

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.

181 | SMSF Corporate Trustees

SMSF corporate trustees look straight forward at first sight. But do a lot less so when you look under the hood.

SMSF Corporate Trustees

According to ATO statistics 57% of all SMSFs had a corporate trustee as of 30 June 2017. And this number is still significantly higher when you just look at newly registered SMSFs. On average 81% of SMSFs registered in 2015 to 2017 were established with a corporate trustee. And this percentage is probably even higher now in 2019.

So most of us who deal with SMSFs usually have quite a few corporate trustees to deal with. And at first sight they look straight forward. But when you start looking under the hood, things don't look so simple anymore. And the questions you sent us support that view.

So in today's episode Peter Bobbin of [Argyle Lawyers](#) in Sydney will give you some answers to your questions.

Here is what we learned but please listen in as Peter Bobbin explains all this much better than we ever could.

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

Why a Corporate Trustee?

At first sight an individual trustee looks easier and cheaper. No company registration with an hefty ASIC fee. No need for a company constitution. No ongoing ASIC fees.

But there are two compelling reasons to give your SMSF a corporate trustee rather than individual trustees.

1 No Confusion with Personal Assets

As an individual trustee you hold your SMSF assets in your personal name. And that is asking for trouble. It is easy to confuse personal assets with SMSF assets when they are all held in the individual member's name.

A corporate trustee on the other hand doesn't have the same name as you. So when a dividend cheque comes in listing your corporate trustee, you can see straight away that this relates to your SMSF.

This sounds all rather insignificant. It always does at the start. But then an individual gets divorced or goes bankrupt. And suddenly there is a huge dispute over which assets are personal assets and which ones are SMSF assets. They are all in the same name after all.

So save yourself a lot of future headaches and go for a corporate trustee. Yes, the initial fee is hefty, but as a special purpose company the ongoing fee is heavily discounted and so worth it.

2 Easy to Deal with Disability or Death

An even stronger argument for a corporate trustee is what happens to the assets when a member loses capacity or dies.

When an individual trustee dies, you need to change the asset registration for every single asset the SMSF holds. Every bank account. Every land title. Every share account. Every wrap or managed account or managed fund.

But when the director of a corporate trustee dies, you just inform ASIC that this particular director is no longer a director of the company. One form lodged with ASIC. That's it.

Separate Company

You might already have a company. For example as the corporate trustee for a family discretionary trust or a trading trust. Or your business might sit in a company.

In theory you could use this existing company as the corporate trustee for your SMSF as long as the directors of this company are the only members of your SMSF.

But don't. Your super will most likely be your second or third most valuable asset after your family home and maybe a family trust. Or it might be THE most valuable asset. So worth to keep things straight forward.

Your SMSF must pass the sole purpose test. That is much harder when your corporate trustee is dancing at two parties by being the trustee of a family or trading trust as well as your SMSF.

Using your business company as the corporate trustee for your SMSF puts your super at risk if your business hits rough times. Your super is protected from creditors. But if your SMSF assets are held by the same company as your business assets, things get very messy very quickly when creditors come knocking.

The ongoing cost of a special purpose company just for your SMSF is less than \$100 a year – ASIC changes the fee as of 1 July each year. So not a big outlay for saving you a lot of headaches later on.

Sole Member Fund

Every director must be a member and every member must be a director. If you have a sole member fund, you need to bring an individual trustee in who is just a trustee, but not a member. With a corporate trustee you don't have that headache. Your corporate trustee can just have one director and shareholder – You.

MORE

[Internet Connection](#)

[Accounting Futurist](#)

[Practice Management](#)

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.