

TRUSTEE TOOL:

Is your SMSF protecting your assets?



Brought to you by SMSF experts you can rely on

Most of us choose to set up an SMSF so we can take control of our super. But did you realise your fund can also play a vital role in protecting your hard-earned assets?

When we think about SMSFs, most of us focus on our investments. After all, investment choice and flexibility are key reasons why most people choose an SMSF.

That makes it easy to forget that SMSFs can also play a vital role in asset protection. That's because SMSFs are trusts — and like other trusts, their assets are owned by the trustees. So if a business creditor pursues a debt, for example, and your business premises are owned by your SMSF, then those assets will generally be out of reach.

What is asset protection?

Asset protection is simply the process of using a legal structure to keep your assets safe from legal action, including action from creditors and hostile beneficiaries — family members seeking a share in your estate after you pass away.



It can be especially important for high-net wealth individuals with a large number of assets, as well as business owners and those with blended or second families.

Depending on your situation and the assets you want to protect, an SMSF could be the ideal choice for asset protection. Not only does it keep them safe from legal action, it can allow you to take advantage of added tax benefits. And it can also give you complete control when it comes to distributing your assets after you've gone — something that can be hard to achieve with other types of super fund.

STRATEGY 1: Protecting your business premises

HOW IT WORKS: Either you transfer ownership of your business premises to your SMSF or the SMSF buys it from you, possibly using borrowed funds. Then your business can continue to use the property, paying rent to your SMSF at market rates.

BENEFITS: This strategy helps you to:

- Keep your business premises safe from creditors if you or your business are sued, or you become bankrupt.
- Create a tax-effective income stream for your SMSF, with rental payments taxed at 15% (or not taxed at all, if they are used to fund pension payments).
- Enjoy a potential capital gains tax benefit, with the fund paying from 0% (if sold in the pension phase) to just 10% tax if sold otherwise..

STRATEGY 2: Estate planning

HOW IT WORKS: You tailor your fund's death benefit rules so you can specify exactly who will receive your money, then document your wishes in a Binding Death Nomination.

BENEFITS: Your assets are protected from hostile beneficiaries.

DON'T FORGET: It's important to draft the trust deed so that any remaining fund trustees can't override your wishes after you pass away. One simple solution is to compel them to appoint your trusted executor as your replacement trustee, so they can protect your interests.

More information

For more information on asset protection, please speak with your financial adviser.

Important information

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