InvestorOne

Bad Self Managed Super Advice to avoid

1 – Poorly drafted and outdated self managed superfund deeds.

The first point with self managed superfund deeds is that all deeds acquired before 1 July 2007 need to be upgraded if they haven't already been upgraded. The new "simpler super" rules come into force on that date and new laws require new rules in the superfund deed.

When establishing a self managed superannuation fund ask your advisor does the deed:

- Have less than 20 pages. More than this is a waste and repetition of the Super Laws and will require constant updating (i.e. constant fees),
- Provide for old pensions that can't be commenced unless you time travel back to 2007 (i.e. look for allocated pensions and market linked pensions),
- Meets the Pension Payment Standards and Benefit Protection Standards,
- Allows for the payment of anti-detriment amounts,
- Provides for equal voting power amoung the trustees,
- Doesn't have excessive deeming clauses.

2 – Nominate a lump sum for a death benefit dependant.

The majority of self managed superfund advisors have their clients leave their account balance to their beneficiary, usually their spouse or children, as a lump sum. This is simply bad advice and demonstrates how little their advisor knows.

A death benefit left as a pension stream can be taken as a lump sum as there is no maximum to what can be taken as a pension. It can also be rolled back into the fund if the beneficiary doesn't need the funds and wants to leave them in the tax advantaged super environment. Finally they can keep taking the pension.

That's three options compared to one and the beneficiary may be prevented from putting the lump sum back into super.

3 – Kids as members of the fund.

Many promoters are advising clients to make their kids members of their self managed superfund. The reasons are unclear, apart from the warm fuzzy we are in this together feeling. The kids will contribute very little and should have equal voting although some seek to remove that feature.

If your kids become bankrupt or go through a messy de facto relationship or marriage this means ALL your superfund transactions and strategies are up for review by their former spouses' lawyers. Why would you want to expose your affairs to lawyers and the courts just to have your kids become members of your fund? Unless they were making a significant contribution to the fund and it was needed you should avoid this like the plague.

4 – No insurance when borrowing by fund to acquire property.

A large number of self managed superfunds have entered into borrowing arrangements to acquire property. Many financial institutions take the breadwinners contributions and property rental into account when assessing the affordability. If the breadwinner was to die in the first few years after the loan was taken out the bank may need to sell the property and pay off their debt.

An alternative is to take a life insurance policy for the amount of the debt or a significant proportion of the debt so that the loan could be paid out in the case of the death of the breadwinner. Even a policy that paid out 50% of the loan amount may save the property from being sold.

The strategy with the insurance policy needs to be carefully planned or the proceeds may leave the fund leaving the debt still unpaid.

5 – Insurance strategy and death benefits.

If a fund takes out an insurance policy care must be taken that the proceeds aren't paid out as death benefits if the fund requires the money (i.e. to pay out a debt). The death benefits should be payable as a pension where possible so that the fund can retain the proceeds.

6 – Avoid creating reserves.

Many advisors have been suggesting that clients establish a reserve in their self managed superfund and allocate amounts from earnings, sometimes 100%, into these reserve accounts. This is a breach of the Benefit Protection Standards.

Payments from reserves are mostly subject to the concessional contributions caps and therefore it is easy that the amount may be subject to more tax than what would have been the case if no reserve was established. If your advisor suggests a reserve get a second opinion.

7 – No joint ventures and exotic strategies.

The Australian Taxation Office is responsible for monitoring self managed superannuation and policing your fund and its investments. The ATO can, in certain circumstances, deem your self managed superannuation fund to be non-complying and therefore 45% of the assets are handed over to the ATO. It is therefore important to avoid exotic schemes and strategies.