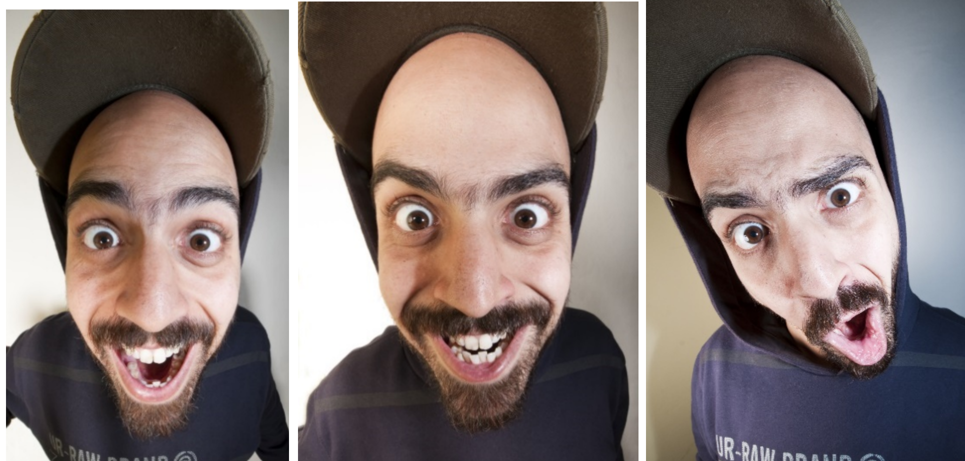


SELF-MANAGED SUPER
DEMYSTIFYING SELF-MANAGED SUPER FUNDS

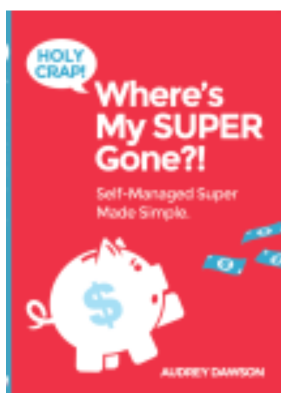
THE GOOD, THE BAD AND THE UGLY

AUDREY DAWSON CPA

AUTHOR AND DIRECTOR

SUPER CONFIDENCE

WWW.SUPERCONFIDENCE.COM.AU



GENERAL ADVICE WARNING

To start I just need to let you know that this presentation provides general advice only and doesn't take into account your personal circumstances. You should seek licensed financial advice in relation to your own retirement objectives, financial situation and needs.

WHAT WE'LL COVER

So, today what I want to cover for you in this session is:

- The basics of superannuation. I will go through the basic rules of superannuation which are the same whether you are in a mainstream super fund or in a self-managed super fund
- What is different about a self-managed super fund
- What is good about a self-managed super fund
- What is not so good about a self-managed super fund
- The ugly bits when it all goes wrong, and finally
- Is an SMSF right for you?

ABOUT ME

Before I begin and just to set the scene on this topic of the Good, The Bad and the Ugly of Self-Managed Super Funds, I thought I would share a little about me and how I came to be involved in the self-managed superannuation world.

I'm a CPA and have been an auditor for well over 25years.

So, I started up my own accounting practice in 2011, concentrating on audit and thought that I would have audits of self-managed super funds in my repertoire of services. How hard can it be I thought?

Well that's exactly what I found when I started auditing self-managed super funds. They are all very intricate and complex and that's why people who have them probably don't want to manage them. The consequences of not managing them, which I will cover later, however, can be quite costly and I know of people who have lost their entire super fund. One of my good friends, who had that experience was actually the one who suggested the title of my book.

The government has also just recently introduced even heftier penalties for non-compliance with legislation. And it’s those that have a self-managed super fund that have to pay the fines.   Not the financial planners, not the financial accountant or any other trusted advisors.

I really believe that these sort of trends highlight the need for those with self-managed super funds to proactively manage them. Let’s face it, it’s why they are called “SELF-MANAGED” super funds.

More on that later

BACK TO BASICS

I won’t cover every facet of the basics as we will probably be here this time next week and this is just a snapshot of the basics which I think would apply to most of you.

MAINSTREAM SUPER

As I have said these rules apply to any super including self-managed super funds.

Most of you would have your super invested in Q Super. While you are working your super is paid into your superannuation fund which is a trust fund managed by the Q Super Board of Trustees. They invest the money on your behalf and you will receive income on the amount of money that they have invested on your behalf that keeps adding to your super balance

Whilst you are working and money is being paid into super either by your employer or by you it is in an accumulation account .This accumulation account keeps growing with the superannuation contributions and the income earned until you reach what is termed a **condition of release** and you can access your super. That’s the happy ever after bit.

CONTRIBUTIONS

So what can you contribute to your super fund?

Generally it’s through:

- Employer contributions – 12.5%

- Salary sacrificing - These are the additional pre-tax contributions that you make
- Additional personal contributions
- Your spouse making contributions on your behalf

CONCESSIONAL, NON-CONCESSIONAL AND CONTRIBUTION CAPS

These contributions are classed as concessional or non-concessional contributions depending on whether a tax deduction has been claimed on them.

Employer contributions, salary sacrifice contributions and personal contributions where you claim a tax deduction are all classed as concessional contributions

Personal contributions where you don't claim a tax deduction and spouse contributions are classed as non-concessional contributions as tax has already been paid on them

There are limits to the amount of these different contributions that can be paid into your super and these are referred to as **contribution caps**. I won't go into all the intricacies of contributions but generally the rules are:

- For concessional contributions it is $30,000 per year up to 49 and for those over 50 it is $35,000 per year
- For non-concessional contributions generally it is $180,000 per year. You can however pay $540,000 in one year but can't then contribute for the next two years. This is known as the bring forward rule.

TAX ON CONTRIBUTIONS

Why is the distinction between concessional and non-concessional contributions important? It's about the tax on those contributions. For any concessional contributions that are paid into your super fund you will pay 15% tax on those contributions.

For non-concessional contributions no tax is paid by you through your super fund as you have already paid tax on these.

These contributions are also classified as taxable for concessional contributions and tax free for non-concessional. This becomes important when you come to access your super and the tax you pay on the amounts you access.

SHOW ME THE MONEY

As I said previously you can access your super as soon as you meet what is termed a condition of release.

CONDITION OF RELEASE

A condition of release is usually satisfied when you reach a certain age. This is known as your **preservation age.** At present, you can access your super any time after 55, depending on the year you were born.

If you want to access then the balance that you want to access will transfer from an accumulation account to a pension account.

PRESERVATION AGE TABLE

The table shows the relevant dates and preservation age that applies

Date of birth	Preservation age
Before 1 July 1960	55
1 July 1960 - 30 June 1961	56
1 July 1961 - 30 June 1962	57
1 July 1962 - 30 June 1963	58
1 July 1963 - 30 June 1964	59
1 July 1964 or after	60

ACCESSING YOUR SUPER

So, you have met a condition of release and want to access the benefits of your super fund. What happens then? There is no one rule dictating how your super fund will pay out the funds or benefit to you (surprise, surprise), as it depends on your age and whether you are still working.

Between Preservation Age (55-60) and 64

Presently, if you are between 55-60 and 64 and are still working, you can access your super through your super fund paying you what is called a transition to retirement income stream.

TRANSITION TO RETIREMENT

This is an annual amount or income stream that is paid to you throughout the financial year (monthly, quarterly, half yearly or on an annual basis) when you are still working. There is a limit as to the amount that can be paid to you and you can't take a lump sum.

The transition to retirement income stream amount you are paid is based on a percentage of the balance of your super fund that is in pension mode. There is a minimum and maximum that you can be paid. At present the minimum is 4% and the maximum is 10%.

PERMANENT RETIREMENT

On the other hand, if between the ages of 55-60 and 64 you decide that you don't want to work anymore and permanently retire, then you can nominate to receive a lump sum (any amount up to the balance of your portion of your super fund) or an income stream. This income stream is known as an account based pension and is like a transition to retirement income stream in that there is the same minimum amount that has to be paid (4% of your account balance at present). It differs in that there is no maximum percentage amount that needs to be paid.

AFTER 65

After 65, your super fund can again pay you a lump sum or account based pension. It doesn't matter if you are working or not. The minimum amount will vary depending on your age, or how much older than 65 you are. For example, at present, this minimum percentage for account based pensions ranges from 5%, if you are between 65 and 74, to 14%, if you are over 95. There is no maximum percentage.

YOU CAN STILL CONTRIBUTE

You can still contribute to your super fund up to the age of 65 whether you are working or not and receiving a pension or not. After 65 you have to satisfy a work test and after 75 only the mandatory or super guarantee contributions can be paid into your super fund.

TAXATION OF BENEFITS

Yep death and taxes - the two certainties in life.

Your super fund is no different to an individual, business or a company in that it is liable for tax on the concessional contributions that are made into the super fund, what it earns whilst in accumulation phase and has to submit a tax return to the ATO.

One of the great advantages of putting your money into super is that the tax rate is low and presently is 15%

To clarify some of the other things you need to know about how tax works in a super fund, the following are some of the rules that apply, some of which I've touched on previously:

CONCESSIONAL CONTRIBUTIONS

- Concessional contributions. These are contributions from your employer, salary sacrificing or personal contributions where you are going to claim a tax deduction. In these cases a tax deduction has been claimed by your employer or by yourself. Whatever concessional contributions are paid into a super fund, the super fund has to pay 15% tax on these.

NON-CONCESSIONAL CONTRIBUTIONS

- Non-concessional contributions. Remember these were contributions like personal contributions where you are not claiming a tax deduction and spouse contributions. A tax deduction has not been claimed on these contributions and this means that your super fund doesn't have to pay tax on these contributions.

EARNINGS ON YOUR SUPER FUND

- Any earnings of your super fund will be liable to 15% while you are still in accumulation phase. Any funds in a pension account are not liable for any tax on the earnings

AFTER YOU CAN ACCESS

After you can access your super and you receive it you may have to personally pay tax on the pension or lump sum you receive depending on your age.

It all hinges in the taxable and tax free components of your super balance. You will see on you super statement that there are tax free and taxable components. Any money that is paid to you is paid in those same percentages. So for example if your balance is 60% taxable and 40% tax free then the income stream or lump sum paid to you will show a 60% taxable and 40% tax free component.

If you are under 60 you will not pay tax on the 40% tax free component and will pay your marginal rate of tax on the 60% less the 15% tax that has been paid.

After 60 it is generally tax free as this is the magical age.

WHAT IS DEFFERENT ABOUT A SELF-MANAGED SUPER FUND?

I'd like to give you little insight into the SMSF industry and how big the SMSF industry is by giving you some stats.

FACTS ABOUT SMSF'S

- Over 530,000 SMSF's in Australia
- Over 1 million members

- SMSF’s grow by about 30,000 funds per year
- Total money invested in superannuation as at June 2015 was 2.02 trillion
- SMSF’s holding a third of these investments.

So it is quite a big sector in the superannuation industry

A lot of people set up their own SMSF after the GFC because they saw their super balances going down at a rapid rate and thought they could do it better

So what are some of the things that are different about an SMSF.

TRUST ACCOUNT

A self -managed super fund is a trust account

A trust bank account also needs to be set up and all transactions in relation to an SMSF should be transacted through this account

TRUSTEE

The trust account is looked after by people who are called trustees. In the case of a self-managed super fund that is whoever is a member of the SMSF.

Trustees can be all the individual members of an SMSF or a company is set up as a trustee. Each member is a director of the company.

There are pros and cons for having individual trustees as opposed to a corporate trustee. The pros are that it is less costly being an individual trustee, as to set up a corporate trustee you have to set up a company and there are ongoing fees associated with having a company.

The cons of being an individual trustee however definitely outweigh the pros and the first disadvantage is that trustees are responsible for what happens in the super fund and if anything goes wrong they are personally liable. There are a couple of true life examples that illustrate this point really well which I will cover in the ugly bits section.

Another advantage of a corporate trustee is that, if there are any changes to membership it will not be necessary to change documents like the trust deed or ownership details in relation to assets of the super fund.

MEMBERS AND TRUST DEED

MEMBERSHIP

You play two roles in your super fund - you are trustee, either as an individual or as a director of a company set up as trustee, and you are also a member of the super fund. These are two very distinct roles, so you wear two very distinct hats. As trustee, your role is to ensure that the super fund is adhering to the legislative rules and regulations and is ensuring that the fund is being maintained and managed for the sole purpose of providing for the members' retirement. This is known as the sole purpose test.

As a member your role is to contribute to the fund and reap the benefits when you retire. Most self-managed super funds have two members and these are usually husband and wife or partners. For those that aren't the norm, just be aware that there are rules as to how many members can be in a super fund and at present the maximum number of members is four.

All members must be either an individual trustee or a director of the corporate trustee.

TRUST DEED

Each and every super fund needs to have its own rules and this comes in the form of a trust deed. There are numerous companies that will prepare these for you and they can be generic, off the shelf documents or be tailor made to the circumstances of your super fund. A lot of self-managed super funds have off the shelf trust deeds that were arranged by their accountant/financial planner and they signed where the yellow "sign here" sticker was. Again they are quite a complex document and you probably won't be inclined to want to read them but what I will emphasise is that, whatever is happening in your super fund, or any changes you make to your super fund, your super fund trust deed has to allow you to do it. An example would be where you decide that you want to buy a piece of art. Your trust deed needs to have clauses to allow your fund to do this.

Another example is paying a pension. I know that it sounds silly as you would think that, of course your trust deed would have included that, as isn't that what a super fund is all about? Let me tell you that, as an auditor of self-

managed super funds, that is one of the documents that I read, and I have found a number of times that the type of pension the super fund is paying has not been covered in the trust deed and it is therefore not allowed and the fund should not be doing it. The consequences are that I report that to the ATO as part of my audit. So it's probably a good thing that you get familiar with your super fund's trust deed.

LEGISLATION, ATO AND CONTROL

LEGISLATION

With any kind of industry like self- managed super funds there are overall rules that dictate how self- managed super funds are to operate and this is in the form of an act and regulations. At the moment that act is called the Superannuation Industry (Supervision) Act 1993 and the Superannuation Industry (Supervision) Regulations 1994.

ATO REGULATES

The ATO is the regulator for SMSF's rather than the Australian Prudential Regulation Authority

CONTROL

With an SMSF you get to control the super fund. This includes the decisions about what the fund will invest in.

INVESTMENT STRATEGY

Managing a self-managed super fund means that you as trustee should plan for the short term and the long term so that you can maximise the benefits for the members. The government sees this planning process as being vital also and has made it compulsory that trustees of self-managed super funds have to have a plan or an investment strategy and this needs to be reviewed annually.

CONTRIBUTIONS AND IN-SPECIE CONTRIBUTIONS

The same contributions as I have mentioned previously also apply to self-managed contributions. These are concessional and non-concessional. In addition to these are also in-specie contributions which are classified as non-concessional contributions.

Instead of cash being paid in as a contribution, it is possible for another type of asset to be paid into the fund. An example is shares which could be transferred in rather than you selling them and then contributing the money. This is an exception to the general rule that your super fund can't acquire any assets from any member or related party of the fund and don't we love that about self-managed super funds – there's a rule, but wait, it doesn't apply to everything. So the exceptions are that the following can be transferred in as contributions:

- Shares which are listed on an approved exchange such as the Australian Stock Exchange;
- Commercial Property which is also known as business real property;
- Units in widely held unit trusts; and
- Assets from a member or related party of the trust (in-house assets) where the value isn't more than 5% of your super fund's asset value.

When these assets are transferred in, it needs to be at market value, which may require an independent valuation, which would be the case with commercial property or in-house assets.

Please be aware that the person who is transferring in may be liable for capital gains tax as the transfer in is treated the same as if the asset was sold and then purchased by the super fund. Please see your accountant about the taxation implications for all parties.

As these are contributions you also have to make sure you don't exceed the contribution caps.

WHAT CAN YOUR SUPER FUND INVEST IN

Some of the things that your super funds can invest in are:

- Putting the cash that your super fund is accumulating, in the bank or investing in a term deposit
- Shares - these can range from blue chip to high risk
- Property - this is becoming more and more popular and I'll cover it in more detail later
- Taxi licence

- Vending machines

Investing in your passion as you can purchase collectibles or personal use assets such as

- Art
- Collectible firearms (not the illegal ones),
- Wine or spirits
- Antiques
- Postage stamps
- Motor vehicles
- Recreational boats
- Sporting memorabilia
- Jewellery.

BUT BEWARE

You have to beware though as there are those inevitable rules.

THE RULES

The big rule here is that you or any related party can't enjoy or use these collectibles whilst you are in your accumulation phase. So, you or a related party can't wear the jewellery, hang the art in your home or office, drink the wine, drive the car or sail the boat. That can't happen until you retire.

The ATO has taken a tougher stance on collectibles because it is so hard to police and there's a high risk that members of a super fund will use or enjoy the asset before retirement. It's a whole lot of temptation.

There are now new rules that if you purchase them you have to insure them within a week of purchase, have them valued annually and have to organise suitable storage for them and this can't be at your home or office.

Any investment has to be in the name of the super fund, which is true for any asset of an SMSF

And there is the all- important sole purpose test, which is that your fund is maintained for the sole purpose of providing for your retirement and not for satisfying your passion for boats, cars, art or wine. You as trustee of your

super fund must ensure that any investment decisions should be in line with the ultimate prize – providing for your retirement so that you can enjoy it to the fullest.

BORROWING TO BUY PROPERTY IN AN SMSF

I thought I would cover property in particular as this is an aspect of having a self-managed super fund that has a lot of appeal and so much of that appeal appears to stem from being allowed to have real estate as part of the investments of your super fund. The lure of having that investment unit at the beach or if you are in business, being able to buy a commercial property to operate your business out of, appears to be very strong.

The recent Financial Systems Enquiry made the recommendation to government to ban borrowing by SMSF's however the government rejected this recommendation. The rationale behind the recommendation to government was that the investment in property by SMSF's was heating up the housing market. Many argued that this was not the case with only about 2% of SMSF funds being invested in property. So for the time being borrowing to buy property is allowed in an SMSF.

So do you want the good news or the bad news? Okay I'll start with the good news – yes your self-managed super fund can borrow to buy property and this has been allowed since 2007. And the bad news? The bad news is there are a few hoops that you have to jump through to be able to.

First of all though, borrowing to buy property has to be a strategy that you, as Trustee, have determined will help you to achieve that sole purpose of being **able to provide** for your retirement and this needs to be reflected in your investment strategy which is a formal planning document that your super fund must have.

The SIS Act prohibits a self-managed super fund from borrowing and sets out that your super fund must set up a separate entity outside the super fund to buy and hold the asset. This separate entity is always another trust as it is only holding the property in trust for your super fund.

This separate trust is called a bare trust or a security trust because it can barely do anything but hold the property in trust for (on behalf) of your self- managed super fund. It has legal ownership of the property

Just like your self-managed super fund, this separate trust will have one or more trustees.

The trustees in this separate trust can't be the same as the trustee/s for your super fund. So if you are an individual trustee of your super fund you can't be the trustee for this separate trust. Similarly, if you have a company (corporate) as trustee for your super fund that company can't be corporate trustee of this separate trust. That is because, under trust law, you can't hold property on behalf of yourself.

The SMSF is the beneficial owner of the property and is responsible for paying any deposits, repaying the loan, receiving the income and paying any expenses associated with maintaining the property.

The self-managed super fund is the beneficiary of the bare trust as your super fund will eventually gain ownership of the property (see there is a happy ending).

The bare trust will have no discretion in relation to dealing with the property. The bare trustee cannot therefore sell the property.

The purchase contract for the property has to be in the name of the bare trustee as it is the legal owner of the property till the loan is repaid.

Your super fund, as the beneficiary and therefore the beneficial owner of the property, pays the deposit.

A SMSF can borrow money from anyone. This means from a bank or other financial institution or a **related party** to an SMSF, so even you as a member, can lend to your super fund for this purpose. If you as a member do lend to your super fund you must ensure all the dealings in relation to that loan are at **arm's length** or, in other words, would be the same as if a bank or other financial institution were lending to your super fund. There would need to be a proper loan agreement in place which includes, amongst other things, the property details, the borrowing amount, the interest rate and the term of the

loan. Also and most importantly it would need to reflect that this loan is a Limited Recourse Borrowing Arrangement.

The loan is between the SMSF and the lender. This is where the limited recourse bit comes in. This means that, should your super fund not be able to repay the loan then the only action or recourse that the lender can take is to repossess the asset that the borrowing relates to and they can't touch anything else in your super fund. So if the property is sold and there is a shortfall between the sale proceeds and the amount owing on the loan, your super fund does not have to pay money to cover the shortfall.

The loan agreement should include that it is an LRBA.

That is why the banks will insist on a higher deposit on the purchase contract.

Banks may also insist on a personal guarantee from you as trustee and the other trustees of an SMSF. This means that if there is a shortfall between what the sales proceeds are and how much is owing then they can make you honour that shortfall.

Once the loan is repaid the bare trust would still have legal ownership of the property because the original contract is in the bare trust's name. The property and the legal ownership would then be transferred from the bare trust to your super fund - the happy ending.

WHAT CAN YOU PURCHASE?

The first important question you probably want answered is what kind of property can your super fund purchase through borrowing?

Your super fund can purchase what is referred to as a single acquirable asset and, as the name suggests, means one asset. That could be land, land and house package or a parcel of shares in one company but it can only be one asset.

WHAT CAN YOU DO AFTER YOU PURCHASE?

Money can be spent on repairing and maintaining it, but money can't be spent or significantly improving it to the point that the essential character of the property is changed.

WHO CAN YOU PURCHASE FROM?

Just like the transferring in of assets (in specie contributions), your super fund can't buy property from a related party, with the exception of commercial property and listed shares. If you do purchase commercial property or listed shares from a related party, remember that it must be at market value.

Just to finish this bit on property, what are the good, the bad and the ugly of borrowing to buy property in an SMSF.

WHAT IS GOOD ABOUT BORROWING TO PURCHASE PROPERTY IN YOUR SMSF?

Borrowing to buy property is a great low tax alternative to otherwise buying property personally or even through a company.

Any net income is only taxed at only 15%, if your super fund is in accumulation phase, or zero if the property is supporting the payment of an income stream from your super fund. If you held it personally it would be taxed at your marginal rate of tax, or at the company rate of tax if held through a company, both of which will be higher than 15%.

WHAT IS NOT SO GOOD ABOUT BORROWING TO PURCHASE PROPERTY IN YOUR SMSF?

Now the downside. There are the inevitable costs, both in terms of time and money, of setting up the separate company structure for the bare trust and the trust deed and other administrative requirements. Banks may also charge extra in the loan application because they will have to look at all the various trust deeds and other documentation to ensure that everything has been put in place correctly and there will be minimal or no risk for them in the event that your super fund defaults on the loan and they have to repossess the property

There is also the restrictions on the use of the property and what you can do to it after you purchase

Another downside is that any equity that your super fund has in the property can't be used to borrow to buy further properties either inside or outside your super fund.

THE RISKS OF BORROWING TO PURCHASE PROPERTY IN YOUR SMSF?

And finally the risks. Your super fund has to make the repayments on the loan so you need to be confident, as trustee, that your super fund will be able to do that. It's not only the loan repayments, it is also the other expenses that have to be met and also being able to maintain the income stream from the property. What if you can't rent the property out? Is there enough cash in your super fund to keep paying the loan? Your super fund's ability to repay the loan is also one of the factors that the bank or lender will look at when considering your super fund's loan application.

But coming in at number one of the BIG, BIG risks of borrowing is that, if your super fund breaks any of the rules, then your super fund may be required to sell the property and this could be at a substantial loss and, because your super fund has contravened the law, your super fund could be liable to penalties . Imagine what that would do to your super fund balance?

SUMMARY OF WHAT'S GOOD ABOUT AN SMSF

- It's a great low tax environment where some contributions and the earnings are taxed at 15% or zero where the fund is in pension mode. Also there is no CGT where the fund is in pension mode
- You get to control what happens
- And of course there is really cool stuff that your SMSF can invest in
- Franking Credit Rebate

SUMMARY OF WHAT'S NOT SO GOOD ABOUT AN SMSF

- The costs involved which include accounting fees, financial planning fees, audit fees and ATO fees. Every self-managed super fund has to prepare financial statements and tax return which both have to be audited
- You get to control the fund but with that control comes great responsibility. If something goes wrong then you as trustee will be liable. A lot of people with SMSF's leave it to their accountants or financial advisors to manage the fund on their behalf.
    - One - They think it is easier to leave it to people that they think know about self-managed super

- ❖ Second they think it's so complicated with all that technical jargon, plus the government keeps changing the rules
- ❖ Thirdly they don't think they have the time to manage it.

I always find it interesting that people would do this with something that is called a **SELF MANAGED SUPER FUND**.

Now I'm not advocating that trustees of SMSF's do it all themselves. What I am advocating however is that anyone with an SMSF should be aware of the basics so that they can ask the right questions, know if they are getting a right answer and proactively manage their SMSF. They should be the Managers rather than the ones being managed. That was one of the main reasons that I wrote my book which was to demystify the complications that envelop SMSF's. I have a mantra in my book which I repeat at the end of each chapter which is:

You are trustee of your super fund and you are ultimately responsible for your super fund. Not your accountant. Not your financial planner. Isn't that the best reason to take control? Just remember, with control comes responsibility.

- When you are in an retail or industry fund you have insurance like TPD and income protection but in a self-managed super fund you will need to arrange this yourself

THE UGLY BITS ABOUT HAVING A SELF-MANAGED SUPER FUNDS

For the ugly bits I wanted to go through a couple of examples through court cases of where it can all go very wrong and with dire consequences.

Triway Superannuation Fund

The first is the Triway Superannuation Fund where a Mother, Father and Son were members and trustees of the super fund and the son, who was a drug addict, took almost all the money out of the super fund before being entitled to it. He also declared himself bankrupt but still was one of the trustees of the super fund which is also not allowed. The ATO, who have a regulatory role in relation to self-managed super funds, made the fund non- compliant and fined

the trustees. Because there were individual trustees and there was effectively no money left in the super fund, the trustees were personally responsible for the payment of the fines. The trustees appealed the decision to the Administrative Appeals Tribunal (AAT) but were unsuccessful as the AAT ruled that they, as trustees, were personally responsible for the tax and fines.

Shail Superannuation Fund

The other one is the Shail Superannuation Fund where the trustees and members were Mr and Mrs Shail who were divorced but had remained trustees of their two member super fund. Mr Shail withdrew $3,460,000 (almost all the funds) from the super fund without being entitled to it, didn't tell Mrs Shail and moved to Turkey. The ATO made the fund non-compliant and as a result, the super fund had a tax payable bill for $1,583,873.69 plus penalties of $1,475,322.50.

Mrs Shail, in her capacity as trustee of the super fund appealed the decision to the AAT on the grounds that she was not aware of the breach, did not consent to it and did not benefit from it. The AAT upheld the decision by the ATO and their decision in the main centred around that each trustee is equally responsible and has the ability to be responsible for the decision making in the super fund.   Given that there was practically no money left in the super fund Mrs Shail was personally responsible for paying the $3.06 million in tax and fines.

Scary stuff

IS AN SMSF RIGHT FOR YOU?

So is an SMSF right for you and will it be your little pot at the rainbow when you retire?

Some of the factors to consider are:

- **Do you have enough of a balance to make it cost effective to have a super fund** – you don't want to be in a situation where the costs of managing and maintaining your super fund will come to more than your super fund is earning. Is it more cost effective to be in a mainstream fund? The rule of thumb bandied about is that the magical figure is $250,000. However was a 2012 study undertaken by Rice Warner which was commissioned by the

Australian Security and Investments Corporation (ASIC). ASIC are the body that oversees how well advisors, auditors and those that provide products and services to self-managed super funds, are doing. The purpose of the study was to examine the minimum cost-effective balance for self-managed super funds compared with APRA regulated superannuation funds (mainstream retail and industry super funds). Rice Warner concluded:

- Less than $100,000 – Self-managed super funds are not as competitive as APRA-regulated funds unless they are expected to grow to a competitive size within a reasonable time.

- $100,000 to $200,000 - Can be competitive with more expensive APRA-regulated funds if the trustees undertake the broader investment and administration

- $200,000 to $500,000 - Can provide equivalent value with APRA-regulated funds provided the trustees undertake some of the administration.

- $500,000 or more - Can provide equivalent value to APRA-regulated funds on a full service basis.

So as you can see there is not a definitive answer but it does give you an idea and it really advocates that if you want a cost effective self-managed super fund you need to be quite actively involved and that will mean time. Can you afford the time? In my opinion, can you afford not to have the time? This is your life savings we are talking about. This is about enjoying retirement to the fullest. In other words – remember the mantra **THAT'S WHY THEY CALL IT A SELF-MANAGED SUPER FUND.**

- **How close are you to retirement?** If you are in pension phase the fixed costs of running a super fund mean the fund balance will diminish while paying a pension

- **Do you want a low maintenance super solution?** If you do then I'd probably suggest that an SMSF is not for you

- **How are you at managing your own personal funds?** This would be a great indicator as to how you would fare with a self-managed super fund

The best way to find out is to talk to your financial advisor – your accountant or your financial planner

Well that is the good, the bad and ugly of self-managed super funds and thank you so much for taking the time to listen. It is by no means the B all and end all of self- managed super funds. Hopefully though I've managed to demystify some of this complex area for you. You can always read more about it in my book which is available for sale on my website

www.superconfidence.com.au