of the actuary is to determine the tax exemption percentage to be applied to the income generated by those assets that are supporting the pension. This then forms the basis of the tax deduction that trustees claim on their funds annual SMSF tax return.

How do I invest in business real property?

An incredibly useful and tax effective strategy available to small business owners, investors and medical practitioners is to have their office or business premises owned by their own SMSF, with the fund leasing them the property on an arm's length basis. In this manner, the business owners are able pay rent to themselves and support their own retirement rather than paying another property owner.

The major benefits of this strategy include the tax advantaged nature of the superannuation environment, the additional protection provided by holding major assets through superannuation and the ability to utilise the funds in more productive ways within the business.

The ATO describes Business Real Property or BRP as property that is 'used wholly and exclusively in the running of a business'. This may include storage premises, medical or consulting suites, manufacturing or distribution centres and the like.

One of the major benefits of own property deemed to be BRP, is that it can be acquired by an SMSF from a related party without being considered an in-house asset; it is one of the few exceptions relating to SMSF acquiring assets from members.

The key consideration for SMSF trustees and investors, is that the premises must be leased by the SMSF to a business (even a related one) but that this lease must be on arms' length terms. The lease should be formalised in writing and the terms of the lease should be verified by an independent expert. All the lease payments must also be made on time and the clauses of the lease capable of being enforced by the SMSF trustees when the time comes.