Self-Managed Super Fund: winding up

Closing your SMSF can be complex and time consuming. If completed incorrectly it is possible it will remain open, leading to additional payments for required financial statements, audits, and lodgement of the annual return.

When can an SMSF be wound up?

Subject to all trustees agreeing, a SMSF can generally be wound up at any time. Common reasons for winding up an SMSF include situations where:

- As a member/trustee, you may have tired of the responsibility and administrative burden of managing your SMSF.
- Key members/trustees of the fund have failing health which may result in the inability to run the fund in the future.
- The fund's assets have reduced to a level making it no longer cost effective to run the fund.
- The fund has no members, i.e., following death of a member.
- Members circumstances have changed, e.g., relationship breakdown between two trustees of the fund.
- For Australian taxation purposes, a key member/trustee has become a non-resident, and the fund may no longer be eligible for tax concessions.

There are many steps involved in winding up a SMSF so trustees should allow sufficient time for the SMSF wind-up process. Trustees also need to decide what will happen to the assets of the SMSF. Some assets may be transferred in-specie to a new, large super fund while others may have to be sold down.

There may also be tax implications when selling assets and you may wish to stagger the disposal over different financial years to reduce the tax impact.

Before deciding to close your SMSF, consider speaking to a licensed financial adviser who can help determine whether it is appropriate based on your circumstances and financial goals. There are advantages and disadvantages to both maintaining or winding up an SMSF, including the tax implications of realised and unrealised capital gains or losses, insurance, and alternatives for your super.

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Steps to wind up your SMSF

The following tips outline key considerations and tasks involved in winding up an SMSF. Please note this is not a comprehensive list and professional advice should be sought.

1. Trust deed

Review the SMSF trust deed to ensure the process to wind up the fund is in line with any conditions noted.

2. Written consent

If your SMSF has more than one member, it's important to ensure all parties are properly informed. Each trustee/member should sign an agreement to close the fund. For a corporate trustee, all directors must decide whether the company should remain running or be wound up.

3. Super benefits

Each member must advise how and where they want their super to be transferred out of the SMSF, specifically whether they want it to be rolled over to another super fund or paid out as a lump sum where a condition of release has been met.

If a member wishes to claim a tax deduction for any personal contributions made into the fund, they must provide the appropriate form (NAT71121) to the trustees before the fund is wound up. The trustees must also provide written confirmation of receipt to the member, before commencing wind-up proceedings.

If any member of the fund is in pension phase, the trustees may be required to make a pro-rated pension payment before winding up the fund.

Trustees should leave a sufficient amount in the SMSF to pay final tax fund or expenses as required.

4. Tax and compliance

All prior year financial statements, tax returns and other tax and compliance obligations should be finalised. This should also include appointing an SMSF auditor to complete the final audit.

5. Financial statements and audit

Interim financial statements should be prepared for the current income year, determining the value of each member's benefit. It should include all income and expenses to date and should factor in both actual and estimated future expenses.

6. Assets

Assets may need to be sold or transferred from the SMSF. Some assets may be transferred in-specie either to a member (in the case of a lump sum benefit) or to a receiving fund (in the case of a rollover).

7. Annual return

The fund must lodge its final annual return with the Australian Taxation Office (ATO) ensuring they complete the relevant section of the annual return indicating that the fund is being wound up during the income year. Any outstanding tax should be paid using funds set aside by the Trustee for this purpose.

8. Inform the ATO

The SMSF must notify the ATO in writing within 28 days of winding up.

9. Post wind up expenses

Certain expenses may not fall due until after the SMSF is due to be wound up. Rather than keep the SMSF running and delaying the wind-up process, the SMSF can be closed, and the necessary cash can be retained on trust by the former trustees until the liability is paid.

10. Post wind up tax refund

Some SMSFs may be entitled to a tax refund upon completing their final annual return. The SMSF bank account should be kept open to receive this refund.

11. Account closure

After all expected liabilities have been settled and requested refunds received, the SMSF bank account can be closed.

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What must a trustee do with member benefits when the SMSF is wound up?

This is governed by both superannuation law and the SMSF's trust deed.

When winding up an SMSF, the trustee will need to either:

- Pay the benefits to any member who meets a 'condition of release', or
- If the member does not meet a 'condition of release', or does not wish to access their benefits, rollover or transfer the benefit to another complying super fund or retirement savings account (RSA).

'Conditions of release' are events which allow members to withdraw their super benefits. The most common being where a person permanently retires after attaining age 60, or they turn age 65.

For more information, visit the Australian Taxation Office (ATO) website at www.ato.gov.au and search 'Condition of release'.

Can an SMSF be re-activated after it is wound up?

No. Once an SMSF is wound up, it cannot be re-activated. Members need to establish a new SMSF if they later decide they wanted to return to an SMSF structure.

Given this, trustees should carefully consider whether to proceed with winding up the fund and obtain professional advice about the process.

If some members wish to continue the fund, there may be a way to achieve this by restructuring the SMSF.

Does the trustee have obligations after wind up?

Yes, they must keep records, some for up to 10 years.

For further information, please go to the ATO website https://www.ato.gov.au/Super/Self-managed-super-funds/winding-up/