



Super  
Concepts

## **Masterclass 2**

**SMSFs and Family Law – Separation,  
Settlement and Splitting Assets**

**Fund administration**

**Graeme Colley**

**Executive Manager, Technical and Private Wealth**

**July-Aug 2021**

Copyright © 2021 SuperConcepts

## What you need to know



The content of this presentation has been prepared to provide you with general information only. It is not intended to take the place of professional advice and you should not take action on specific issues in reliance on this information. In preparing this information, we did not take into account the investment objectives, financial situation or particular needs of any particular person. Before making an investment decision, you need to consider (with or without the assistance of an adviser) whether this information is appropriate to your needs, objectives and circumstances. You should obtain a copy of the relevant Product Disclosure Statement (PDS) before making a decision to invest in any financial product.

Any advice in this presentation is provided by SMSF Administration Solutions Pty Ltd, ACN 097 695 988, AFSL No. 291195 which is part of the AMP group of companies.

**27 July**

Session 1 – The legislation

**3 August**

Session 2 – Accounting and Administration

**10 August**

Session 3 – Case studies

# What we'll cover



- SMSFs with pooled assets
- SMSFs with member assets allocated
- SMSFs with unusual asset and benefit allocations
- Requests for information by the spouse
- Provisions of information to member spouse and non-member spouse
- Receiving the orders
- Amount split
- Percentage split
- Valuation of assets
- Transfer documents/minutes
- Change of ownership of fund assets
- Resignation of trustee/director

## SMSFs with pooled assets



- Most common type of SMSF
- Can be easier to split assets as required in the order or agreement

# SMSFs with pooled accounts



<b>Member Accounts</b>	<b>Closing Balance 30 June 2021</b>
Ian Salt (61)	
Accumulation	\$134,540
Pension	\$520,000
Louise Salt (57)	
Accumulation	\$241,250
Reserve	
<b>Totals</b>	<b>\$895,790</b>

<b>Investment</b>	<b>Closing Balance</b>
<b>Cash</b>	
Macquarie CMA	\$16,210
<b>Domestic Shares</b>	
CSL	\$175,000
Woolworths	\$152,000
Comm Bank	\$190,000
<b>Overseas Shares</b>	
Apple	\$75,000
<b>Other Assets</b>	
Sea Salt Pty Ltd	\$150,000
<b>Totals</b>	<b>\$895,790</b>

# SMSFs with assets allocated to members



- Less common
- May create issues with some assets

<b>Member Accounts</b>	<b>Closing Balance 30 June 2021</b>
Ian Salt (61)	
Accumulation	\$134,540
Pension	\$520,000
Louise Salt (57)	
Accumulation	\$241,250
Reserve	
<b>Totals</b>	<b>\$895,790</b>

<b>Investment</b>	<b>Closing Balance</b>
<b>Louise Salt</b>	
<b>Cash</b>	
Macquarie CMA	\$16,210
<b>Domestic Shares</b>	
Comm Bank	\$190,000
<b>Other Assets</b>	
Sea Salt Pty Ltd	\$135,040
<b>Ian Salt</b>	
<b>Direct Property</b>	
10 Smith St	\$639,580
<b>Other Assets</b>	
Sea Salt Pty Ltd	\$14,960
<b>Totals</b>	<b>\$895,790</b>



## SMSFs with unusual benefit allocations



- Qualifying recognised overseas pension scheme (QROPS)
- Partition of property for duty purposes in NSW

<b>Member Accounts</b>	Closing Balance 30 June 2021
<b>Charles Windsor (60)</b>	
Accumulation	\$275,000
QROPS balance	\$840,000
<b>Mary Windsor (57)</b>	
Accumulation	\$159,000
Reserve	
Totals	\$1,274,000

# Partitioning of Property for NSW duty purposes



<b>Member Accounts</b>	<b>Closing Balance 30 June 2021</b>
Ian Salt (61)	
Accumulation	\$134,540
Pension	\$520,000
Louise Salt (57)	
Accumulation	\$241,250
Reserve	
<b>Totals</b>	<b>\$895,790</b>

<b>Investment</b>	<b>Closing Balance</b>
<b>Cash</b>	
Macquarie CMA	\$16,210
<b>Domestic Shares</b>	
Comm Bank	\$190,000
<b>Other Assets</b>	
Sea Salt Pty Ltd	\$150,000
<b>Ian Salt</b>	
<b>Direct Property</b>	
10 Smith St	\$639,580
<b>Totals</b>	<b>\$895,790</b>

# Requests for information by spouse – a very difficult situation

- Requests by spouse/member/trustee

## Section 90 MZB of Family Law Act 1975

- Application to the trustee to assist in negotiating an agreement
- Trustee must provide information
- Must not provide the address of the member (section 90 MZB(5))

## Requests by non-member spouse

- The trustee must not inform the member that the application has been received from the non-member applicant
- Form 6

## Regulation 62 of the Family Law (Superannuation) Regulations 2001



FAMILY COURT  
OF AUSTRALIA

## Superannuation Information Kit

**This kit contains:**

- Form 6 Declaration to accompany the Superannuation Information Request Form and the appropriate Superannuation Information Form
- A Superannuation Information Request Form
- A Superannuation Information Form for use by trustees of all superannuation funds and providers of retirement savings accounts and eligible annuities other than self managed superannuation funds
- A Superannuation Information Form for use by trustees of self managed superannuation funds

The Superannuation Information Request Form and the Superannuation Information Forms are the forms approved by the Principal Registrar to obtain information from the Trustee of an eligible superannuation plan.

**An eligible superannuation plan** means any of the following:

- A superannuation fund within the meaning of the Superannuation Industry (Supervision) Act (SIS Act)
- An approved deposit fund
- A retirement savings account (RSA)
- An account within the meaning of the Small Superannuation Accounts Act 1995
- An eligible annuity (a deferred or immediate annuity purchased wholly with superannuation monies)

**The Trustee** includes an RSA or eligible annuity provider and any person who manages the particular plan.

The persons who are able to use these forms are:

- the member of the superannuation plan;
- the spouse of the member;
- a person who intends to enter into a superannuation agreement with the member.

These persons are known as the **eligible persons**.

The **member** includes the account holder of the RSA or the holder of an eligible annuity.

**The Form 6 Declaration** must accompany a Superannuation Information Request Form to satisfy the trustee that information is being sought by eligible persons for an approved purpose.

**The Superannuation Information Forms** are for use by the Trustee of the superannuation plan. However, the Trustee may provide the requested information in a different format.

**Approved by the Principal Registrar in accordance with the Family Law Rules on 1 July, 2007**

- Binding Financial Agreement in relation to Ian and Louise Salt as approved by the Family Law Court received by the fund as follows:
- Ian and Louise are the only members of the Sea Salt Superannuation Fund which is a complying superannuation fund.
- That Ian has a member account in the fund on 30 June 2021 with a withdrawal benefit of \$654,540 and Louise has a withdrawal balance of \$241,250
- That a base amount be allocated out of Louise's interest in the super fund.
- Ian's base amount is 100% of the super fund balance interest
- That out of Ian's consolidated interest that Louise receive 50% of Ian's super fund balance interest
- That Louise tender her resignation as Trustee of the super fund and resign as a member of the fund.

Sea Salt Superannuation Fund

400 Ocean Drive  
Bondi NSW 2030

ABN: 67 987 357  
Email: [ian.salt@hotmail.com](mailto:ian.salt@hotmail.com)

---

15 July 2021

Ms Louise Salt  
40 Harbour View St  
Lavender Bay NSW 2050

**RE: PAYMENT SPLIT NOTICE**

Notice is hereby given of a payment split of the interest of the Sea Salt Superannuation Fund (the "Fund") in accordance with the executed Financial Agreement dated 15 July 2021 as defined in section 4(1) of the Family Law Act 1975 for the purposes of sections 90C, s90E and s90MH of that Act.

The Signed Orders have granted Louise Salt of 40 Harbour View St Lavender Bay NSW 2050 interest in the Fund and require this Payment Split Notice for a ~~splitable~~ <sup>splitable</sup> interest in Ian Salt's interest of the amount \$447,895 to Louise Salt's superannuation fund (details to be advised).

Yours sincerely,

Ian Salt  
Trustee  
Sea Salt Superannuation Fund

# Percentage split



<b>Member Accounts</b>	<b>Closing Balance 30 June 2021</b>
Ian Salt (61)	
Accumulation	\$134,540
Pension	\$520,000
Louise Salt (57)	
Accumulation	\$241,250
Reserve	
<b>Totals</b>	<b>\$895,790</b>

<b>Member Accounts</b>	<b>Closing Balance 30 June 2021</b>
Ian Salt (61)	
Accumulation	\$375,790
Pension	\$520,000
Louise Salt (57)	
Accumulation	
Reserve	
<b>Totals</b>	<b>\$895,790</b>

<b>Member Accounts</b>	<b>Closing Balance 30 June 2021</b>
Ian Salt (61)	
Accumulation	
Pension	\$447,895
Louise Salt (57)	
Accumulation	\$447,895
Reserve	
<b>Totals</b>	<b>\$895,790</b>



Sea Salt Superannuation Fund

40 Harbour View St  
Lavender Bay NSW 2060

Email: Louise.Salt@hotmail.com

---

3 August 2021

Mr Ian Salt

400 Ocean Drive  
Bondi NSW 2030

**RE: Request to rollover benefit**

I request that you as trustee rollover my benefit in the Sea Salt Superannuation Fund to the Sail Away Superannuation Fund in accordance with Regulation 7A of the Superannuation Industry (Supervision) Regulations.

I also ~~tender my resignation~~ as a trustee and member of the Sea Salt Superannuation Fund.

Yours sincerely,

**Louise Salt**

That the parties acknowledge that the assets of the Super Fund as at 30 June 2020 were:

ANZ Bank Account	\$1,000,000
Interest in Family Unit Trust	\$1,900,000
Woolaware Rd Property	\$ 900,000
North Manly Property	\$1,000,000

That the wife agrees that she will request the trustee to create a new interest in her name in the fund with the value of the new interest being calculated at the time as agreed between the husband and wife.

# Transfer documents?



<b>Member Accounts</b>	<b>Closing Balance 30 June 2021</b>
Ian Salt (61)	
Accumulation	
Pension	\$447,895
Louise Salt (57)	
Accumulation	\$447,895
Reserve	
<b>Totals</b>	<b>\$895,790</b>

<b>Investment</b>	<b>Closing Balance</b>
<b>Cash</b>	
Macquarie CMA	\$16,210
<b>Domestic Shares</b>	
CSL	\$175,000
Woolworths	\$152,000
Comm Bank	\$190,000
<b>Overseas Shares</b>	
Apple	\$75,000
<b>Other Assets</b>	
Sea Salt Pty Ltd	\$150,000
<b>Totals</b>	<b>\$895,790</b>

- Select assets to be transferred
- Creation of new bank account
- Share trading account
- Notify overseas broking arrangements
- Notify registries including the private company
- Rollover Benefit Statement including preservation and taxable/tax free components
- Commutation of pension prior to rollover
- Notification of commutation of benefit to be paid to Louise's account

## Resignation of Louise as trustee/director



- Review trust deed to see what is required
  - May require a member resolution or minute, or
  - May require a trustee resolution or minute
- Notify ASIC of the resignation of the director of the trustee company
- Notify the ATO of a change in the directors of the trustee company

Thankyou

## Our team of technical experts



**Nicholas Ali**

Executive Manager, SMSF  
Technical Support



**Graeme Colley**

Executive Manager, SMSF  
Technical and Private Wealth



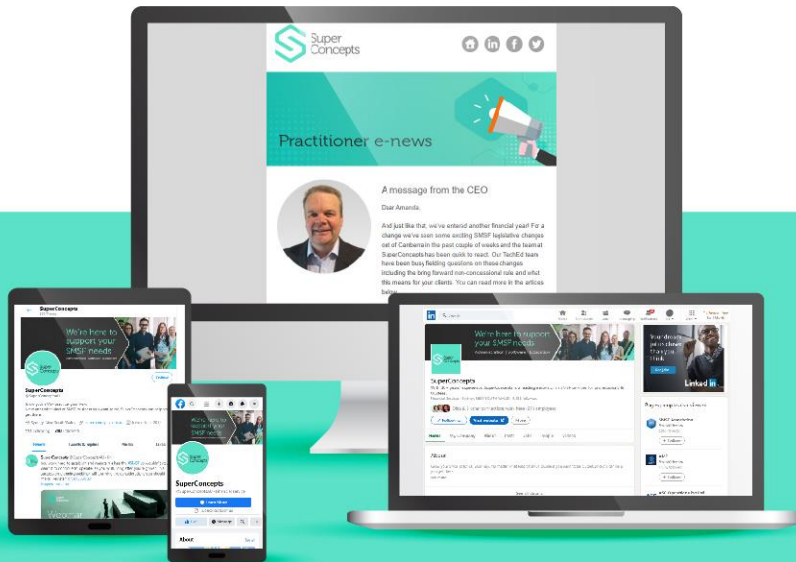
**Anthony Cullen**

Senior SMSF Technical  
Specialist



**Philip La Greca**

Executive Manager, SMSF  
Technical & Strategic Solutions



# Subscribe to our Newsletter

Subscribe now 

## Upcoming Webinar Reminder

SMSF Masterclass 3 - Family Law Case Studies

Tuesday 10<sup>th</sup> August  
12.30 – 1.30pm AEST

Follow us on socials

