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PIS Timely Tips



Self Managed Super Fund Trustees



Many readers will be familiar with the basic rules of being a trustee of a self managed super fund.

One of the often cited rules is that every member of the fund must be a trustee, and every trustee must be a member. Where members decide that a company would be more appropriate to be the trustee of the fund, every director of the corporate trustee must be a member and every member must be a director.

In cases of single member funds with an individual trustee, special rules apply that require a second 'non-member' trustee to be appointed.

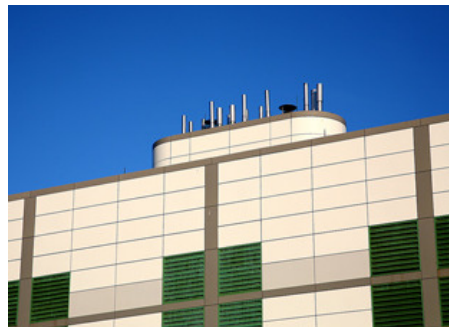
If we move on one step, many will also be familiar with the requirement that the 'central management and control' of the fund must ordinarily be in Australia. This simply means that the high level decision making in relation to the fund must occur in Australia. There is a special concession that allows trustees to be temporarily absent from Australia for a period of up to two years. Where central management and control is deemed to occur outside of Australia, other than allowed under the temporary absence concession, the fund is at risk of losing its very favourable tax status.

There are three situations that arise where a person may not be in a position to act as trustee of their self managed super fund, but winding up the fund may not be practical or the preferred option. These are:

1. Extended absence from Australia
2. Ill-health or loss of capacity
3. Disinterest - often due to age

Let's look at a simple situation:

Don and Donna and their two sons, Dick and Dave, are members of the family's self managed super fund. Don and Donna have retired and are drawing a pension from their fund. A significant asset of the fund is a prime industrial building that Dick and Dave run the family business from. The property is an expensive asset and has been in the fund for many years. The family business is long standing and very successful, operating from its present location.



Don and Donna have reached a stage in life where they are no longer interested in taking on the responsibility of being trustees of the self managed super fund but if they were to transfer their current super to another superannuation fund, such as a public offer fund, the building would need to be sold in order to fund the benefit payment. The family decided that selling the building would not be in the best interests of the family. Unfortunately, Dick and Dave are not in a position to be able to purchase the building in their own right.

The question now arises, can Don and Donna remain members of the self managed super fund but be relieved of their trustee obligations?

Superannuation legislation allows a trustee of a self managed super fund to appoint a replacement trustee where the replacement trustee is appointed under an enduring power of attorney.

Turning back to Don and Donna. If they decide they no longer wish to act as trustees of their self managed super fund but wish to retain their membership of the fund, they could appoint another person under an enduring power of attorney, to act in their place. They would formally resign as trustees of the fund and their legal personal representative would be appointed in their place.

In this case, Don and Donna may appoint one of their sons to represent their interests as trustee of the fund, or they may appoint a trusted friend or professional adviser such as their solicitor.

However, a word of caution. A person appointed as trustee of a self managed super fund will assume all the obligations and responsibilities that attach to being a trustee. Trustees of self managed super funds cannot be paid for performing trustee services.



Did You Know?

US\$62 billion is the wealth of the world's richest person in 2008, American investor Warren Buffett. He was followed by Mexican communications magnate Carlos Slim Helu (US\$60 billion), and Microsoft founder Bill Gates (US\$58 billion). The 17th richest person is the world's wealthiest woman, 85-year-old L'Oreal heiress Liliane Bettencourt, who is worth US\$22.9 billion.

Source | AIG Life

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- Risk insurance
- Corporate superannuation
- Corporate services

Appointing a replacement trustee under an enduring power of attorney may be a useful option for people planning to be absent from Australia for an extended period of time, or who are simply no longer interested or capable of acting as trustees.

Like many things associated with self managed super, the replacement of a trustee can be involved and suitable professional advice is recommended.

Source | Peter Kelly | Professional Investment Services

A Retirement Dilemma



I recently came across a couple, lets call them Jack and Jan, who were faced with a dilemma as they both approached retirement. Unfortunately their situation is all too common.

Jack is 63, and Jan is 61. They are members of the baby-boomer generation.

Both Jack and Jan are working full-time. Jack is a bus driver and earns just over \$50,000 a year, and Jan works in an administrative capacity and earns a similar level of income. They have \$160,000 in superannuation between them, have two relatively new cars (owned outright) and have a modest amount in the bank (\$5,000). They have no other investments. They have a house valued at \$600,000 but, on the downside, their mortgage is still sitting

at \$130,000.

They had planned to retire when Jack turned 65 and hoped to move to a coastal community around one and a half hours from their State capital so as to be close to family as well as medical facilities.

As things currently stand, Jack and Jan have a comfortable lifestyle. Their income needs, including mortgage repayments, consume all but \$10,000 of their combined net income. In retirement they are hoping to generate a combined income of around \$50,000 after tax in today's dollars.

After a first ever visit to a financial planner, they have come to the realisation that they have very little hope of achieving their retirement dream and have embarked on a major rethink.

Amongst other things, retirement has now been deferred another five years. With some 'belt tightening' around the family budget, this may allow them to have the mortgage paid off by the time Jack turns 68. Jack, who has the bulk of the super, will be commencing a pension under the transition to retirement rules which will increase the tax effectiveness of his income, resulting in an increase in his projected super account.



Once Jack and Jan sell their family home, they expect to have to spend a similar amount on a house in their dream location so it is unlikely any surplus will be available for generating retirement income.



The final realisation for Jack and Jan is that it is unlikely their current super savings, combined with the age pension, will be sufficient to allow them to generate the level of income they desire in retirement.

Jack and Jan are now aware of their dilemma but armed with new resolve, have agreed to prune their family budget and look for all possible opportunities to save for their retirement.

Their biggest regret is they did not see a financial planner earlier who could have worked with them over a longer period of time to ensure they had a much higher likelihood of achieving their retirement goals without having to resort to deferring their retirement.

Many baby-boomers are confronted with a situation similar to Jack and Jan. Early intervention in the retirement planning process, coupled with quality financial planning advice will go a long way towards alleviating the dilemma Jack and Jan are faced with.

Source | Peter Kelly | Professional Investment Services

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