

# WHY SHOULD YOU KEEP YOUR SMSF TRUST DEED UP TO DATE?



Our SMSF Deed has been updated with legislative changes to 30th June 2022

## 30 Reasons why you should update your deed



## 30 REASONS WHY YOU SHOULD UPDATE YOUR DEED

To ensure that your Self Managed Super Fund benefits from all the latest legislative measures your deed must be updated before trustees can implement any strategies.

Super legislation governs the rules and regulations for SMSFs, the fund's deed is a critical component to ensure that the fund is managed in accordance with current law.

### Deeds are recommended to be updated due to following legislative changes:

**2022/2:** Reduced eligibility age for downsizer contribution, effective from 1st January 2023.

**2022/1:** Changes to work test requirement, Reduced eligibility age for downsizer contribution, Trustees will have a choice to use segregated current pension assets, etc.

**2021:** Increase to the maximum number of allowable members that allows family with more than 4 members to create single SMSF.

**2018:** To include provisions due to changes to the law incorporating Treasury Laws Amendment (fair & Sustainable superannuation) Bill of 2016, Treasury Laws Amendment (2017 Measures No. 2) Bill 2017 & Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures No. 1) Act 2017.

**2017:** Legislation passed in 2016, retirement phase and transfer balance cap etc.

**2007:** 'Simpler Super' contribution & retirement rules etc

**1999:** 'Excluded Funds' became 'Self-Managed Super Funds', preservation & in-house assets

It is wrong to assume that Superannuation law regulates how a superannuation fund must operate, this role is of the Governing Rules of the fund which prescribes superannuation law to the fund. There are many areas of law such as the SIS Act, SIS Regulations, ATO decisions, Case law & common strategies which change after fund establishment and warrant the trust deed of the fund to be updated.

SMSF Trust Deeds should be up to date to ensure trustees have powers to benefit from all legislative changes. It is a myth that deeming clause in a deed is adequate proclaiming any change in law is automatically to be included in the deed. Trustees must note that any relevant power or authority of the trustee must be conferred to them by its governing rules. **You need a living and breathing SMSF trust deed.**

To be sure that the fund governing rules have all the necessary powers to administer the fund and to assure auditors that all actions taken by the trustee are supported by funds trust deed, trustees must ensure that their fund's trust deed is always compliant with current legislation to avoid any administrative penalties.

# ENSURE THAT YOUR SMSF STRATEGIES ARE BACKED UP BY A ROBUST TRUST DEED

Below are some of the unique provisions of our latest SMSF Trust Deed. Our SMSF trust deed has been updated with superannuation law as on 1st July 2022 (Version 22/1) and as on 1st January, 2023 to include provisions of Superannuation Industry (Supervision) Act 1993 amendments up to Treasury Laws Amendment (Enhancing Superannuation Outcomes For Australians And Helping Australian Business Invest) Bill 2021, Treasury Laws Amendment (2022 Measures No.2) Bill 2022, and relevant changes to binding / non-binding death benefit nomination forms and provisions as a result of Hill V/s Zuda (Hill v Zuda Pty Ltd [2022] HCA 21 – Case No: P48/2021).

## SMSF Trust Deed provision

## Reason / Benefit for inclusion

|   |  |
|---|--|
| <b>1</b><br>In the case of company trustee, new members becoming a director in a trustee company must apply for a Director ID, before being appointed as a Director of a Trustee company.   | To acknowledge mandatory requirements of regulators to ensure compliance of relevant law.  |
| <b>2</b><br>Member under the age of 75 years can access the non-concessional bring-forward arrangement subject to certain conditions.   | From 2022-23 financial year and later years, member under the age of 75 years can access the non-concessional bring-forward arrangements if member has contributed more than annual cap (\$110,000 from 1st July 2021) subject to total superannuation balance cap and not in an active bring-forward. |
| <b>3</b><br>Trustee(s) may accept the contribution from the members who aged between 67 and 74 years without meeting the work test requirement. However, members must pass the work test for claiming deduction for personal concessional contribution. | To acknowledge trustee(s) or member(s) of changed requirements w.e.f. 1st July, 2022.  |
| <b>4</b><br>Member may re-contribute an amount upto withdrawn amount due to the COVID 19 early release scheme before 30 June 2030.  | To acknowledge members that they can re-contribute withdrawn amount under the COVID 19 early release scheme before 30 June 2030. Such re-contribution will not count towards Non-concessional cap.   |
| <b>5</b><br>Accept voluntary contributions from members under the First Home Super Saver (FHSS) scheme up to a maximum of \$50,000.   | Trustees are now able to accept concessional and non-concessional contribution from members which can also be released under FHSS scheme maximum to \$50,000 (from 1st July 2022). If a home is not purchased within the stipulated time, deposit the money back in the fund.                          |



# OUR TRUST DEED ALLOWS TRUSTEES TO ACCEPT DOWNSIZER & FIRST HOME SUPER SAVER SCHEME CONTRIBUTIONS FROM MEMBERS.

## SMSF Trust Deed provision

## Reason / Benefit for inclusion

6

SMSF Trustees who have reached the eligible age, may be able to contribute up to \$300,000 from the proceeds of the sale (or part sale) of their home into your superannuation fund.

The eligible age is as follows:

From 1 January 2023, 55 years old or older  
 From 1 July 2022, 60 years old or older  
 From 1 July 2018, 65 years old or older

To acknowledge changes in the age criteria for accepting downsizer contributions from members effective from 1st July, 2022 and 1st January, 2023

7

Expanded allowable investments to digital assets, non-fungible tokens (NFT) & Crypto currencies.

Trustees are now able to invest in non-fungible tokens (NFT) and in Crypto currencies like Bitcoin or similar type of digital or media assets purchased from authorized exchanges.

8

Hierarchy to death benefit payments, when paying as a pension to dependents, where there are conflicting binding death nominations, pension agreements with or without reversionary beneficiaries.

Deed gives trustee clear instructions to whom and how to pay the benefit, where there are valid or invalid binding death nominations or non-binding death benefit nominations and pension agreements. This clause gives priority to pension agreement and then in case of a Valid binding death nomination where there is no reversionary beneficiary nominated in pension agreement to pay the pension to the beneficiary listed in binding death nomination and where there is an invalid binding death nomination or a non-binding death benefit and no reversionary beneficiary nominated in pension agreement to pay an automatic pension to any dependant without any discretion.

9

Defining the binding death benefit nomination form, non-binding death benefit nomination form and changes to forms / related provisions as a result of Hill V/s Zuda (Hill v Zuda Pty Ltd [2022] HCA 21 – Case No: P48/2021).

Allows member(s) in effective estate planning and helps trustee(s) to determine whom the benefits to be paid upon death of a member.

# SMSF'S WILL BE ALLOWED TO HAVE 6 MEMBERS. IS YOUR TRUST DEED READY?

## SMSF Trust Deed provision

## Reason / Benefit for inclusion

10

Hierarchy to death benefit payments, when paying as a lump sum to non tax dependents, where there are conflicting binding death nominations, pension agreements with or without reversionary beneficiaries.

Deed gives trustee clear instructions to whom and how to pay the benefits, where there are reversionary beneficiary nominated or not and valid or invalid binding death nominations or non-binding death benefit nominations.

11

Trustee(s) can choose to treat all of the fund's assets as not being segregated current pension assets for an income year if all the fund's assets are held in support of retirement phase interests for part of the income year.

These changes allows trustees to choose their preferred method of calculating exempt current pension income when fund has member interests in both accumulation and retirement phase at one time, but only retirement phase interests at another time, during an income year.

12

Changes to the maximum number of members and trustees of the fund from 4 to 6 applies from 1st July 2021.

From 1 July 2021, the maximum number of members for self-managed superannuation funds (SMSF) increased from 4 to 6.

13

Adjustment to cap amounts of concessional (\$27,500) and nonconcessional (\$110,000) Contributions which can be made to the fund.

To acknowledge lower cap amounts from 1st July 2021.

14

Changes to transfer balance cap of \$1.7 million (applies from 1st July, 2021 and CGT Cap indexed to \$1.65 million (applies from 1st July 2022).

To acknowledge changes into the cap amount to ensure compliance with relevant law.



In order to administer fund effectively, does your Trust Deed allow automatic appointment of Legal Personal Representative (LPR) in certain cases, rollovers from / to another fund and internal rollover on happening of certain events etc.?

| SMSF Trust Deed provision | Reason / Benefit for inclusion |
|---------------------------|--------------------------------|
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|--|--|
| <p><b>15</b> Acceptance of additional concessional contributions above the cap amount in certain circumstances.</p>  | <p>Concessional contributions above the cap amount can be made by utilizing unused concessional contribution cap amounts from up to five previous financial years.</p>       |
| <p><b>16</b> Automatic appointment of Legal Personal representative of a member in case of unsound mind such as dementia or other related mental illness.</p>            | <p>Dependants do not have to now apply at the Guardian court to manage the fund, if the aged member loses mental capacity.</p>   |
| <p><b>17</b> Maintaining transfer balance cap of each member of the fund in retirement phase, including any superannuation balance that is not in this fund.</p>         | <p>Ensuring before commencing a pension that member does not breach the transfer balance cap amount (for financial year 2021/22 or later \$1.7M).</p>                        |
| <p><b>18</b> Trustee votes in case of any disagreement in a meeting are based on superannuation fund balance of the member (\$1 of member balance equals to 1 vote).</p> | <p>Parents with large amounts are able to control the SMSF when in disagreement with kids who have a lower balance.</p>  |
| <p><b>19</b> Internal rollover or transfer of members benefit from a pension account to an accumulation account.</p>   | <p>Helps the member to better manage their transfer balance account in the fund.</p>   |
| <p><b>20</b> Acceptance of a death benefit payment as rollover from another fund</p>   | <p>Allows death benefits to be paid from the SMSF where the deceased is not a member of the SMSF and where the beneficiary of the death benefit is a member of the fund.</p> |



WHO

WHEN

WHERE

How

WHY

WHAT

# DOES YOUR SMSF TRUST DEED AND PENSION DOCUMENTS ALLOW TRUSTEES TO ADD, REMOVE OR CHANGE REVERSIONARY BENEFICIARIES WITHOUT COMMUTING THE PENSION?

## SMSF Trust Deed provision

## Reason / Benefit for inclusion

21

Automatic commutation of one or more pension account of the member to accumulation account of the member.

Avoids the situation where ATO has determined excess transfer balance tax, if the total of all pension accounts breach the transfer balance account of the member to the extent of the excess amount.

22

Automatic pension conversion of all new contributions & roll over after the member has commenced a pension.

Avoids the need of any further statement of advice (SOA) from a financial planner to commence pensions for new contribution or roll over made to the fund. Only part of the amount will be converted to pension if the whole amount of new contribution or roll over breaches the transfer balance cap amount.

23

Automatic commutation of TRIS to accumulation account, where current pension exceed transfer balance cap amount.

To avoid breach of transfer balance cap amount, if the whole transition of retirement pension converts to an account based pension, the excess amount is moved to accumulation account automatically.

24

Automatically converting a TRIS to an account based pension in case of meeting nil conditions of release.

To ensure that TRIS moves itself to retirement phase (conversion to account based pension) on meeting nil conditions of release such as retirement (gainfully working for less than 10 hours per week), or terminal medical condition or permanent incapacity (item 101, 102A, 103 & 106 of Schedule 1 of SIS Regulation) or on attaining age 65 (item 106 of Schedule 1 of SIS Regulation).

25

Adding / replacing / removing a reversionary beneficiary without commuting a pension.

Helps the fund in maintaining old pensions due to social security requirements in grandfathering of pensions. Also in case of replacing reversionary beneficiaries in case of marriage breakdown or for any other reason.

# GET YOUR CLIENT'S SMSF DEEDS UPDATED IN BULK BY SUBSCRIBING TO OUR VOUCHER PACKAGE AND SAVE YOUR TIME AND MONEY.

## SMSF Trust Deed provision

## Reason / Benefit for inclusion

26

Automatic payment of reversionary pension to dependant in case of non nomination of reversionary beneficiary without any trustee discretion.

To allow the dependant to benefit from the delay of 12 months to credit their transfer balance account instead of immediate credit in case of death benefit pension.

27

Reverting only part of the pension of the deceased to not breach the Transfer Balance Account of beneficiary.

Helps in managing the transfer balance account (TBA) of the beneficiary as reversionary beneficiaries TBA gets credited after death of the member. Balance amount above the transfer balance cap amount is commuted and paid out as a lump sum.

28

Ability to pay non-reversionary pension where no reversionary beneficiary dependant is nominated by the member via binding death benefit nomination form (BDN) or non-binding death benefit nomination (NBDN), in the absence of BDN.

Allows trustee to commence death benefit pension in case member failed to nominate reversionary beneficiary dependent, to the dependents nominated in BDN or NBDN (in absence of BDN).

29

Valuation of assets (real estate and investment in private companies and trusts) to include selling costs and tax.

Lower valuation of these assets helps in keeping the total superannuation balance of members lower for any further non- concessional contributions.

30

Offer a separate investment strategy for any member of the fund.

Allows high earnings from certain assets to be credited to pension accounts, this helps the ECPI percentage of following years (but not segregate pension assets for exempt current pension income calculation purposes).










# REDUCE YOUR COST OF DOCUMENTS - BUY VOUCHERS




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| Number of Vouchers                                   | 25   | 50   | 100  |
|--|--|--|--|
| Price Per Document (Excl. GST)                       | \$100.00   | \$90.00  | \$80.00  |
| Price per document after applying inclusion benefits | \$66.00  | \$66.00  | \$65.00  |
| Expiry Period  | Never Expire   | Never Expire   | Never Expire   |
| Package Price (Excl.GST)                             | <b>\$2,500.00</b>  | <b>\$4,500.00</b>  | <b>\$8,000.00</b>  |
| Price Package after applying inclusion benefits      | <b>\$1,650.00</b>  | <b>\$3,300.00</b>  | <b>\$6,500.00</b>  |
| Inclusions   |  |  |  |
| Digital Signature                                    | <br>DIGITAL SIGNATURE MADE EASY<br><br>1 Year Single Corporate Plan<br>Value <b>\$700</b>   | <br>DIGITAL SIGNATURE MADE EASY<br><br>1 Year Enterprise Corporate Plan<br>Plan Value <b>\$900</b>   | <br>DIGITAL SIGNATURE MADE EASY<br><br>1 Year Enterprise Corporate Plan<br>Value <b>\$900</b>   |
| CPD for Accountants                                  | <br>.com.au<br><br><br>.com.au<br><br><b>1 Year CPD credit of \$150</b><br>Towards your CPD Register | <br>.com.au<br><br><br>.com.au<br><br><b>1 Year CPD credit of \$300</b><br>Towards your CPD Register | <br>.com.au<br><br><br>.com.au<br><br><b>1 Year CPD credit of \$600</b><br>Towards your CPD Register |
| SMSF Admin Panel                                     | Unlimited use of SMSF Admin Panel where SMSF Administrators can manage / collect documents and solve queries from Trustees and SMSF Auditors   | Unlimited use of SMSF Admin Panel where SMSF Administrators can manage / collect documents and solve queries from Trustees and SMSF Auditors   | Unlimited use of SMSF Admin Panel where SMSF Administrators can manage / collect documents and solve queries from Trustees and SMSF Auditors   |

# REDUCE YOUR COST OF DOCUMENTS - BUY MONTHLY PLANS

| Documents Per Year  | 100 Per Year   | 200 Per Year   | 300 Per Year   | 400 Per Year  |
|---|--|--|--|---|
| Price Per Document (Excl. GST)  | \$90.00  | \$70.00  | \$60.00  | \$50.00   |
| Package Price (Excl. GST)   | <b>\$9,000</b> (Per Year)  | <b>\$14,000</b> (Per Year)   | <b>\$18,000</b> (Per Year)   | <b>\$20,000</b> (Per Year)  |
| Package Price (Excl. GST)   | <b>\$750</b> (Per Month)   | <b>\$1,167</b> (Per Month)   | <b>\$1,500</b> (Per Month)   | <b>\$1,667</b> (Per Month)  |
| Price Package after applying inclusion benefits   | <b>\$7,500</b> (Per Year)  | <b>\$12,350</b> (Per Year)   | <b>\$16,200</b> (Per Year)   | <b>\$18,050</b> (Per Year)  |
| Price per document after applying inclusion benefits  | \$75.00  | \$61.75  | \$54.00  | \$45.00   |
| Expiry Period   | 12 months  | 12 months  | 12 months  | 12 months   |
| Inclusions  |  |  |  |   |
| Total legal documents (Set up Companies, Trusts, SMSF, etc per year)  | 100 Documents  | 200 Documents  | 300 Documents  | 400 Documents   |
| Digital Signature   | <br>DIGITAL SIGNATURE MADE EASY<br>1 Year Enterprise Corporate Plan Value \$900   | <br>DIGITAL SIGNATURE MADE EASY<br>1 Year Enterprise Corporate Plan Value \$900   | <br>DIGITAL SIGNATURE MADE EASY<br>1 Year Enterprise Corporate Plan Value \$900  | <br>DIGITAL SIGNATURE MADE EASY<br>1 Year Enterprise Corporate Plan Value \$900  |
| CPD for Accountants   | <br><br>1 Year CPD credit of \$600 Towards your CPD Register | <br><br>1 Year CPD credit of \$750 Towards your CPD Register | <br><br>1 Year CPD credit of \$900 Towards your CPD Register | <br><br>1 Year CPD credit of \$1050 Towards your CPD Register |
| SMSF Admin Panel (SMSF Admin Panel where SMSF Administrators can manage / collect documents and solve queries from Trustees and SMSF Auditors.) | Unlimited  | Unlimited  | Unlimited  | Unlimited   |

# VOUCHERS CREDIT FOR DOCUMENTS

All our prices include 10% GST, however, credit card surcharge of 1.32% Incl. GST is charged when paid by   and 2.2% Incl. GST when paid by 

For clarity of all doubts, credit card surcharge will be charged when paying for ASIC, printing & Stamp Duty when using the vouchers

All Documents includes which require signature  digital Signature is included in our pr

We are linked with ABR.Gov.au All new Registration for ABN + GST+ TFN is included in our price.



| Document Name  | Value in Vouchers   |
|--|---|
| Company Registration   | 1 Voucher + ASIC Fees   |
| Company Constitution   | 1 Voucher   |
| Div 7a Loan Agreement  | 1 Voucher   |
| New SMSF Trust<br>New SMSF Trust + 5 Year Update<br>New SMSF Trust + Trustee Company<br>New SMSF Trust + Trustee Company + 5 Year Update   | 1 Voucher<br>3 Vouchers<br>2 Vouchers + ASIC Fees<br>4 Vouchers + ASIC Fees   |
| SMSF Trust Deed Update<br>SMSF Trust Deed Update + 5 Years Update  | 1 Voucher<br>3 Vouchers   |
| <b>SMSF Tools</b>  |   |
| Account Based Pension Documents<br>Deed of Confirmation (for Lost SMSF Deed)<br>Adding a Member OR Deleting a Member<br>Change Individual Trustee to Corporate Trustee<br>Change Corporate Trustee to Individual Trustee<br>Change Corporate Trustee to Corporate Trustee<br>Declaration of Trust<br>SMSF Loan Agreement<br>Binding Death Nomination | 2 Vouchers<br>2 Vouchers<br>2 Vouchers<br>2 Vouchers<br>2 Vouchers<br>2 Vouchers<br>2 Vouchers<br>2 Vouchers<br>1 Voucher |
| PCT – Internal Lending<br>PCT – External Lending   | 4 Vouchers<br>2 Vouchers  |
| Discretionary Family Trust Deed<br>Discretionary Family Trust Deed + Trustee Company   | 1 Voucher<br>2 Vouchers + ASIC Fees   |
| Unit Trust Deed<br>Unit Trust Deed + Trustee Company   | 1 Voucher<br>2 Vouchers + ASIC Fees   |
| Fixed Unit Trust Deed<br>Fixed Unit Trust Deed + Trustee Company   | 2 Vouchers<br>3 Vouchers + ASIC Fees  |
| <p>Document Printing: Printing fees not included with vouchers and to be paid separately.<br/>Below Documents are not Included with the Vouchers</p> <ol style="list-style-type: none"> <li>1) Actuarial certificate</li> <li>2) Quantity Surveyor Report</li> <li>3) Business Name</li> </ol>   |   |



