SUPERANNUATION.

Why Superannuation

Superannuation is a retirement program established by the Australian Government to assist and encourage Australians to provide for and fund their own retirement.
Australia's aging population and longer life expectancy means that future Governments will simply not be able to continue paying the age pension in the way our parents and grand-parents may have received the "pension". This demographic shift would place an unaffordable stress on the economy and Government proposed a "three pillars" solution to our retirement income plan;

- Reduce the number of people entitled to the "pension" by stricter means testing the Government age pension system (Income test and assets test)
- Increase Private Savings through compulsory contributions into superannuation for employees paid by employers
- Increase Private Savings through superannuation by using the taxation system to encourage people to save via superannuation.

The Keating government introduced the "Superannuation Guarantee" in 1992. Since 1 July 2002, the minimum contribution has been set at 9% of an employee's ordinary time earnings. Many economists expect this minimum to be increased to 12 or even 15% within the next decade.

After more than a decade of compulsory contributions, Australian workers have over $1.4 trillion in superannuation savings, in fact we now have more money invested in managed funds per capita than any other country.

Basically, superannuation is a form of savings and investment which enables people to save while they are working, to provide them money in their retirement.

The Taxation System is used by the government to encourage superannuation savings

Such as;

- Self employed people (ie. less than 10% of your assessable income and reportable fringe benefits are attributable to earnings from employment) can claim a tax deduction for before-tax superannuation contributions, if the contributions are made before the 28th day after reaching age 75.
- An employer receives a tax deduction for superannuation contributions paid on behalf of employees
- Super funds generally receive concessional taxation treatment such as;
- The ordinary "Income" of a super fund is taxed at a flat 15%.
- Capital gains on assets held by the super fund for over 12 months are taxed at an effective rate of 10%
- The income of a super fund generated from assets owned by the super fund used to generate money paid to a member who is over 55 years old and being paid a "Transition to Retirement Income Stream" is not taxable income to the SMSF (i.e. the tax rate is 0%)
- The income of a super fund generated from assets owned by the super fund used to generate money paid to a member who is over 60 years old and "retired" is not taxable income to the SMSF (i.e. the tax rate is 0%)
- and many more.

Types of Superannuation Funds

- **Industry Funds** are multiemployer funds run by employer associations and/or unions. Unlike Retail/Wholesale funds they are run solely for the benefit of members as there are no shareholders.
- **Wholesale Master Trusts** are multiemployer funds run by financial institutions for groups of employees. These are also classified as Retail funds by APRA.
- **Retail Master Trusts/Wrap platforms** are funds run by financial institutions for individuals.

- **Employer Stand-alone Funds** are funds established by employers for their employees. Each fund has its own trust structure that is not necessarily shared by other employers.
- **Self Managed Superannuation Funds (SMSF)** are funds established for a small number of individuals (fewer than 5) and regulated by the Australian Taxation Office. Generally the Trustees of the fund are the fund members (where there is a Corporate Trustee, the members are the directors of the company).
- **Small APRA Funds (SAFs)** are funds established for a small number of individuals (fewer than 5) but unlike SMSFs the Trustee is an Approved Trustee, not the member/s, and the funds are regulated by APRA. This structure is often used for members who want control of their superannuation investments but are unable or unwilling to meet the requirements of Trusteeship of an SMSF.
- **Public Sector Employees Funds** are funds established by governments for their employees.

What is a Self Managed Superannuation Fund?

Section 17A of the Commonwealth Superannuation Industry (Supervision) Act 1993 (the "SIS" Act) sets out the basic conditions to qualify as a SMSF, these are;

- The fund must have fewer than 5 members
- Each trustee (or if the trustee is a company) each director must be a member
- Each member is a trustee (or if the trustee is a company) each member must be a director
- No member of the fund is an employee of another member (unless those members are related); and
- No trustee of the fund receives remuneration for his or her services.

Single member SMSFs

A sole beneficiary (member) cannot be the sole trustee of a fund. However, a single member fund with a corporate trustee can be a SMSF if;

- no trustee receives remuneration for his or her services to the fund and;
- the member is the sole director of the corporate trustee; or
- the member is one of only 2 directors, and the member and the other director are related; or
- the member is one of only 2 directors, and the member is not an employee of the other director (who need not be related).

Complying fund status for SMFSs

To qualify for concessional tax treatment, an SMSF must first become a "regulated superannuation fund", and be subject to regulation under the SIS Act.

A SMSF becomes a 'regulated superannuation fund" by complying with Section 19 of the SIS Act. This is done by the trustees giving a notice to the Taxation Office that the fund wishes to elect to have the SIS Act apply in relation to the fund.

The SIS Act requirements

The following is a list of **some** of the more important rules of the SIS Act that apply to a regulated SMSF.

1. Must have a Trustee

In order to qualify for 'regulated superannuation fund' status under Section 19 of the SIS Act, and therefore gain concessional tax treatment, a superannuation fund must have at least one trustee.

The trustee(s) must make sure that the fund is properly managed and all SIS rules and other obligations are met.

In addition to meeting the standards which relate to the superannuation fund itself, trustees of all self managed funds must sign and lodge a 'Self managed superannuation fund annual return' to the Tax Office.

If the trustee is a company it must also furnish an annual return to the Australian Securities Investments Commission (ASIC).

All trustees must act honestly, prudently and in the best interests of members in all issues concerning the fund.

Who cannot be a trustee?

Under Section 120 of the SIS Act, an individual, or if a company, a responsible officer (collectively referred to as a 'person') is a disqualified person who cannot act as a trustee of a superannuation fund, if that person:

- has been convicted of fraud or has been penalised for dishonest conduct (eg, fraud or theft) in Australia or elsewhere; or
- has had a civil penalty order made in relation to them under the SIS legislation; or
- is an insolvent under administration (eg. an undischarged bankrupt); or
- is a company, is in liquidation, or receivers have been appointed, or has begun to be wound up

The Commissioner of Taxation can waive the disqualification where the requirements of Section 126D(1A) of the SIS Act are satisfied. The criteria in this subsection requires the Commissioner to determine whether the applicant can be trusted to observe the fiduciary requirements. They are:

If, having regard to any of the following:

- the offence to which the application relates;
- the time that has passed since the applicant committed the offence;
- the applicant's age when the applicant committed the offence;
- the orders made by the court in relation to the offence;
- any other relevant matter;
- the Commissioner of Taxation is satisfied that the applicant is highly unlikely to:
- contravene this Act; and
- do anything that would result in a self managed superannuation fund not complying with this Act;

the Commissioner must, by notice in writing given to the applicant, make a declaration waiving the applicant's status as a disqualified person for the purposes of this Part.

2. Must comply at all times with the “Sole Purpose Test”

Section 62 of the SIS Act requires each trustee of a regulated superannuation fund to ensure that the fund is maintained for at least one of the legislated “Core Purposes” which can be in conjunction with any approved “Ancillary Purpose”.

A. The “Core Purposes” (Section 62(1)(a) of the SIS Act include;
retirement - the provision of benefits for fund members on or after the member’s retirement;
attaining age 65 – the provision of benefits for fund members on or after the member’s attainment of an age not less than 65 years; and
death benefits – the provision of benefits to the legal personal representative and/or dependants of a fund member on or after the death of the member, provided that death occurred before he or she retired or attained age 65.

B. The “Ancillary purposes” (Section 62(1)(b)) of the SIS Act include to provide benefits for members:

- on termination of employment;
- on cessation of work due to ill health;
- on death after age 65 or retirement;
- other ancillary purposes approved in writing by the regulator (this includes benefits provided in specified situations of financial hardship and/or compassionate grounds).

Compliance with the sole purpose test is fundamental, ie. provision of retirement benefits for members or, if they die, for their dependants.

Contravening the sole purpose test can result in the trustees facing civil and criminal penalties.

Examples of Breaching the Sole Purpose Test

A fund can breach the sole purpose test if improper investments have been made. For example investment arrangements cannot be made to provide financial assistance to another party.

The regulator considers that another possible contravention of the sole purpose test is where a fund is running a business as part of its investment strategy. The Tax Office's view is that if a superannuation fund is conducting a business, then it is not being administered for the sole purpose of providing benefits for the members and beneficiaries of the fund.

Another breach is where the fund acquires shares as an investment and the dividend payments from the shareholding are reduced in order to pay for a shareholder discount card. However, no breach occurs if the fund does not participate in the shareholder discount plan or where the discount card is made available without further cost to the shareholder, as this is considered to be incidental to the purchase of the shares.

Investments must be made on an arm's length basis.

Trustees are prohibited from acquiring assets from members or a related party. However the limited exceptions to this rule apply to permit a fund to acquire an asset from a member if the asset is;

- a listed security acquired at market value;
- "business real property" acquired at market value where the fund has fewer than 5 members; or
- an "in-house asset" which, after being acquired, does not result in more than 5% of the funds assets being in-house assets.

What is an "In-house asset"?

-a loan to or investment in a related party
- an investment in a related trust
- an asset of the fund subject to a lease or arrangement with a related party.

Exemptions to the definition of "in-house assets" include;

- business real property that is leased to a related party
- an investment in a widely held trust; and
- property owned by a superannuation fund and a related party as tenants-in-common.

3. Borrowing by an SMSF

Section 67 of the SIS Act prohibits the trustee of an SMSF from borrowing money except in limited circumstances.

Ruling SMSFT 2009/2 provides 12 examples of common arrangements which will contravene this rule. Some of these are;

- monies advanced by members for the SMSF to buy assets;
- bank overdrafts;
- contributions by members for the SMSF to buy assets;

- margin lending accounts;
- investing in contracts for difference (CFDs);
  Exceptions to the non –borrowing rule - I will come back to this shortly.

4 The SMSF must have an Investment strategy

The SIS legislation requires trustees of a superannuation entity to formulate, and put into effect, an investment strategy based on all the circumstances of the fund, including:

• parity of risk and projected return from the entity's investments with its objectives and expected cash flow requirements including members' preference and possible susceptibility to changes in the market conditions applying to particular investments;

• the age and circumstances of each of the members, their proportion of assets in the fund, the expected number of years to retirement, and the anticipated needs of their dependants (this needs to take into account whether the dependants are willing to accept a share in non-liquid assets [such as business real property] and its acceptability by the remaining members of the fund, and whether death and disability insurance is required);

• adequate diversification or at least consideration of diversification of the entity's investments across asset classes, eg. fixed interest, property and shares, and across each class of assets, (eg. shares in industrials, resources and retailing);

• the entity's liquidity levels to service expected cash flow requirements, eg:

- to pay tax;

- to meet the superannuation surcharge liability of the members and lump sum benefits should a member leave the fund (eg. on retirement, voluntarily by rolling out benefits, or through death); or

- to make regular pension payments;

• the ability of the entity to discharge existing and future liabilities (eg. those mentioned in the previous point and the timing issues);

• compliance with in-house asset and acquisition from related party restrictions and prohibition of loans to members and their relatives.

The investment strategy should focus on the mix of assets which will achieve the entity's objectives, given the current investment outlook and benchmarks used. The investment strategy may vary over time to reflect internal and external changes.

It is not possible to design one 'model' investment strategy, because a wide variety of strategies are likely to be acceptable. Additionally, the level of sophistication and complexity of the investment strategy will vary depending on the amount available for investment and the spread of the investments.

• ideally, the strategy would specify what proportion of fund monies are invested in particular asset classes; and
• while diversification is generally desirable, especially in the early stages when a small fund has limited monies to invest, it is difficult to achieve diversification.

SIS does not categorically rule out a fund investing in a single asset, although the trustee will need to substantiate that diversification has been taken into account in the event of a member's inquiry or prudential review of the fund's operations. The investment rules allow 100% of a small fund's assets to be invested in business real property for example.

If the regulator of a fund (the Tax Office for a SMSF or APRA in the case of a small APRA fund) audits a fund it would probably want to see whether the actual investment activities of the trustees are consistent with the stated strategy. Auditors usually accept that some small funds may have some difficulty in achieving adequate liquidity and diversification, at least initially. This is not a problem because up to 100% of the fund's assets can be invested in business real property acquired by a small fund from a related party. However, the investment strategy must still reflect this investment decision.

5 The Residency Test

To be a complying super fund, your SMSF must satisfy the residency test, which means your SMSF must meet the definition of an Australian superannuation fund.

What is the residency test?

A SMSF must meet all conditions of the residency test to ensure it qualifies as an Australian superannuation fund. The residency test has three elements:

• your fund was established in Australia, or at least one of the fund’s assets is located in Australia
• the central management and control of your fund is ordinarily in Australia
• your fund must have no active members or have active members who are Australian residents and who hold at least 50% of
o the total market value of your fund’s assets attributable to super interests, or
o the sum of the amounts that would be payable to active members if they decided to leave the fund.

When is a fund established in Australia?

An SMSF is established in Australia when the fund is paid and accepts the initial contribution to establish the fund in Australia.

What is 'the central management and control' of the fund?
'The central management and control' of your SMSF is the strategic and high level decision-making processes of the fund. These include carrying out duties like:
• formulating the investment strategy of the fund and
• reviewing the performance of the fund’s investments.

These duties are generally performed by you as the trustee of the fund.

What does ‘ordinarily in Australia’ mean?

The Taxation Office accept the central management and control of your fund is ordinarily in Australia if the SMSF’s strategic decisions are regularly made, and high level duties and activities are performed, in Australia.

In some situations, a fund’s central management and control may be outside Australia for a period of time. In general, your fund will still meet the ‘ordinarily’ requirement if its central management and control is temporarily outside Australia for up to two years. If the central management and control of the fund is permanently outside Australia for any period, you will not meet this requirement.

Whether the central management and control of your fund is ordinarily in Australia is based on the fund’s circumstances at that time.

When is a member an active member?

A member is considered to be an active member of your SMSF if:

• they are a contributor to the fund, or
• contributions to the fund have been made on their behalf.

However, a member is not an active member if contributions have been made to the fund on their behalf and:

• they are not a resident of Australia
• they have ceased to be a contributor, and
• the contributions made on their behalf after they ceased to be an Australian resident were made for the time they were an Australian resident.

What happens if your SMSF doesn’t satisfy the residency rules?

There are tax consequences if your fund becomes non-complying. If your fund stops being a complying fund because it does not satisfy the residency rules and therefore cannot meet the definition of an Australian superannuation fund, an amount equal to the market value of the fund’s total assets (less any contributions the fund has received that are not part of the taxable income of the fund) will be included in the fund’s assessable income. This amount is taxed at the highest marginal tax rate.

Are you planning on going overseas?

If you are planning on going overseas, seek professional advice to ensure you maintain the residency status of your SMSF.

Is superannuation better than other savings?

When you read headlines like “billions wiped off superannuation”, we say to ourselves “I could have done better myself” or “I should have left my money in the bank”. What we must all understand is that superannuation is simply the vehicle that holds the assets. If you hold shares in any company and the share market tumbles, the outcome is the same for you whether you hold shares personally or in your superannuation fund.

Your superannuation is no different from any other investment. Superannuation is not a separate asset class such as shares, cash or property – it is just a trust structure in which you are allowed by government legislation, to hold assets in a low tax environment. If the share markets crash around the world people say “super is no good, the returns are lousy” remember that all the share investments outside their super fund are just as lousy.

The government gives us tax breaks on super to encourage us to fund our own retirement, because they won’t be able to afford to pay everybody the pension for much longer. Furthermore, they encourage people to take their superannuation benefits as an income stream, not a lump sum, when you retire, and they try to prevent you from withdrawing the money until you retire.

Superannuation is no different from any other savings or investments. It is just a structure.

BUT,

Deliberate Government policy – simply make superannuation better than any other way to save!

Types of superannuation contributions

Concessional contributions (previously known as deductible contributions): These are contributions for which some person or entity has claimed a tax deduction. For example, your employer paying into your super and getting the deduction. The super fund will pay 15% tax on these contributions.

Non-concessional contributions (previously known as undeducted contributions): These are contributions for which no individual or entity has claimed a tax deduction. They are not subject to any taxation either going into the fund, or when you withdraw them out.

Making undeducted contributions is a good way for you to accumulate greater wealth, as the earnings are in a low taxed environment.

Roll-overs: You may Roll-over your superannuation balances from one fund, to any other complying superannuation fund.

What are the practical steps to set up a SMSF

1 Make sure it is what you want

If you set up an SMSF, you're in charge – you make your own investment decisions and you're responsible for complying with the law. You can't pass the blame on to financial advisers, real estate agents, fund auditors or anybody else … The ultimate responsibility is yours. As part of the process, you as a trustee are required to sign a declaration to the Taxation Office that you are aware of your duties and obligations!

2 Decide on the fund structure

You can choose one of the following structures for your fund:

• up to four individual trustees

• a corporate trustee (essentially, a company acts as trustee for the fund).

If you are a single person you may need to set-up a company (of which you are the sole shareholder and office holder).

Even though it is not required by law, Coughlins suggest it is prudent to always have a corporate trustee, because the trustee must always keep their personal assets separate and distinct from the SMFS assets.

3 Seek professional advice and understand the rules

Are you able to be a trustee

Check the residency status

Understand the sole purpose test

Know the prohibited activities

4 Create the SMSFs Trust Deed

A super fund is a special type of trust, set up and maintained for the sole purpose of providing retirement benefits to its members (the beneficiaries).

A trust deed is a legal document that sets out the rules for establishing and operating your fund – things like the fund's objectives, who can be a member and how benefits are paid. The trust deed and super laws together form the fund's 'governing rules'.

A trust deed is a legal document, so you need to have it prepared by a legal practioner.

If your fund has individual trustees, the trust deed needs to state that the fund’s sole purpose is to pay retirement benefits.
All trustees need to understand, sign and date the trust deed and ensure it is properly executed according to state or territory laws.

5 Appoint your trustees

New funds usually appoint trustees under the fund’s trust deed.
All trustees and directors need to sign a declaration stating that they understand their duties and responsibilities. They need to do this within 21 days of becoming a trustee or director, and you need to keep the declaration for as long as it is relevant, or otherwise for at least 10 years. This declaration needs to be available to show the Taxation Office if requested. If you don’t sign and retain the declaration, or make it available to the ATO if requested, penalties may be imposed.
All trustees are bound by the trust deed and are equally responsible if its rules aren’t followed.

6 Accept members and record their Tax File Numbers

You’ll need to provide each trustee’s or director’s TFN when you register the fund with the ATO.
If a member hasn’t quoted their TFN:
- the fund can’t accept certain contributions made on their behalf, including personal and eligible spouse contributions
- the fund needs to pay extra tax on some contributions made to that member’s account and
- the member may not be able to receive super co-contributions.

7 Open a bank account for your fund

To be legally established, a SMSF needs to hold assets. The trustees hold the fund’s assets in trust for the benefit of the member.
An SMSF is usually established by making a contribution to the fund at the same time as the trust deed is executed. A contribution can be money or a transfer of certain assets, such as listed shares and securities.
You need to open a bank account in your fund’s name to manage the fund’s operations and accept cash contributions and rollovers of super benefits. The money is then invested according to the fund’s investment strategy, and used to pay the fund’s expenses and liabilities.
Note, you don’t have to open a separate bank account for each member, but you do need to keep a separate record of their entitlement (called a ‘member account’).
The fund’s bank account needs to be kept separate from each of the trustees’ individual bank accounts and any related employers’ bank accounts.

8 Register with the ATO

Once your fund is legally established and all trustees have signed a trustee declaration, you need to register your fund with the Taxation Office.
At the same time as registering (it's all on the same form) trustees can also:
• elect for the fund to be a regulated fund (and get concessional tax treatment)
• apply for a tax file number (TFN) and Australian Business Number (ABN)
• register for GST (not often required).

9 Prepare an investment strategy

Before you start making investments, you need to have a written investment strategy.
Your investment strategy provides you and the other trustees with a framework for making investment decisions to increase members' benefits for their retirement. It should be in writing so you can show your investment decisions comply with it and the super laws.
When preparing your investment strategy, you need to consider:
• diversification (investing in a range of assets and asset classes)
• the risk and likely return from investments, to maximise member returns
• the liquidity of fund's assets (how easily they can be converted to cash to meet fund expenses)
• the fund's ability to pay benefits when members retire and other costs the fund incurs
• the members' needs and circumstances (for example, their age and retirement needs).

10 Understand the Restrictions on investments

While superannuation law does not tell you what you can and can't invest in, it does set out certain investment restrictions you need to comply with.
Make your investments on a commercial, 'arm's length' basis and don't buy assets from, or lend money to, fund members (or other related parties). Any time your SMSF makes an investment, it needs to be made and maintained on a strict commercial basis. This is referred to as an 'arm's length investment'. The purchase and sale price of fund assets should always reflect a true market value for the asset, and the income from assets held by your fund should always reflect a true market rate of return.

Unless an exception applies, trustees generally can't:
• lend the fund's money or provide financial assistance to members and their relatives
• acquire assets from related parties of the fund, including:
o fund members and their associates
o the fund's standard employer-sponsors and their associates

• borrow money on the fund’s behalf (certain limited recourse borrowing arrangements are allowed)
• lend to, invest in or lease to a related party of the fund (including related trusts) more than 5% of the fund’s total assets (these are called ‘in-house assets’).

11 Ownership and protection of assets

One of your trustee responsibilities is to ensure the assets of the fund are protected.
To protect fund assets in the event of a creditor dispute, and prevent costly legal action to prove who owns them, assets should be recorded in a way that:
• distinguishes them from your personal or business assets
• clearly shows legal ownership by the fund.
Fund assets (other than money) should be held in the name of either:
• the individual trustees as trustees for the fund
• the corporate trustee as trustee for the fund.
The assets can’t be held in the name of a trustee or member as an individual.

12 Always consider the sole purpose test

Your SMSF needs to meet the sole purpose test to be eligible for the tax concessions normally available to super funds. This means your fund needs to be maintained for the sole purpose of providing retirement benefits to your members, or to their dependants if a member dies before retirement.
If you or any party directly or indirectly obtain a financial benefit when making investment decisions and arrangements (other than increasing the return to your fund), it’s likely your fund will not meet the sole purpose test. When investing in collectables such as art or wine, you need to make sure that SMSF members don’t have use of, or access to, the assets of the SMSF. The most common breaches of the sole purpose test are:
• investments that offer a pre-retirement benefit to a member or associate
• providing financial help or a pre-retirement benefit to someone, to the financial detriment of your fund.

13 Accepting contributions and rollovers

A contribution is a payment made to your fund in the form of money or an asset other than money (called an ‘in specie’ contribution). Provided the governing rules of your fund allow it, your SMSF can generally accept:
• employer contributions
• personal contributions
• salary sacrifice contributions
• super co-contributions

• eligible spouse contributions.
You need to properly document contributions and rollovers – including the amount, type and breakdown of components – and allocate them to the fund members' accounts within 28 days of the end of the month in which the fund received them.

14 Appoint an approved auditor

As a trustee of an SMSF, you're required to appoint an approved, independent auditor to audit your fund each year, at least 30 days before the auditor must give a report to the trustee. The auditor report must be given to the trustee by the day before the fund is required to lodge its SMSF annual return. Your auditor is required to:
• examine your fund's financial statements
• assess your fund's overall compliance with the super law.

15 Record-keeping requirements

One of your responsibilities as a trustee of an SMSF is to keep proper and accurate tax and super records to manage your fund efficiently.
It's a good idea to take minutes of all investment decisions, including:
• why a particular investment was chosen
• whether all trustees agreed with the decision.
If, as one of the fund's trustees, you invest the SMSF's money in an investment that fails, the other trustees could take action against you for failing to be diligent in your duties. However, if your investment decision was recorded in meeting minutes that were signed by the other trustees, you will have a record to show the other trustees agreed with your actions.
You need to make certain records available to your fund's approved auditor when they audit your fund each year. You may also need to provide accurate records to the ATO.
You need to keep the following records for a minimum of five years:
• accurate and accessible accounting records that explain the transactions and financial position of your SMSF
• an annual operating statement and an annual statement of your SMSF's financial position
• copies of all SMSF annual returns lodged
• copies of any other statements you are required to lodge with the ATO or provide to other super funds.
You need to keep the following records for a minimum of 10 years:
• minutes of trustee meetings and decisions (where matters affecting your fund were discussed)
• records of all changes of trustees
• trustee declarations recognising the obligations and responsibilities for any trustee, or director of a corporate trustee, appointed after 30 June 2007

• members’ written consent to be appointed as trustees
• copies of all reports given to members.
Don’t forget that income tax record-keeping requirements also need your attention – especially documents on deductions, capital gains tax and losses.

16 Rollover benefits statement

When rolling over benefits and current year contributions, you need to complete a Rollover benefits statement and provide copies to the receiving fund (or funds) and the member whose benefits are being rolled over.
The Rollover benefits statement allows the receiving fund to:
• apply the correct income tax treatment to the components rolled over
• maintain the preservation status of the benefits rolled over
• report correctly to the ATO, on the Member contributions statement or SMSF annual return, any contributions included in the rollover that were made in the same financial year as the payment occurred.
You need to check that the rollover is to a complying fund.

17 Prepare and lodge a SMSF annual return

This is normally done by your accountant. All SMSFs need to lodge an SMSF annual return with the Taxation Office each year, in order to:
• report income tax
• report super regulatory information
• report member contributions
• pay the supervisory levy.
Note: You can’t lodge the SMSF annual return until the audit of your SMSF has been finalised, as information from the audit report is required to complete the regulatory information in the return. Failure to lodge your SMSF annual return by the due date can result in penalties and the loss of your SMSF’s tax concessions

18 Notify the Taxation Office if there is a change

As a trustee of an SMSF, you need to notify the ATO within 28 days if there is a change in:

- trustees
- directors of the corporate trustee
- members
- contact details (contact person, phone and fax numbers)

- address (postal, registered or address for service of fund notices) and
- within 28 days if the fund is being wound up.

PAGE UNDER CONSTRUCTION

Accessing your super

The super in your fund is intended for the members' retirement and generally can't be accessed until then.

<u>Preserved and non-preserved benefits</u>

Most of the super held in your fund will be in the form of preserved benefits. These must be preserved in the fund until the law and your fund's trust deed allows them to be paid.

Preservation Age

Preservation age is generally the age that a person can access their super benefits. It ranges from 55 to 60 years of age depending on the person's date of birth.
Preservation age is generally the age that you can access your super benefits. A person's preservation age depends on their date of birth, as set out in the following table:

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
After 30 June 1964	60

Conditions of release

Voluntary cashing of preserved benefits generally depends on the member reaching their preservation age and meeting one of the conditions of release – for example, retirement.

Compulsory cashing of benefits is required only if a member dies. A member's benefits need to be paid out as soon as possible after the member's death.

Early access to benefits
There are a few conditions of release that permit early access to super benefits before a member reaches their preservation age, but these occur only in limited circumstances, such as terminal illness or permanent incapacity.

Paying benefits
Payment of benefits is usually as a lump sum or an income stream (that is, a pension).

What is the tax on withdrawing your super?

(A) Where your superannuation has accumulated since 1 July 1983, and you have reached the age of 55, and you take your super as a lump sum;

The first $150,000 is tax free, then 16.5% (including medicare levy).

(B) Where you have reached the age of 55, and you take your super as an income stream;

Your “pension” has to have PAYG deducted from it just like salary and wages.

Some part of the pension is tax free where there are undeducted contributions in the fund.

You get a 15% tax rebate on the taxable part of your income stream

(C) Where you are over 60 and retired.

All Tax free.

The bottom line is, the income is paid to you under a more favourable taxation environment than ordinary income.