C&N Accountants
Business, Property & Superannuation Advisors

Everything you need to know about setting up your own SMSF – **Self Managed Super Fund**

The SMSF set-up process | What you need to consider when thinking about setting up your own SMSF

Have you decided to join more than one million Aussies with a self-managed super fund?

Having your own SMSF can be a personally and financially rewarding experience, provided your fund is set up correctly from the get-go.

> ***C&N Accountants Group Tip:***
>
> ***Attention to detail now will avoid penalties and save you time in the long run.*** *It's also worth remembering that SMSFs must be set up correctly to be eligible for the tax concessions that super legislation provides. Member contributions and fund earnings are taxed at the concessional super rate of 15% in Australia (up to certain contribution limits). If you are thinking about setting up a SMSF, there are a number of decisions you will need to make regarding the structure, operation and management of your fund.*

Should you set up an SMSF yourself or get help?

It's possible to set up an SMSF yourself, but it's wise to get independent professional advice. After all, it's your future financial security at stake and the rules around compliance are strict. Depending on your own level of SMSF and investment knowledge and expertise, you may need the services of an accountant, a financial adviser and possibly a lawyer to help set up your fund.

To help you understand the process and decisions involved, the ATO has recently identified key aspects that you should consider in setting up a SMSF.

Key Things to Consider When Setting up your SMSF

Step 1: Choose your SMSF members

It's important that fund members (and the fund itself) can satisfy the following residency conditions:

- The fund will be established in Australia or will have at least one Australian-based asset.
- The central management and control of the fund will generally happen in Australia.
- Active members of the fund must be Australian residents who will hold at least 50% of its total assets.
- These conditions must be met for your SMSF to qualify as an Australian super fund and therefore eligible for the tax concessions available under Australian superannuation legislation.

What you need to know!

In the May 2021 Federal Budget, the government announced plans to relax the residency requirements for SMSFs. Under the proposed measures, members will be allowed to continue contributing to their super while temporarily overseas for up to five years by:

- Extending the safe harbour provisions of the central control and management test from two to five years.
- Removing the active member test.
- This measure is not yet law but is expected to commence from 1 July 2022.

Managing a super fund requires time, skill and knowledge, along with money and assets to make the fund viable. The purpose of any SMSF must be solely to pay retirement benefits to members, and the decision to set up a SMSF should only come after comparing this with other retirement savings options.

A SMSF requires a trustee – e.g. (can be personal trustee) an individual or company that holds and invests the fund's assets for the benefit of the members' retirement. Upon setting up a SMSF, you will take on the role of either the trustee, or the director of a company that is a trustee – also known as a corporate trustee.

While being a trustee or director of an SMSF allows you to make your own investment choices, it carries with it the responsibility of managing the fund and making decisions which are in the best interests of all the fund members.

With a SMSF you have the ability to:

- Control
- Leverage
- Purchase direct Property
- Manage life and disability insurance
- Increase asset protection
- Manage the asset for the family while minimising their taxes
- Property Development
- Ownership of part of your profitable business

Step 2: SMSF _ Structures & Choosing Trustee

An SMSF must be set up as a trust. A trust is a legal arrangement where trustees manage assets on behalf of beneficiaries (your SMSFs members). Every member of an SMSF must be either an individual or a corporate trustee.

If the fund has individual trustees, it must have four or less members to be a SMSF, where each member is a trustee. Compared to a corporate trustee, a fund with individual trustees can be less costly to establish and is subject to fewer reporting obligations.

If the fund has a corporate trustee, it must also have four or less members, where each member is a director of the company and each director of the corporate trustee is a member of the fund. While directors of a corporate trustee must comply with more rules than individual trustees, such as the Corporations Act 2001(Cth), having a corporate trustee can make it easier to keep fund assets and business or personal assets separate.

If you choose to have a corporate trustee structure, each of your SMSF members must be a director of that company. The company must be registered with the Australian Securities and Investments Commission (ASIC). Although ASIC charges company registration and annual review fees for SMSFs with a corporate trustee structure, it can be easier to record and register assets if there is a membership change. Funds with an individual trustee structure can find it more expensive and time consuming to change asset ownership in these circumstances.

All SMSF trustees are ultimately responsible for ensuring the fund's ongoing legal compliance with superannuation and taxation legislation. They must sign a trustee declaration that indicates they understand their legal compliance obligations, including annual fund auditing, reporting and tax obligations to the Australian Taxation Office (ATO).

A third option is to set up the SMSF as a single member fund. In that case, the fund can either have a corporate trustee or have two individual trustees where one person is a member.

In most cases, all members of the fund will need to be trustees, so you must consider whether the members are eligible to be trustees. Generally, persons over 18 are eligible, provided they are not under a legal disability and are not a disqualified person. For a corporate trustee, the responsible officer, along with the trustees and directors of the company must not be disqualified from being a director of a company.

In addition, to be a complying fund and obtain tax concessions, the fund must come within the definition of an "Australian super fund" for tax purposes.

Overall, the choice of how to structure your SMSF will influence the manner in which you administer the fund and the types of benefits you can pay. You should consider the benefits and costs of each option and discuss them with a legal advisor before making a decision.

Step 3: Create your SMSF trust deed

An SMSF trust deed is a legal document that outlines how the fund will be established, how it will operate and how it will be administered.

This deed should be written so it complies with superannuation legislation. It should include important information such as:

- The names of the members/trustees
- The fund's objectives. An SMSF needs to satisfy the sole purpose test. This means that it must be set up and

maintained for the sole purpose of providing retirement benefits to its members (or their dependants if a fund member dies before retiring)

- Whether member benefits will be paid as lump sums or income streams.
- An SMSF trust deed must be signed and dated by all members/trustees.

Trust Deed Rules

The trust deed sets out the rules for establishing and operating the fund, and should be prepared by a legal professional. The deed should reflect the objectives of the fund, the composition, appointment and removal of trustees, and the method and timing of benefit payouts. It should be updated as necessary to remain current with respect to members' needs and super laws.

A trustee of a superannuation fund must act according to the terms of the trust deed of the fund. If superannuation law changes, the trust deed of the fund may need to be updated.

Step 4: Apply for an Australian Business Number (ABN) and register your fund with the ATO

All SMSFs must be registered with the ATO within 60 days of being established. This is done by completing and submitting an ABN application form to the ATO. You can do this yourself or a tax professional can do it on your behalf. The ATO will provide your fund with a tax file number once it approves the application.

Step 5: Set up an SMSF bank account

Your SMSF needs its own bank account separate from its members' individual accounts. This SMSF account is used for receiving all member contributions and paying all member benefits. You will need to advise the ATO of the account details.

Step 6: Get an electronic service address and arrange for member contributions and rollovers

This address will allow your SMSF to receive member contributions paid on their behalf by employers.

Employers must transfer these payments electronically using a system called SuperStream.

You need to organise arrangements for member contributions (including any rollovers from other funds into the SMSF) as part of the set-up process.

Step 7: Create an investment strategy and make your initial investments

It's a legal requirement for SMSFs to have a documented "investment strategy". This investment strategy should satisfy the sole purpose test and be used to guide trustee decision-making.

Important factors to consider when developing an SMSF investment strategy include:

- Each fund member's age, current financial situation, risk profile and other relevant characteristics
- The benefits of diversifying the fund's investments to manage risk.

The major investment options are cash, bonds and other fixed interest products, shares and real estate

- How easily its assets can be converted to cash to pay future member benefits when required
- The current insurance needs of members to ensure appropriate coverage is arranged (inside or outside their SMSF).
- Once this strategy has been created, the fund's initial investments can be made.

Step 8: Create an exit strategy

It's impossible to know the future but having an exit strategy will at least ensure you have given some thought to how, and under what circumstance, the fund will be wound up. Preparing this strategy from the outset can avoid potential member disputes down the track. SMSFs may need to be wound up for various reasons, including:

- The trustees no longer wanting to have the ongoing administrative burden of managing the fund due to age, health or other reasons
- The fund's assets reducing over time to the point where it's no longer cost-effective to maintain it. There can be significant administration and annual audit costs associated with running an SMSF
- A relationship breakdown between fund members
- When all fund members have passed away or have been paid all their entitlements
- If all the fund members want to transfer their entitlements to another super fund (such as an industry or retail super fund)
- Fund members wanting to relocate overseas and no longer being Australian residents for tax purposes.

The exit strategy should ensure that all trustees:

- Can access all SMSF records and accounts
- Have binding death benefit nominations in place (and make provisions for these nominations to be reviewed every three years)
- Consider appointing an enduring power of attorney.

Step 9: Appoint an Accountant and an Auditor

It important that when you set up your SMSF you appoint an experienced accountant who can guide your through the compliance requirements for managing your annual reporting obligations to ATO.

It's a legal requirement for SMSFs to be audited by an independent SMSF auditor licensed by ASIC.

For further information you can review the ATO guidelines on setting up a SMSF here:

https://www.ato.gov.au/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSFvideos/?anchor=WhatsinvolvedwithanSMSF#WhatsinvolvedwithanSMSF

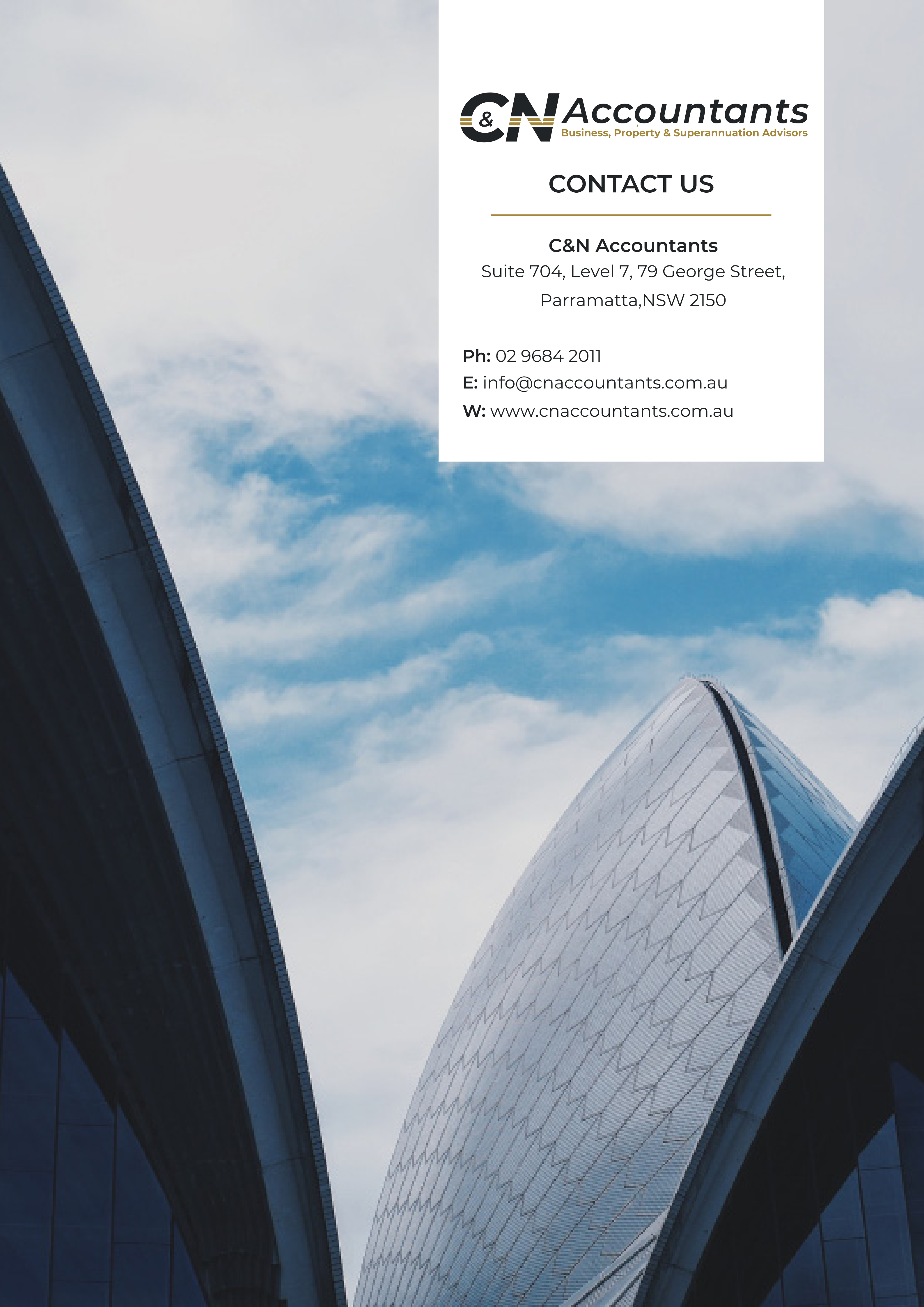
How C&N Accountants Group can assist you with setting up your own SMSF

- We recommend Wealth Planning Team Member to assist with independent financial advice, should you not have your own Financial Adviser.
- We appoint a dedicated Client Manager to manage your SMSF
- You gain access to a Panel of Auditors
- We can also arrange to set up the following on your behalf
- SMSF Trustee Structure e.g. company or individual
- SMSF Trust Deed
- ABN Australian Business Number and Tax File Number
- Trust Administration Documents
- Accounting System/Bookkeeping

***Disclaimer**

Before acting on any information you've may received during a strategic financial consultation, or read about on our websites, email communications, guides including our newsletters, you should consider the appropriateness of the advice, having regard to your own objectives, financial situation and needs.

If any products are discussed, you should obtain a Product Disclosure Statement relating to the products and consider its contents before making any decisions. It is recommended to seek advice from a qualified professional relevant to your particular needs or interests. (For instance, Tax Advice from a Tax Agent, Financial Advice from a Licensed Financial Adviser and so on and so forth).



C&N Accountants
Business, Property & Superannuation Advisors

CONTACT US

C&N Accountants
Suite 704, Level 7, 79 George Street,
Parramatta,NSW 2150

Ph: 02 9684 2011
E: info@cnaccountants.com.au
W: www.cnaccountants.com.au