

Common questions asked on Borrowing by SMSF

With ATO closing a lot of loopholes, owning and managing your wealth creation assets in your SMSF is now the fashion. The main attraction is Tax rates lower than personal marginal rates. On retirement, there are also benefits of lower tax. The government is happy with this arrangement because pension entitlements are reduced as you receive more from your SMSF.

Your SMSF and borrowing ... some common questions

Knowing what assets your Self Managed Superannuation Fund (SMSF) can own is an important part of being a fund trustee. You should also know what assets your fund can acquire from you or related parties. New rules recently introduced may give more scope for your SMSF to borrow funds to acquire these assets but there are unique rules and guidelines that need to be adhered to.

As the trustees of your SMSF, you need to ensure that all assets held in the fund are consistent with the fund's investment strategy. That is, as trustee you need to consider issues such as **risk and return, diversification** of the fund's assets, **liquidity** within the fund, and of course, the ability of the fund to discharge liabilities.

Here are the common questions we're often asked about borrowing:

Can I move my existing rental properties into my SMSF?

If these are residential properties then in most cases the answer is no. Your SMSF cannot acquire property from a 'related party' unless the property is used in a business (called business real property).

A related party includes **you, your relatives, and in some cases your business associates**. It can also include entities that are controlled by these people.

Can I own my business premises through my SMSF?

Assuming that the purchase of a commercial property makes sense for the fund, there is nothing to prevent the fund from purchasing a commercial property. The fund could even acquire the existing business real property from a member or related party! Your SMSF could then lease the property back to your business so long as the lease is on commercial terms. This could be a great way to boost your retirement savings as the rental income is taxed at a maximum of 15%.

Can my SMSF borrow money to buy property?

Since September 2007, SMSFs have been able to borrow to acquire assets. It's important to recognise that as there are strict rules surrounding this, you should always seek professional advice.

Your SMSF can only borrow to acquire assets that it would otherwise be allowed to acquire – so in some cases your SMSF could borrow to acquire the member’s business premises. Be careful though as the SMSF **cannot** use the borrowings **to improve the property (no extensions or renovations)**, so what you buy is what you’re stuck with until your SMSF has paid off the loan.

Can my SMSF own property overseas?

As long as holding or purchasing the property is in line with the fund’s investment strategy, there is nothing in the superannuation rules to prevent your SMSF owning property overseas. But again, beware of some of the traps.

In some cases it might be prudent for a company or trust to own the property and for your SMSF to own shares in the company or units in the trust. This may protect the fund from being sued by a tenant.

However, there are restrictions on the company/trust under the superannuation rules. For example, the company or trust could not borrow or lend money, or place a charge over any of the assets. And, the company or trust may not be able to hold an overseas bank account.

You need to weigh up the benefits of using an ‘interposed’ company or trust to hold the asset with the restrictions that can be imposed. In all cases, you should make sure that you have adequate insurances in place both over the asset and also inside the SMSF.

Did you know?

There were 425,300 Self Managed Superannuation Funds in Australia at 30 June 2010 with 29,405 new funds created in the 2009/2010 financial year. Of those, 25% had a total asset value below \$200,000, and 49% had a total asset value between \$200,000 and \$1m. Just over 30% of all new funds in the same time period were set up by 45 to 54 year olds. As at December 2010, SMSFs owned assets worth a total of \$420,612,000,000 – 31% in listed shares.

Quote of the month

“A fanatic is one who won’t change his mind and won’t change the subject.”

Winston Churchill

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Please do not hesitate to contact us if you would like to review & discuss your current property & tax situation, your asset protection strategy, structuring your next investment property, planning to legally minimise your tax position or just to prepare your next tax return.

We look forward to being of service. We also look forward to your referrals.

To improve our service we welcome all constructive comments on this newsletter and other materials.

For help contact **Shukri Barbara** at Property Tax Specialists at Shukri@propertytaxspecialists.com.au

Disclaimer

The material and contents provided in this publication are informative in nature only. It is not intended to be advice and you should not act specifically on the basis of this information alone. If expert assistance is required, professional advice should be obtained.

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Kind Regards
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