



## about SMSFs

# why a corporate trustee?

There are two trustee options when you setup an SMSF. A fund can be established with the individual members acting as trustees. The other option is a corporate trustee which is basically a company acting as trustee of the fund.

The decision as to which trustee structure to use is not one that should be taken lightly and it is certainly not a decision to be made on the basis of which option is cheapest.

If you are planning on setting up an SMSF, there are several issues that you need to consider when deciding which structure to use (individual or corporate). These factors are listed and discussed below.

### Individual Trustee

Choosing an individual trustee option is cheaper in terms of the initial setup costs as there is no fee to setup a company structure if a corporate trustee is chosen.

Aside from cost, an individual trustee can also be seen as a simpler option where the probability of changes to members/trustees is minimal. Where additions or changes to the

members/trustees are possible at some point in the future, the individual trustee option can result in administrative difficulties. For example, it can be arduous and costly when changing trustee names for which the super assets are held.

Individual trustees need to take special care with record keeping to ensure assets are clearly identifiable as fund assets. For example, if an individual trustee were to go bankrupt, records must be very clear to determine which assets are personally owned by the trustee (which would be subject to bankruptcy proceedings) and which assets belong to the SMSF structure itself.

### Corporate Trustee

The major disadvantage of a corporate trustee is the up-front cost of establishing the company. However the long term benefits of having a company will outweigh the costs.

Australian companies are registered and governed by ASIC. There are on-going administrative requirements for corporate trustees. SuperShift IQ offer an ASIC agent service which handles all on-going management ASIC on your behalf.

However on an on-going basis, a corporate trustee is far more efficient in comparison to an individual trustee.

Assets are held in the name of the company as trustee for the fund so no name change for asset holdings is required where there are changes to members (which may include new members, members leaving or death of a member).

Such changes are simply dealt with by notifying ASIC of changes to the directorship of the company.

### **Trustee and member changes**

If there is ever a change to trustees or members, a deed of appointment and retirement must be prepared to officially retire the outgoing and appoint the incoming trustees.

Trustees must also notify all relevant share registries and banks of a change in trustee to reflect the new ownership in assets on behalf of the SMSF (which can be a time consuming process).

In contrast, where a new member joins a fund with a corporate trustee it simply requires the appointment of that member as a Director of the Trustee Company.

Where a member leaves the fund it is simply necessary for them to resign as director.

### **Trustee litigation exposure reduced**

Where the trustee of a fund is subject to litigation – such as a personal liability action in relation to one of the fund's properties, then the trustees may potentially be personally liable for the costs if they are unable to be recovered from the assets of the fund.

Whilst this is uncommon, having a corporate trustee will provide additional protection by limiting liability to the assets of the company not those of the underlying directors.

### **Single member funds**

Single member funds with a corporate trustee allow the sole member to be the only director of the company and have full control over the running of the fund. If the fund had individual trustees it would be necessary for another individual to act as the second trustee and assist in the running of the fund.

### **SMSF borrowing**

If a SMSF wishes to borrow under a limited recourse borrowing arrangement (LRBA) the SMSF must have a corporate trustee.

For example, if you are thinking about using your super to borrow and invest in direct property, your SMSF must have a corporate trustee to be compliant.



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