

TAX TALKS

Australia's Tax News Podcast - The Podcast for Australian Tax Professionals

The following information is only of a general nature and should not be taken as professional advice.

161 | Death of an SMSF Trustee

The death of an SMSF trustee is a big event in the life of an SMSF. This is when the chickens come home to roost. You either have it all laid out and the aftermath is as smooth as it possibly could be. Or it all hits the fan.

The Death of an SMSF Trustee

What happens when an SMSF trustee dies – be it an individual trustee or a director of the corporate trustee? Who takes over running the fund? And who decides what happens to the deceased's fund assets? How is an SMSF trustee different to the trustee of a 'normal' trust?

These are the questions we asked Rani Ghanda of [Turnbull Hill Lawyers](#) in Newcastle. And she kindly walked us through the issues in this episode of Tax Talks.

Here are a few notes of what we learned but please listen to this episode of Tax Talks as Rani Ghanda explains all this in much greater detail and much better than we ever could.

To listen while you drive, walk or work, just access the episode through a podcast app on your mobile phone.

Super ? Estate

Superannuation is not automatically covered by a will. Your super is held in a trust aka super fund. And so is not part of your personal property.

Individual v Corporate Trustee

As you know an SMSF either has individual trustees or a corporate trustee. If the individual trustee of an SMSF dies, the deed of the super fund dictates who then controls the fund. If the director of the SMSF's corporate trustee dies, the constitution of trustee company dictates what happens on the director's death.

So the first point of call is always to read the deed and – in the case of a corporate trustee – the constitution to see what happens when a trustee or trustee director passes away.

Capacity

Most trust deeds and constitutions deal with death. They outline what happens when a trustee or trustee director dies. However, most deeds and constitutions forget to outline what is to happen when someone hasn't died but lost capacity. This is a very common issue.

These are only some of the points Rani Gandha of Turnbull Hill Lawyers covers. Please listen to this episode of Tax Talks since Rani covers this in much greater detail and much better than we ever could.

MORE

[ITAA97 NANI](#)

[SIS Act NANI](#)

[Death Benefit](#)

Disclaimer: Tax Talks does not provide financial or tax advice. All information on Tax Talks is of a general nature only and might no longer be up to date or correct. You should seek professional accredited tax and financial advice when considering whether the information is suitable to your or your client's circumstances.

The information above is for general information only and should not be taken as constituting professional advice from Tax Talks. We are not a financial, legal or tax adviser. You should consider seeking independent legal, financial, taxation or other advice to check how the above information relates to your unique circumstances.