

## Director resolution

KS Trading Investments Pty Ltd - ACN 638 378 471

### *Trust deed*

- 1 A trust deed establishing KS Super Fund (**Fund**) and a member application for each member have been provided to the Company.
- 2 The Company proposes to act as trustee of the Fund pursuant to the trust deed and to:
  - a apply to become a regulated complying self-managed superannuation fund;
  - b apply to the Australian Taxation Office (**ATO**) for an Australian Business Number (**ABN**) and a Tax File Number (**TFN**) for the Fund;
  - c establish a cash account (such as a cash management trust) or cheque account for the Fund;
  - d appoint an administrator or accountant to the Fund; and
  - e appoint an auditor to the Fund.

### *Resolution*

- 3 To consent to act as trustee of the Fund.
- 4 To execute the trust deed and any ancillary documents required to establish the Fund.
- 5 To complete the following:
  - a establish a cash account and deposit funds in the account to be held in the name of the Company as trustee for the Fund;
  - b notify the ATO of the Fund's intent to become a regulated self-managed superannuation fund;
  - c complete ABN and TFN forms to be filed with the ATO;
  - d formulate and implement an investment strategy of the Fund;
  - e appoint relevant professionals including, where required, an accountant, administrator, auditor, SMSF expert, SMSF investment expert and any other professional deemed appropriate; and
  - f accept Kiran Singh as initial member of the Fund.

**The Director**

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Signed by Kiran Singh:



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**Kiran Singh**  
Director

Dated: 10/01/2020

**APPLICATION FOR MEMBERSHIP FORM  
KS SUPER FUND (FUND)**

**Trustee:** KS Trading Investments Pty Ltd - ACN 638 378 471  
**Member Name:** Kiran Singh  
**Residential address:** 3 Green View Drive, GRANGE, SA 5022  
**Date of birth:** 28 March 1985  
**TFN:** 402 951 669

I apply for membership with the Fund and warrant as follows as a condition of my application:

- 1 I am not bankrupt.
- 2 I have had the opportunity to meet with legal, financial and accounting advisors, and am satisfied that membership in the Fund is appropriate to my circumstances and needs.
- 3 I understand that if I am accepted as a member, my membership may be subject to restrictions.
- 4 I understand that membership in a self managed superannuation fund carries with it risks and I am comfortable becoming a member, notwithstanding those risks.
- 5 I agree that, unless I provide notice to the Trustee in writing, I do not require any insurance to be held within the Fund in respect of my membership.
- 6 I undertake to provide any relevant information or documentary evidence to the Trustee and agree to submit to health and medical tests as and when requested by the Trustee.
- 7 I acknowledge the Trustee may collect my personal identification documents and Tax File Number (**TFN**), which will be treated as confidential in accordance with the *Privacy Act 1988 (Cth)* (**Privacy Legislation**).
- 8 I acknowledge that submitting this application allows the Trustee to use my TFN for the purposes contained in the Law (as defined in the trust deed for the Fund), including:
  - a providing information to the Australian Taxation Office;
  - b paying employment termination payments;
  - c amalgamating superannuation benefits; and
  - d providing information to other superannuation funds receiving any benefits I may select (unless I ask in writing for it to be withheld).
- 9 I authorise the Trustee to retain and store information on my behalf despite any provision to the contrary in any Privacy Legislation.
- 10 I agree to all of the terms and conditions set out in the trust deed for the Fund, as amended from time to time.
- 11 I declare that the information I provide to the Trustee is true and correct. I acknowledge it is my responsibility to inform the Trustee of any error or changes regarding these matters.

**The Member**

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Signed by Kiran Singh:



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**Kiran Singh**  
Member

Dated: 10/01/2020

**Product disclosure statement**  
**KS Super Fund**

## Summary

### Purpose of product disclosure statement (PDS)

- A The PDS **attached** to this summary has been prepared by View Legal Pty Ltd. It is designed to help you make a decision about whether to acquire an interest in KS Super Fund (**Fund**).
- B The Law allows you 14 days from the date of issue of the PDS to decide if you wish to acquire an interest in the Fund.

### Information in a PDS

- C The PDS generally sets out:
- (i) the nature of self-managed superannuation funds (**SMSF**), and in particular the Fund;
  - (ii) the main advantages and disadvantages of acquiring an interest in the Fund; and
  - (iii) information about contributions, payment of benefits and related tax issues.

### What you should do

- D If you decide to acquire an interest in the Fund please sign and date the PDS.

# Product disclosure statement – self-managed superannuation fund

## 1 Overview

- 1.1 This PDS has been prepared by View Legal Pty Ltd. It is intended to be a general guide to establishing and maintaining a SMSF. It is not intended to be legal or financial advice.
- 1.2 If you intend to take action (or not act) based on something dealt with in this PDS, you should firstly obtain specialist advice. Advice can generally be provided by any specialist financial adviser, accountant, or lawyer (including View Legal Pty Ltd).
- 1.3 The PDS provides general commentary about SMSFs, including:
  - (a) their advantages and disadvantages;
  - (b) contributions;
  - (c) payment of benefits; and
  - (d) taxation issues.

## 2 SMSFs

- 2.1 An SMSF is a superannuation fund with a limited number of members, established by a trust deed. The members of an SMSF have sole responsibility to manage the Fund. In contrast, larger funds have an independent trustee who is responsible for all aspects of managing the Fund.

### ***Advantages and disadvantages***

- 2.2 The main advantages and disadvantages of an SMSF, are outlined below.
- 2.3 The advantages of an SMSF can include:
  - (a) trustees have the discretion to choose the investments of the Fund, within its investment;
  - (b) ability to borrow to buy assets;
  - (c) generally a maximum 15% tax rate on income and a 10% tax rate on capital gains;
  - (d) generally a 0% tax rate for members aged at least 60 receiving on income stream;
  - (e) flexibility on tailoring how members receive benefits, including using Transition to Retirement Income Stream (**TRIS**);
  - (f) complementary estate planning arrangements using benefit nominations;
  - (g) flexibility in relation to insurance arrangements;
  - (h) intergenerational wealth management (subject to the maximum member limit of 4 members);
  - (i) tax-free payments when the member dies to their 'tax dependants' (explained below);
  - (j) ability to transfer assets to members 'as is' (or 'in specie'), instead of being sold and the cash distributed;
  - (k) asset protection on a member's bankruptcy;

- (l) reduced reporting requirements when compared with larger funds; and
  - (m) ability to potentially access a lower fee structure than that for larger funds.
- 2.4 Depending on your circumstances, many of the advantages outlined above may in fact be disadvantages.
- 2.5 Some other specific disadvantages of an SMSF can include:
- (a) the amount of personal involvement, responsibility and specialised knowledge required to manage the Fund;
  - (b) fees can be greater than those for larger funds, particularly if the SMSF has a small asset base;
  - (c) once established, it can be difficult to unwind an SMSF, particularly if its assets are illiquid; and
  - (d) there are strict Australian residency rules for members.

### 3 Establishing an SMSF

3.1 The main steps to establish an SMSF are summarised below.

#### ***Trust deed***

3.2 A document confirming the rules by which the trustee administers the SMSF must be prepared (trust deed). All trustees are bound by the trust deed and are jointly responsible for any breach of it.

3.3 The deed must be dated, signed by each trustee and updated regularly for changes in the law.

#### ***Trustee eligibility***

3.4 An individual trustee, or a director of a corporate trustee must be:

- (a) at least 18 years of age; and
- (b) not an undischarged bankrupt, insane or a 'disqualified person'.

3.5 A person will be a 'disqualified person' if they are:

- (a) insolvent;
- (b) convicted of an offence relating to dishonest conduct at any time; or
- (c) subject to a civil penalty order for breaches of the superannuation laws.

#### ***Trustees***

3.6 The trustees manage the SMSF and must be either a company or individuals. For constitutional reasons where there are individual trustees, the purpose of the SMSF must be the provision of old age pensions.

3.7 A sole purpose company acting as trustee is generally seen as best practice as it:

- (a) allows greater certainty and control because companies can exist indefinitely;
- (b) gives access to lower annual Australian Securities and Investment Commission (ASIC) lodgement fees as compared to other companies; and



- (c) ensures fewer administrative costs when control of the SMSF changes. For example, the removal or admission of an individual trustee means title to each asset of the Fund must be changed. For a corporate trustee, all that is required when changing a director is a notice to ASIC. Title in the assets of the Fund remains in the name of the corporate trustee.

3.8 The Australian Taxation Office (**ATO**) has released guidelines on the contrasting issues that arise on using individual and corporate trustees, and this can be found at the following link:

<https://www.ato.gov.au/Super/Self-managed-super-funds/Setting-up/Choose-individual-trustees-or-a-corporate-trustee/>

#### ***Election***

3.9 To access the concessional taxation regime, the trustee of an SMSF must lodge an election with the ATO within 60 days of establishing the Fund.

#### ***Applications for TFN, ABN and GST***

3.10 Trustees must lodge an 'Application to Register for the New Tax System Superannuation Entity' form to obtain a Tax File Number (**TFN**), Australian Business Number (**ABN**) and, if necessary, to register for the Goods and Services Tax (**GST**).

3.11 Specific steps may also be required to ensure compliance with:

- (a) Pay As You Go (**PAYG**) obligations;
- (b) withholding tax; and
- (c) various state taxes.

#### ***Standards of care***

3.12 There are a number of minimum standards of care imposed on every trustee of an SMSF, including acting:

- (a) honestly;
- (b) prudently;
- (c) in the best interests of members; and
- (d) in accordance with the standards of care prescribed under the superannuation laws.

Any breach of these standards of care can trigger civil and criminal penalties.

#### ***Bank account***

3.13 A trustee must establish a bank account to hold all money belonging to an SMSF separate from other accounts (for example from members, the trustee personally and from contributing employers).

3.14 Any cheques paid to an SMSF should be clearly marked, for example, 'XYZ Pty Ltd as trustee for the SMSF Fund'.

3.15 Any investments by an SMSF should be similarly recorded.

#### ***Remuneration***

3.16 Trustees cannot be paid for performing their trustee duties in managing an SMSF.

## 4 Costs and cooling off period

### **Costs**

4.1 There are numerous costs associated with operating an SMSF, including:

- (a) legal fees establishing the Fund;
- (b) accounting fees in preparing regulatory returns and administering the Fund;
- (c) transaction costs in relation to acquiring and maintaining assets; and
- (d) ongoing management costs (including audit fees).

4.2 The quantum of fees can vary between firms and best practice involves considering the likely costs prior to deciding to establish an SMSF.

### **Cooling off period**

4.3 This PDS is designed to help you decide whether to acquire an interest in an SMSF.

4.4 The Law allows you 14 days from the date of issue of this PDS to decide if you want to proceed.

4.5 It is important to note that during this cooling off period you have the right to decide not to acquire an interest in an SMSF.

## 5 Trustee and member eligibility

5.1 Specific rules apply to admission as a trustee or member of an SMSF depending on issues such as whether the SMSF has:

- (a) individual trustees;
- (b) a corporate trustee; or
- (c) is a single member fund.

### **Individual trustees**

5.2 Where an SMSF has individual trustees:

- (a) the Fund can only have the maximum number of members permitted by law;
- (b) each individual trustee must be a member of the Fund and vice versa; and
- (c) no member can be an employee of another member of the Fund, unless they are related.

### **Corporate trustee**

5.3 Where an SMSF has a corporate trustee, essentially the same rules as those for an SMSF controlled by individual trustees apply, however each director of the trustee company must be a member of the Fund and vice versa.

### **Single member**

5.4 Where an SMSF has a single member, the SMSF must satisfy one of the following rules:

- (a) it must have a corporate trustee of which the member is the sole director;

- (b) it must have a corporate trustee of which the member is one of only two directors and the other director is either a relative, or a person who is not a relative and also not an employer, of the member; or
- (c) two individual trustees, one of whom is the member and the other is either a relative, or a person who is not a relative and also not an employer, of the member.

**Exceptions**

5.5 The trustee and member rules are subject to the following main exceptions:

- (a) a parent or guardian can act as trustee or director for a member under 18;
- (b) where a member is deceased or incapacitated, a legal personal representative (**LPR**) can act as trustee for that member;
- (c) a beneficiary of a pension paid following a member's death is considered a member of the Fund if that beneficiary is not already a member (and therefore must become a trustee or if the trustee is a company, a director of the trustee); and
- (d) a person holding an enduring power of attorney for an incapacitated member can act as a trustee or director for a member without formally being a member.

## 6 Investments

**Sole purpose test**

6.1 SMSFs must comply with the 'sole purpose test' in the *Superannuation Industry (Supervision) Act 1993* (Cth) to avoid significant penalties. This means all investments of the Fund must be acquired for the sole purpose of providing retirement benefits for members and also comply with various investment rules.

**Written investment strategy**

6.2 Before acquiring any investment, an SMSF must have a written investment strategy taking into account issues such as cash flow, risk, return, diversification, liquidity and ability of the Fund to meet liabilities when they arise.

6.3 The investment risk profiles of each individual member of the SMSF must also be considered. For example, it might be appropriate that members nearing retirement have a higher proportion of their funds invested in low risk, capital preserving investments.

6.4 A financial adviser or investment manager holding an Australian Financial Services Licence should be engaged if the trustee requires any guidance about an SMSF's investment strategy.

6.5 An SMSF investment strategy must be reviewed and updated regularly.

**Types of investments**

6.6 An SMSF can generally invest in any form of assets including shares, bonds, property, and cash. However speculative investments, even in traditional asset classes (for example share futures trading) may not be considered a prudent investment in the context of the 'sole purpose test' outlined above.

6.7 The ATO also generally considers certain 'lifestyle' related investments (for example, cars, boats, beach houses and artwork) that can be enjoyed, leased or used personally by members of the Fund or their related parties as inappropriate investments.

6.8 Specialist advice should be obtained before investing in a manner that does not clearly align with the sole purpose test and an agreed investment strategy.

## 7 Restrictions on investments

7.1 There are a number of restrictions on the types of investments an SMSF may make. The main rules are set out below.

### **Overview**

7.2 An SMSF cannot lend money or otherwise provide financial assistance to members or related parties.

7.3 An SMSF can only borrow money if:

- (a) the lending complies with the limited recourse loan provisions;
- (b) it relates to the settlement of share transactions within 7 days and the value of the transaction is less than 10% of the value of the Fund;
- (c) the borrowing helps fund benefit payments and the amount borrowed is less than 10% of the value of the Fund and is for less than 90 days.

7.4 An SMSF should ensure all transactions are on arm's length terms.

### **Specific constraints**

7.5 An SMSF must ensure less than 5% of the market value of its assets are invested in 'in-house assets'. In-house assets include investments in, loans to or a lease arrangement with a related party.

7.6 Related parties include members of the Fund and their associates (such as relatives, business partners and entities controlled by a member or their associates).

7.7 Importantly, the prohibition on an SMSF acquiring assets from a member or a related party does not apply to:

- (a) listed shares;
- (b) business real property (as defined in the *Superannuation Industry (Supervision) Act 1993* (Cth));
- (c) interests in a widely held unit trust; or
- (d) interests in a closely held unit trust where there are no borrowings.

7.8 Specialist advice should be obtained before seeking access to any of the above exceptions.

## 8 Contributions

8.1 Contributions to an SMSF can generally be made by:

- (a) an employer of a member;
- (b) a member; and
- (c) the spouse of the member.

8.2 The quantum of concessional contributions permitted in a financial year is subject to a limit for each employee that contributions are made for.

- 8.3 Concessional contributions which count towards the concessional limit include all employer contributions (e.g. super guarantee and salary sacrifice), member contributions which are claimed as a tax deduction and certain allocations from Fund reserves.
- 8.4 The amount of non-concessional member contributions is also subject to annual limits.
- 8.5 From 1 July 2017, the use of a transfer balance cap will largely dictate the ability for non-concessional contributions to be made. Broadly where a member is close to, or has exceeded the transfer balance cap, they will be restricted in their ability to make non-concessional contributions. The transfer balance cap for the 2019/2020 financial year is \$1.6 million and is indexed to the consumer price index in \$100,000 increments.
- 8.6 All individuals under the age of 65, and those aged 65 to 74 who meet a work test, can claim a tax deduction for personal contributions to eligible superannuation funds up to the concessional contributions cap (explained below).

***Under 65***

- 8.7 Anyone under the age of 65 can make contributions without restrictions.

***Between the ages of 65 and 74***

- 8.8 Contributions from a person aged 65 to 74 can be made if the person has been gainfully employed on at least a part time basis during the financial year.
- 8.9 The specific definition in this regard is that the person worked at least 40 hours over a period of not more than 30 consecutive days in the financial year.
- 8.10 However, the above employment test for voluntary contributions from a person aged 65 to 74 does not apply to downsizer contributions.

***Over 75***

- 8.11 A person cannot make personal superannuation contributions from 28 days after the end of the month in which they turn 75. Mandated employer contributions and downsizer contributions may however be made.

***Under 18***

- 8.12 Persons under the age of 18 are entitled to a deduction for contributions if they have derived income from the carrying on a business or from eligible employment.

***Contribution limits***

- 8.13 The maximum amount of concessional and non-concessional contributions that may be paid by an employer, a self-employed person or a member for the 2019/2020 year of income without potentially being subject to excess contributions tax, is set out below:

<b><i>Contribution type</i></b>	<b><i>Contribution limit</i></b>
Concessional contributions	\$25,000 per annum per person regardless of age on 1 June 2017. If a person does not make a full concessional contribution, they may carry forward any unused concessional amounts to a future year if they have a superannuation balance of less than \$500,000 just before the relevant financial year.
Non-concessional contributions	For contributions after 1 July 2017:

<b>Contribution type</b>	<b>Contribution limit</b>
	(a) \$100,000 per annum per person provided that individual's total superannuation balance is less than the general transfer balance cap (which for the 2019/2020 financial year is \$1.6 million);
	(b) \$300,000 per person under 65 averaged over three years if a 3 year contribution was started on or after 1 July 2017 and the individual has a total superannuation balance of less than \$1.4 million on the 30 June preceding the contribution; or
	(c) \$200,000 per person under 65 averaged over three years if a 2 year contribution was started on or after 1 July 2017 and the individual has a total superannuation balance between \$1.4 million and \$1.5 million on the 30 June preceding the contribution.

- 8.14 For any excess superannuation contributions breaching the non-concessional cap, the government will allow individuals to withdraw those excess contributions and associated earnings.
- 8.15 If a member chooses this option, no excess contributions tax will be payable and any related earnings will be taxed at their marginal tax rate.
- 8.16 Contributions can be less than the maximum deductible contributions and any contributions made should be credited to a member's accumulation account within 28 days of the end of the month they are received.
- 8.17 If an individual has a member balance of less than \$500,000, they may use their unused concessional caps for a period of up to five years, and in effect make 'catch-up' concessional contributions.

#### ***Downsizer contributions***

- 8.18 Subject to certain criteria being met, each member aged 65 years or older (with no upper age limit) can make a contribution to their superannuation account from the proceeds of selling their family home without having to satisfy any employment test. This is referred to as a 'downsizer contribution'.
- 8.19 A downsizer contribution has an upper limit of \$300,000 for each member.
- 8.20 The downsizer contribution amount also must not exceed the total proceeds of the sale of the home.
- 8.21 Generally, a downsizer contribution must be contributed to the Fund within 90 days of a member receiving the proceeds of sale.
- 8.22 Downsizer contributions form part of the member's tax free component held in the Fund.

#### ***Spouse contributions***

- 8.23 Where a spouse is a member of the Fund, eligible spouse contributions may be accepted by an SMSF at any time if the spouse is under the age of 65.

- 8.24 If the spouse is aged 65 to 74, eligible spouse contributions may only be accepted if the spouse is gainfully employed on at least a part time basis. If the spouse is 75 or over, no spouse contributions can be made.

***Contributions for children under 18***

- 8.25 Parents, grandparents, friends and employers can contribute on behalf of children.

***Co-contribution for low income earners***

- 8.26 Subject to a Government proposal to repeal the co-contribution scheme, if a person makes a personal super contribution, the Government will make a co-contribution up to certain limits on the following basis:

<b><i>Lower income threshold</i></b>	<b><i>Higher income threshold</i></b>	<b><i>Co-contribution</i></b>	<b><i>Maximum entitlement</i></b>
\$38,564 (for 2019/20)	\$53,564 (for 2019/20)	\$0.50 for every \$1, up to a maximum super co-contribution limit of \$500 a year	The maximum entitlement is \$500. However, this is reduced by 3.333 cents for every dollar of total income, less business deductions over \$38,564, up to \$53,564.

***Minimum employer contributions***

- 8.27 Employers must contribute a minimum amount of superannuation support for each employee as set out in the *Superannuation Guarantee (Administration) Act 1992* (Cth).
- 8.28 The minimum amount progressively contributed by an employer is 9.5% from 1 July 2014 and will remain at this level until 30 June 2021. The rate will then increase by 0.5 percentage points each year until it reaches 12% in 2025/2026.

**9 Payment of benefits**

- 9.1 The SMSF established under View Legal Pty Ltd's trust deed (**Trust Deed**) is an allocated accumulation fund. This means the total amount of a member's accumulation account will be their entitlement in the Fund on an access event.
- 9.2 The accumulation account is made up of all contributions, rollover payments and income on those amounts, less expenses and taxation.

***Access events***

- 9.3 Benefits are payable as either of, or a combination of:
- (a) a lump sum; or
  - (b) an income stream.
- 9.4 A number of rules apply to any income stream to be paid by the Fund and specialist advice should be received before a member or beneficiary commences an income stream.
- 9.5 The events which trigger access to benefits are:

- (a) disability superannuation benefit - benefits are payable if a member has suffered physical or mental ill health and the member is unlikely to be gainfully employed again in a position for which the member is reasonably qualified due to their education, experience or training;
- (b) retirement - once the preservation age is attained (explained below) a retirement following that date triggers access to benefits
- (c) early retirement from employment - benefits can become payable on early retirement from employment;
- (d) death - benefits must be paid on the death of a member; and
- (e) TRIS - there can be access to a non commutable income stream upon attaining the relevant preservation age (as from 1 July 2017, income generated from assets supporting the payment of the TRIS will be taxed at 15%).

## 10 Preserved benefits

10.1 The Government requires preservation of benefits until a member retires from the workforce on or after attaining the preservation age subject to exceptions such as total and permanent disablement or a TRIS.

10.2 The preservation age is 60, subject to the following exceptions:

<b><i>Date of Birth</i></b>	<b><i>Preservation Age</i></b>
After 30 June 1964	60
Between 30 June 1963 and 1 July 1964	59
Between 30 June 1962 and 1 July 1963	58
Between 30 June 1961 and 1 July 1962	57
Between 30 June 1960 and 1 July 1961	56
Before 1 July 1960	55

10.3 Generally, all benefits in a superannuation fund must be preserved until the member's preservation age. There are some limited exceptions to this rule, and again specialist advice should be sought before seeking to gain early access.

## 11 Death benefits

11.1 Where a member dies their benefit must be paid to:

- (a) a superannuation dependant (essentially an immediate family member); or
- (b) the member's LPR.

11.2 A beneficiary who is a superannuation dependant may also not qualify as a dependant for tax purposes (known as a 'Tax Dependand').

11.3 A Tax Dependand of deceased member includes only:



- (a) any spouse;
- (b) former spouse;
- (c) any children under the age of 18; and
- (d) any other person who was dependant upon or had an interdependency relationship with the deceased.

- 11.4 Tax will generally be payable on any benefits distributed other than to Tax Dependants.
- 11.5 The taxation consequences also differ depending on whether the amount is paid as a lump sum or an income stream and, in the case of an income stream, the ages of the deceased person and the recipient.
- 11.6 Only Tax Dependants can receive an income stream.

***Binding death benefit nominations (BDBNs)***

- 11.7 The Trust Deed permits BDBNs whereby a member can direct the trustee to pay their benefits on death to nominated dependants.
- 11.8 The BDBN can also specify the manner in which the member's benefit is to be paid (that is lump sum or an income stream or both).

***Advantages of BDBNs***

- 11.9 Three of the main advantages of BDBNs are:
- (a) reduced risk of successful disputes over death benefit payments;
  - (b) tax planning opportunities for members with infant children; and
  - (c) asset protection planning.

***Disadvantages of BDBNS***

- 11.10 Three of the main disadvantages of BDBNs are:
- (a) the tax and estate planning issues in relation to the payment of superannuation death benefits are complex and difficulties can often arise with BDBNs that prove to be inappropriate;
  - (b) if a member's circumstances change and they have failed to update their BDBN, the original BDBN will remain binding on the trustee; and
  - (c) a number of court decisions since 2012 have resulted in significant confusion about the exact requirements to ensure a BDBN is valid.
- 11.11 Members may also implement standard nominations (or non-BDBN), which give the trustee guidance as to where to pay a benefit, but need not be followed.

## 12 Taxation

***Tax on payments***

- 12.1 Benefits distributed to a member will be taxed either as a:
- (a) Tax Free Component; or
  - (b) Taxable Component.

12.2 As the tax regime is complex, specialist advice should be sought, however broadly the position is as follows:

<b>Lump sums</b>	<b>Age or dependant status</b>	<b>Tax treatment (Tax Rate %)</b>	
		<b>Tax Free Component</b>	<b>Taxable Component</b>
Paid from a super fund	Under 55	0%	20%
	55 to 59	0%	Up to low rate threshold: 0% Balance: 15%
	60 and over	0%	0%
Death benefit	Tax dependant	0%	0%
	Non-tax dependant	0%	15%, or 30% on certain insured benefits
<b>Pensions</b>	<b>Age</b>		<b>Tax treatment</b>
Paid from super fund	55 to 59	0%	[Taxable component x marginal tax rate] – 15% rebate
	60 and over	0%	0%
Death pension – reversionary pension paid to tax dependant (RB) of a primary beneficiary (PB) on death	PB < 60 and RB < 60	0%	[Taxable component x marginal tax rate] – 15% rebate
	PB < 60 and RB > 60	0%	0%
	PB > 60	0%	0%

12.3 The superannuation lump sum low rate threshold is \$210,000 for the 2019/2020 financial year. This amount is reduced by any amount previously applied to the low rate threshold.

12.4 Where benefits have not been subject to contributions tax in the Fund (i.e. there is an element untaxed in the Fund), an untaxed plan cap applies. This cap is set at \$1,515,000 for the 2019/2020 financial year.

#### **Rollovers**

12.5 If a member's benefits are rolled over into another superannuation fund, approved deposit fund or annuity, no tax is payable until they ultimately receive the benefit.

### ***Concessional contributions***

- 12.6 Concessional contributions are sourced from pre-tax income. If a contribution is made within the concessional contribution limit it is taxable in the hands of the trustee at 15%. Any contributions above the concessional contribution limit trigger an additional tax of 31.5% on top of the 15%.

### ***Non-concessional contributions***

- 12.7 Non-concessional contributions are sourced from after tax income. Personal non concessional contributions within the non-concessional contribution limit are not subject to tax.
- 12.8 Non-concessional contributions above the non-concessional contribution limit are taxed at the top marginal rate of 46.5%, plus Medicare levy.

### ***Low income spouse rebate***

- 12.9 An income tax rebate of up to \$540 per annum is available to a person who makes a superannuation contribution to a complying superannuation fund on behalf of a low or no income spouse under the age of 70 years (although the work test must be met for spouses aged between 65-69).
- 12.10 To qualify for the rebate a number of conditions must be satisfied including:
- (a) contributions must be from after tax income; and
  - (b) the spouse's assessable income must be less than \$40,000.

### ***Income tax***

- 12.11 The standard rate tax rate for an SMSF is 15%.
- 12.12 The effective tax rate may be less than 15% due to imputation credits paid to an SMSF.
- 12.13 When franking rebates exceed the 15% rate, an SMSF can use the excess to offset its tax liability on other income.
- 12.14 An SMSF is also entitled to a refund of excess imputation credits if there is no other assessable income (and therefore no tax liability) to take advantage of the excess rebate.
- 12.15 However 'special' income is taxed at 46.5%. Special income includes:
- (a) income where the Fund and the other entity are not dealing with each other at arm's length; and
  - (b) certain trust distributions (from discretionary or unit trusts) where the distributions are not at arm's length.

### ***Deductions***

- 12.16 General rules for deductions apply to SMSFs. This means that Fund expenses are deductible to the extent to which they are incurred in gaining or producing assessable income.
- 12.17 Some expenses of an SMSF which are generally deductible include:
- (a) administration fees;
  - (b) actuarial costs;
  - (c) accountancy and audit fees;

- (d) costs of providing death or disability benefits such as insurance premiums; and
- (e) investment adviser fees.

**Capital gains tax (CGT)**

- 12.18 A one-third discount applies on any capital gain an SMSF realises if the asset has been owned for more than 12 months.
- 12.19 Subject to strict rules, the small business CGT retirement exemption of \$500,000 from the sale of an 'active business asset' by a member can be rolled into an SMSF.

**Goods and services tax (GST)**

- 12.20 Generally the investment activities of an SMSF do not have GST consequences. However, certain transactions may constitute taxable supplies, in which case the SMSF must collect GST and remit it to the ATO.

## 13 Other information

**Annual statement**

- 13.1 The trustee should issue an annual statement to each member confirming their current entitlements in the Fund.

**Deed variation**

- 13.2 The Trust Deed allows the trustee to vary the Trust Deed.
- 13.3 However, any variation cannot reduce the accrued benefits of a member without the consent of that member unless the reduction is required to enable the Fund to continue to comply with legislative requirements.

**Medical evidence**

- 13.4 The Trust Deed allows the trustees to implement insurance for death and disability.
- 13.5 The insurance company that undertakes the insurance may require certain information about a member's medical condition before allowing the trustee to obtain a policy.

**Expenses**

- 13.6 Various expenses of operating an SMSF can be debited as the trustee determines against the members' accumulation accounts, including:
  - (a) the costs of any insurance policy or annuity;
  - (b) tax on contributions, investment earnings or other fund income or benefits payments;
  - (c) administrative expenses including the costs of preparing and lodging the annual ATO returns; and
  - (d) investment losses.

**Forfeiture**

- 13.7 The Trust Deed allows a member's benefits to be forfeited in certain circumstances, including:
  - (a) on an attempted assignment or charge of a benefit; and

- (b) where in the opinion of the trustee any fraud, embezzlement or serious misconduct as a member has occurred.

13.8 Upon forfeiture, the entitlement can be dealt with as the trustee determines.

13.9 For obvious reasons, there are extremely strict provisions that must be followed before a member's entitlement can be forfeited and specialist advice should always be obtained.

13.10 Subject to certain criteria, a member's benefits are however protected from the claims of creditors in the event of bankruptcy or insolvency.

***Winding up funds***

13.11 The Trust Deed allows for the Fund to be wound up.

13.12 An SMSF can be wound up at any time.

13.13 Specialist advice should be obtained before winding up an SMSF, as there are a range of issues to be addressed including:

- (a) taxation, stamp duty and other costs on the transfer of assets;
- (b) complying with the Trust Deed;
- (c) discharging all liabilities, outstanding tax and charges;
- (d) preparation and lodgement of tax and regulatory returns and notifications; and
- (e) potentially deregistering any corporate trustee.

**The Member**

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Signed by Kiran Singh:



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**Kiran Singh**  
Member

Dated: 10/01/2020