

# WINDING UP SMSF RESOLUTION – SURVIVING MEMBERS

SPAN SUPER FUND  
ABN 78 356 390 989



Document provided by

**TOWNSENDS BUSINESS & CORPORATE LAWYERS** in conjunction with Heather Byrne **ACCOUNTANT**

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## Instructions

1. The Trustee should refer to the ATO guidelines and checklists which are accessible by clicking the links below:

<https://www.ato.gov.au/Super/Self-managed-super-funds/Winding-up/>

<https://www.ato.gov.au/super/self-managed-super-funds/in-detail/smsf-resources/smsf-checklists/#WindingupanSMSF>

2. The purpose of this resolution is to record the trustee's decision to wind up the SMSF and to authorise various consequential actions.
3. This resolution should only be used if there are surviving members.
4. This resolution should not be used for the winding up of the fund on the death of the sole member.
5. This resolution can be used by both corporate and individual trustees.
6. All trustees/directors must sign the resolution.
7. Once the resolution is signed:
  - (a) Each of the members of the fund should be notified. A template notice to members is annexed to the resolution.
  - (b) The ATO needs to be contacted (telephone number 13 11 42) to determine whether there are any:
    - (i) outstanding activity statements in respect of the fund;
    - (ii) outstanding ATO liabilities of the fund;
    - (iii) refunds due to the Fund from the ATO.
  - (c) Any outstanding activity statements must be lodged.
  - (d) An amount should be set aside to meet any future or contingent liabilities of the fund (including winding up expenses – accounting fees, return preparation fees etc however no SMSF supervisory levy applies in respect of the final annual return – as, in effect, the levy in respect of the final year has been paid when the preceding annual return was lodged).
  - (e) Any assets held in the SMSF must be sold or transferred from the SMSF.
  - (f) All members' benefits must be dealt with in accordance with the superannuation legislation and the trust deed for the SMSF.
  - (g) If a member has met a condition of release, the member's benefit may be released to the member (either by a cash payment or by a transfer of an asset/s in the fund that has the same value as the

member's benefit). If the member takes the benefit as a lump sum payment – refer Cashing Out (Whole Benefit) Template).

- (h) If a member has not met a condition of release, the member's benefit must be transferred to another complying superannuation fund. The member should nominate the new fund by completing and providing to the Trustee a *Request to transfer whole balance of superannuation benefits between funds* NAT 71223 (if transferring to an APRA regulated fund) and NAT 74662 (if transferring to another SMSF).
- (i) If the rollover is to another SMSF, the Trustee must then prepare a *Rollover Benefits Statement* (NAT 70944) and send this to the new fund within seven days of paying the rollover payment. A copy of the statement must also be sent to the member with 30 days of the rollover. A further copy should be kept with the Trustee's records for at least five years. Refer "Member Exit – Rolling over entire benefit to another super fund template".
- (j) If the rollover is to a superannuation fund other than an SMSF, then the rollover will have to be effected as a SuperStream transaction.
- (k) If a member intends to apply for a tax deduction for any personal contributions to the fund, the member should provide the trustee with a completed *Notice of Intent to claim a tax deduction for super contributions* (NAT 71121). The Trustee must acknowledge receipt of the Notice before the fund is wound up.
- (l) The financial statements for the fund must be prepared and audited.
- (m) The self-managed superannuation fund annual return for the current financial year will have to be completed and lodged – in particular, Item 9 will have to be completed. Any tax payable must then be paid.
- (n) As the return for the current year will be the final return, no supervisory levy is payable. This is achieved by showing \$518 in Label M in Section D of the return – which reverses the inclusion of the supervisory levy in Label L.
- (o) Written notice of the winding up must be provided to the Australian Taxation Office within 28 days of the SMSF ceasing to exist. The notice should be sent to Australian Taxation Office at PO Box 3578 Albury NSW 2640 and should include the name and ABN of the SMSF; the date on which the SMSF ceased to exist; and the name and phone/fax number of a future contact person for the Fund. A template letter is attached to as an annexed to the resolution.
- (p) Close the bank account of the fund – but if a tax refund is expected, only close the bank account when the refund is received.
- (q) Any residual amount can be paid as the final instalment of the rollover amounts or benefit payments.

- (r) If the Trustee is a company and pays reduced annual fees to ASIC on the basis that it is a special purpose company (the sole purpose of the company is to act as trustee of a regulated superannuation fund), the Trustee must notify ASIC that the trustee is no longer a special purpose company before the trustee's next annual review date (this is usually the anniversary of the trustee company's registration). Complete Section B3 of ASIC Form 484 *Change to company details* form to provide the notice to ASIC.
  
- (s) By law, the trustee is required to keep the SMSF's financial records for at least five years. Other SMSF records (trustee minutes, resolutions etc) must be kept for at least 10 years.

## Written Resolution by the Trustee of Span Super Fund ABN 78 356 390 989

**Purpose of Resolution** The purpose of this resolution is to record the Trustee's decision to wind up the Fund and to authorise various consequential actions.

**Background** Clause 19.2 of the Governing Rules of the Fund permit the Trustee to terminate the Superannuation Fund. If the Trustee resolves to wind up or terminate the Fund, the Trustee must:

- notify the members; and
- determine a date the winding up of the Fund will take effect ("Closure Date").

Clause 19.3 of the Governing Rules requires the Trust Fund to be dealt with as follows and in the following order:

- in payment of debts (except member benefits); then
- in establishment of a reserve fund for future or contingent debts; then
- the balance to be divided amongst the members in proportion to their superannuation balances (both accumulation and pension balance accounts) and either paid to the member (if that member has met a condition of release) or transferred to the member's account in another complying superannuation fund (if the member has not yet met a condition of release).

Superannuation legislation also requires the trustee to notify the Tax Office of the Fund's changed status within 28 days of the Fund ceasing to exist.

**Resolutions of the Trustee**

### **Winding Up of Fund and Closure Date**

**Resolved** that the Fund be wound up as of 1/04/2023 ("Closure Date").

### **Notice to Members**

**Resolved** that a notice be issued to each of the Members setting out the Trustee's decision to terminate the Fund and the Closure Date.

### **Fund Information**

**Noted** that Fund financials and member information have been collated and, amongst other things, specifies the:

- assets and liabilities of the Fund;
- estimated future or contingent liabilities of the Fund for the current financial year (including tax liabilities, costs in winding up of Fund and other legal, accounting and administrative costs); and
- dollar amount of each member accumulation account and/or pension account including the dollar amount of the tax components of each balance and details as to whether each member has met a condition of release;

**Resolved** that the information has been prepared after reasonable investigation of the Fund's position and is, to the satisfaction of the Trustee, accurate and complete.

#### **Sale of Assets**

**Resolved** that all assets held in the Fund be rolled into Praemium Super on finalisation and paid into member's benefits

#### **Payment of Liabilities**

Noted the liabilities/debts of the Fund are estimated to be no more than \$5,700 to creditors and \$4,500 to the ATO which will cover the 2022 and 2023 years expenses and liabilities

**Resolved** that the Trustee attend to the payment of all liabilities/debts of the Fund.

#### **Audit and Preparation of Annual Fund Return**

Noted the Fund will have a tax liability for the current financial year for the windup of the fund and final accounts.

**Resolved** that Tony Boys – of Super Audits along with Heather Byrne Accountant be instructed to arrange for an audit of the Fund and to prepare and lodge a final Annual Fund Return.

**Resolved** that it is not necessary to provide an acknowledgement of receipt to the members who have provided deduction notices and to any members that provide deduction notices prior to the Closure Date of the Fund. No contributions.

#### **Establishment of Wind up Expense Reserve**

Noted the contingent and future liabilities (including expected liabilities for winding up) of the Fund are estimated at no more than \$10,200.

**Resolved** that the Trustee sell/transfer sufficient assets of the Fund to the Accountant's trust account with a balance equal to the estimated value of the contingent and future liabilities.

**Resolved** that the Trustee authorises the accountant to effect bank transfer and pay each of the contingent and future liabilities as they become payable and that any surplus be allocated to each of the members' accumulation accounts in proportion to their total superannuation interest in the Fund.

### **Payment of Member Benefit**

### **Closure of Bank Account**

**Resolved** that the Trustee sign all documents necessary to permit the Fund's bank account at ANZ to be closed effective from the date the Trustee is satisfied no further payments will be banked to the bank account.

### **Notification to ATO**

**Resolved** that, within 28 days of the Closure Date, the Trustee provide written notice to the Australian Taxation Office of the winding up of the Fund.

### **Notification to ASIC for Span Super Pty Ltd**

**Resolved** that, prior to the Trustee's next ASIC annual review date, the Trustee lodge an ASIC Form 484 *Change to company* details form with ASIC to provide notification the Trustee is no longer a special purpose company. The company is to be deregistered

**Signing & Dating** – *For the purposes of this Part "Trustee" means the company which acts as trustee*  
**Trustees/Directors** *or the group of individuals which constitute the trustee (as the case may be).*

Signed as a Written Resolution of the Directors of SPAN SUPER PTY LTD A.C.N 650 365 085 as Trustee of the  
Span Super Fund ABN 78 356 390 989

.....

(Nicholas Johnson  
Director and Sole Member

Dated: 21<sup>st</sup> March 2023



**Notice to Member Winding Up of Span Super Fund ABN 78 356 390 989**

By resolution dated 21 March 2023 the Trustee resolved to wind up the Fund effective on and from 1/04/2023 "Closure Date".

Prior to the Closure Date, the Trustee intends to take the following action:

1. the sale of all assets of the Fund
2. the payment of all present and future liabilities of the Fund;
3. for members that have met a condition for the release of their superannuation benefit, the payment of that benefit; and
4. any such other actions required of the Trustee by law to wind up the Fund.

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Nicholas Johnson  
Director and Company Secretary  
Span Super Pty Ltd A.C.N 650 365 085

Span Super Pty Ltd A.C.N 650 365 085  
70 Springside Road  
Colo Vale NSW 2575

Date: -

Australia Taxation Office  
PO Box 3578  
ALBURY NSW 2640

**Notice of winding up of The Span Super Fund**

On 21<sup>st</sup> March 2023 the trustee of the Fund resolved to commence the process of winding up  
the **Span Super Fund** ABN 78 356 390 989

The winding up was completed by on

In accordance with regulation 11.07A *Superannuation Industry (Supervision) Regulations 1994*, the Trustee  
advises:

1. the name of the Fund is Span Super Fund
2. the Fund ceased to exist as of .....
3. the Fund's ABN is 78 356 390 989
4. the contact person for the Fund is:  
Heather Byrne Accountant & Tax Agent  
Mobile phone: 0439582717  
PO Box 921 Buderim QLD 4556

Please contact the above named person if you have any queries in relation to this Fund.

Yours sincerely

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Nicholas Johnson  
Director  
Span Super Pty Ltd A.C.N 650 365 085

