

INDIVIDUALS

SMSF TRUSTEES

INSTRUCTIONS AND FORM

NAT 71089-06.2007

SEGMENT

AUDIENCE

FORMAT

PRODUCT ID



Australian Government

Australian Taxation Office

Trustee declaration

To be completed by trustees and directors of corporate trustees of self managed super funds.



Read this declaration in conjunction with *Self managed super funds – Key messages for trustees* (NAT 71128).

WHO SHOULD COMPLETE THIS DECLARATION?

You must complete this declaration if you became, on or after 1 July 2007, a new trustee (or director of a corporate trustee) of:

- ≡ a new self managed super fund (SMSF), or
- ≡ an existing SMSF.

You must sign this declaration within 21 days of becoming a trustee or director of a corporate trustee of a SMSF.

! You do not have to complete this declaration if you were appointed as a trustee or director before 1 July 2007.

INFORMATION YOU NEED TO READ

Make sure you read *Self managed super funds – Key messages for trustees* (NAT 71128). It highlights some of the key points from the declaration and some important messages for you.

BEFORE COMPLETING THIS DECLARATION

Before you complete and sign this declaration, make sure you:

- ≡ read each section of it, and
- ≡ understand all the information it contains.

➤ If you have any difficulties completing this declaration or you do not fully understand the information it contains:

- ≡ speak to a professional adviser
- ≡ visit our website at www.ato.gov.au, or
- ≡ phone us on 13 10 20.

If you're not familiar with some of the terms used in this declaration or you need more information, refer to *Self managed superannuation funds – Role and responsibilities of trustees* (NAT 11032).

WHEN COMPLETING THIS DECLARATION

When you complete this declaration, remember to:

- ≡ insert the full name of the fund at the beginning
- ≡ sign and date it, and
- ≡ ensure it is signed and dated by a witness (anyone over the age of 18 years).

WHAT SHOULD I DO WITH THE DECLARATION?

You must keep your completed declaration for at least 10 years and make it available to us if we request it.

We recommend that you keep a copy of your completed declaration and *Self managed super funds – Key messages for trustees* (NAT 71128) and refer to them when making important decisions, such as those relating to investments, making contributions and paying a pension or lump sum.

! Do not send your completed declaration to us.



Self managed super fund trustee declaration

I understand that as an individual trustee or director of the corporate trustee of

Fund name

Crispin Brown Super Fund

I am responsible for ensuring that the fund complies with the *Superannuation Industry (Supervision) Act 1993 (SISA)* and other relevant legislation. The Commissioner of Taxation (the Commissioner) has the authority and responsibility for administering the legislation and enforcing the fund's compliance with the law.

If I do not comply with the legislation, the Commissioner may take the following actions:

- impose administrative penalties on me
- enter into agreements with me to rectify any contraventions of the legislation
- disqualify me from being a trustee or director of a corporate trustee of any superannuation fund in the future
- remove the fund's complying status resulting in a significant tax penalty on the fund, and
- prosecute me under the law, resulting in fines or imprisonment.

I must keep myself informed of changes to the legislation relevant to the operation of my fund and ensure the trust deed is kept up to date in accordance with the law and the needs of the members.

SOLE PURPOSE

I understand it is my responsibility to ensure the fund is maintained for the purpose of providing benefits to its members upon their retirement (or attainment of a certain age) or their beneficiaries if a member dies.

TRUSTEE DUTIES

I understand that by law I must:

- act honestly in all matters concerning the fund
- exercise skill, care and diligence in managing the fund
- act in the best interests of all the members of the fund
- ensure that my money and other assets are kept separate from the money and other assets of the fund
- take appropriate action to protect the fund's assets (for example, have sufficient evidence of the ownership of fund assets)
- not enter into any contract, or do anything, that would prevent me from, or hinder me in, properly performing or exercising my functions or powers as a trustee or director of the corporate trustee of the fund
- prepare and implement an investment strategy that takes the whole of the fund's circumstances into account, which includes, but is not limited to
 - the risks associated with the fund's investments
 - the likely return from investments, taking into account the fund's objectives and expected cash flow requirements
 - investment diversity and the fund's exposure to risk due to inadequate diversification, and
 - the liquidity of the fund's investments having regard to the fund's expected cash flow requirements in discharging its existing and prospective liabilities, and
- allow all members of the fund to have access to information and documents as required, including details about
 - the financial situation of the fund
 - the investments of the fund, and
 - the members' benefit entitlements.

Investment restrictions

I understand that, as a trustee or director of the corporate trustee of the fund, subject to certain limited exceptions specified in the law, I am prohibited from the following:

- lending money of the fund to, or providing financial assistance to, a member of the fund or a member's relative (financial assistance means any assistance that improves the financial position of a person directly or indirectly including the provision of credit)
- acquiring assets (other than listed securities, business real property or managed funds) for the fund from members or associates or other related parties of the fund
- borrowing money (or maintaining an existing borrowing) on behalf of the fund
- having more than 5% of the fund's total assets at any time of the year as loans to, or investments in, related parties of the fund (including trusts) and assets subject to a lease or lease arrangement between the trustee and a member, relative or other related party (these assets are in-house assets), and
- entering into investments on behalf of the fund that are not made or maintained on an arm's length (commercial) basis, ensuring that the purchase or sale price of the fund's assets reflect market value.

- having more than 5% of the market value of the fund's total assets at the end of the income year as in-house assets (these are loans to, or investments in, related parties of the fund – including trusts – or assets subject to a lease or lease arrangement between the trustee and a member, relative or other related party)
- entering into investments on behalf of the fund that are not made or maintained on an arm's length (commercial) basis (this ensures the purchase or sale price of the fund's assets and any earnings from those assets reflects their market value).

Accepting contributions and paying benefits

I understand that I can only accept contributions and pay benefits (income streams or lump sums) to members or their beneficiaries when the conditions specified in the law and the fund trust deed have been met.

Administration

I understand that the trustees of the fund must:

- keep and retain for at least 10 years
 - minutes of all trustee meetings at which matters affecting the fund were considered (this includes investment decisions and decisions to appoint members and trustees)
 - records of all changes of trustees, including directors of the corporate trustee
 - each trustee's consent to be appointed as a trustee of the fund or a director of the corporate trustee
 - all trustee declarations
 - copies of all reports given to members
- ensure that the following are prepared and retained for at least five years
 - an annual statement of the financial position of the fund
 - an annual operating statement
 - copies of all annual returns lodged
 - accounts and statements that accurately record and explain the transactions and financial position of the fund
- ensure that an approved auditor is appointed within the prescribed period (currently this is no later than 31 days before the due date for lodgment of the fund's annual return but this may change to 45 days) to audit the fund for each income year, and provide that auditor with documents as requested
- lodge the fund's annual return, completed in its entirety, by the due date
- notify the ATO within 28 days of any changes to the
 - membership of the fund, or trustees or directors of the corporate trustee
 - name of the fund
 - contact person and their contact details
 - postal address, registered address or address for service of notices for the fund
- notify the ATO in writing within 28 days of the fund being wound up or after becoming aware that the fund has ceased to be an SMSF.

DECLARATION

By signing this declaration I acknowledge that I understand my duties and responsibilities as a trustee or director of the corporate trustee of the self-managed superannuation fund named on this declaration (or if the fund's name changes, that name). I understand that:

- I must ensure this document is retained for at least 10 years or while I remain a trustee or director of the corporate trustee (whichever is longer) and, if I fail to do this, penalties may apply.
- I may have to make this document available for inspection by a member of staff of the ATO and, if I fail to do this, penalties may apply.
- I do not have access to the government's financial assistance program that is available to trustees of Australian Prudential Regulation Authority (APRA) regulated funds in the case of financial loss due to fraudulent conduct or theft.

Trustee's or director's name

Steve E. Crispin Brown

Trustee's or director's signature



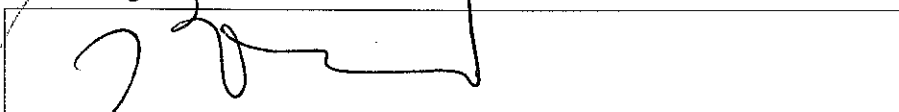
Date

Day: 29 / Month: 02 / Year: 2017

Witness' name (witness must be 18 years old or over)

J. CRISPIN BROWN

Witness' signature



Date

Day: 29 / Month: 04 / Year: 2017