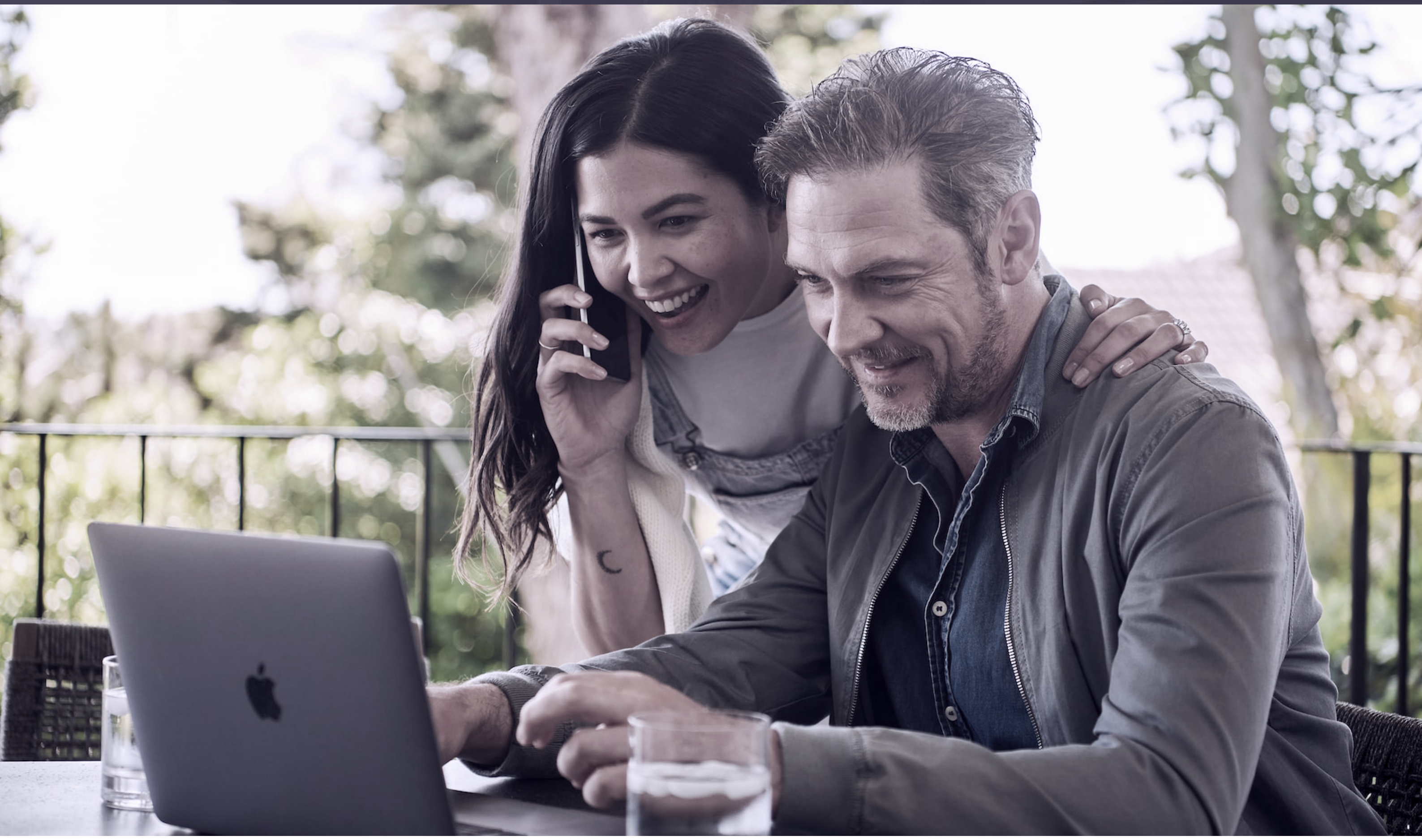
Supervision GROUP

EDITION: DECEMBER 2022

THE TRUSTEE

The SMSF newsletter that keeps you informed and in control.



INSIDE THIS EDITION

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Welcome

Happy Festive season to you. We hope that you enjoy this Christmas edition of "The Trustee".

We are grateful for the wonderful support that you have shown our business over the past calendar year. We hope that you have the best Christmas period enjoying time with your friends or family.

As the writer of this publication, you have no idea how gratifying it is to hear how you (our readers) have used this publication to expand your understanding of SMSF. If you have ever written anything and sent it out into the universe with little to no feedback, you may recognise the awesome feeling that responses (positive or negative) from your readership provide. We thank you for reading and encourage you to pass it on to anyone in your personal circles who would find it useful.

Our daily lives are always busy which reduces our time reflecting on what has gone right. It may seem like a self-indulgent shameless promotion, but we have achieved a lot and it's our publication... so here are some of **our** highlights:

• Directors ID's were imposed 18 months ago by a new Government agency ABRS (Australian Business Registry Services)

We had an early rush of Director ID completions when our first communications commenced.

Then it went quiet...

In October, we knew that most of our clients were either not reading this publication or not realising that Directors ID's related to them. We decided to add some spice to our messaging to "motivate" them into action. Fines were mentioned and it certainly got some attention. I wouldn't exactly say we were thanked for our follow up, but I'm going to assume those clients were grateful.

Our team were magnificent taking those calls and subsequently helping our clients, some on multiple occasions to complete their requirements. MyGovID didn't always work, and the Governments media support was non-existent. It seems the case nowadays that any Government tax changes (or requirements surrounding the ATO or ASIC) are left to tax agents across Australia to decipher, explain and implement. We did a great job under trying circumstances. If you are a company director and you haven't completed this task yet, the deadline has past, so you need to get your skates on.

• Tax Return Program is progressing fantastically

We will hit the Christmas break with well over 55% of our tax return schedule completed. This is the highest completion rate we have achieved before Christmas in a long time. The way that the whole team have organised workflow and followed you up means most will have your refunds before Christmas.

• Reallocation of Team to Clients

At the start of July, we took some time to reorganise our total team resources to match our client's needs. Our goal was to match the capabilities of the team to your expectations. Whilst there is always room to make improvements, we have noticed higher levels of satisfaction. Well done to Shish and the team for making it happen.

• Additional Services

A large number of additional services we have provided outside of tax returns and your updated online portfolio has been amazing. We have been able to assist you with Investment Strategies, complex investment options, Business Real Property purchases, Directors ID's, Roll Overs, Roll Outs, Super Stream, ESA Codes, Binding Death Nominations, Inductions, Share Trading support, Banking support, Marital Breakdown SMSF support, LRBA's, Letters for banks/lenders, Investor certificates, Pension Minimums, Minutes, Audit Queries, Telephone support, Adding Members, Removing Members, Updating historical contributions, Centrelink Schedules, referrals for insurance, referral for estate planning and many more.

One of the challenges we face in terms of the above additional services (when you need additional support) is that we can't always provide an easy-to-understand explanation of what needs to take place, or there is some misalignment between what you expect and what we can deliver. We are upping our game to provide information sheets and clear explanations of your options so you know what the procedure is, what we will do, what you need to provide and how much it is going to cost. We hope this further aligns our value proposition with your expectations as every business needs to do.

We hope that you enjoy the holiday season in good health and look forward to seeing you in the New Year. Merry Christmas and Happy New Year.

Our office will be closed on the 23rd of December, reopening on the 9th of January 2023.

Christopher Homer
Director

Feature Article – Financial Separation due to Relationship Breakdown

It is an unfortunate fact of life that many people that you know are either going through a divorce or financial separation due to a relationship breakdown. Superannuation is one important part of that split. When Superannuation (SMSF) is to be split, money can't be moved unless there are agreements in place to satisfy Auditors that money in Super is being handled correctly or moved without legal documentation.

I want to thank Biljana "Billie" Radulović, Senior Associate of HHG Legal Group who supplied this awesome summary of the difference between two types of agreements that can split Superannuation. If you are having difficulties and you need support in this area, we would recommend booking an appointment with our newest alliance partner who specialises in this area of law.

My conversations with Biljana "Billie" gave me confidence that she is capable of providing outstanding support and expertise so that you can move forward with dignity and strength as quickly as possible. Her philosophy is one of simplicity and understanding rather than jargon and legalise. Below is her work.

Binding Financial Agreements vs Consent Orders

Following the breakdown of a relationship, there are two (2) ways in which a married or de-facto couple can divide their assets and liabilities:

1. A Consent Order is a Court issued agreement detailing the division of assets and liabilities.
2. A Binding Financial Agreement ('BFA'), often referred to colloquially as a prenuptial agreement, is a private written agreement that details how a couple will divide their assets and liabilities.

The main differences between Consent Orders and BFA's are as follows:

a) For the BFA to be a binding and legally enforceable document, each party must obtain independent legal advice before they sign. With Consent Orders, neither party is required to obtain independent legal advice before they sign.
b) A BFA does not cover parenting arrangements or child support. Consent Orders can deal with parenting orders.
c) Before issuing the Consent Orders, the Court makes a decision on a final basis as to whether the Consent Orders are "just and equitable". As the BFA is a private contract, the Court does not need to approve the agreement, therefore the BFA does not need to be "just and equitable".

Reminder about our Linked SMSF Products

If you do not have a financial adviser guiding you with your SMSF, then you have options conducting your SMSF by yourself. Supervision allows you to choose who you want for share trading, term deposits, banking and all other investments, however we do provide a discount to our customers for those that use our default products- ANZ V2 Plus, CMC Markets & AMM term deposit platform.

These platforms are default in the “Take Control” or “More Flexibility” fee package. We never hide the fact that these providers share some of their profit with Supervision. They also share data which enables Supervision to keep your SMSF up to date online and reduces processing time. We also link the cash account to the platforms so that you never need to move cash. If you use those platforms our team can download the reports and documents for Audit without requiring your time.

Our business model in the lower fee packages depends on these default platforms. If you can support these platforms, it will help our long-term goal to keep our fees low.

If you need some assistance with the platforms or want to establish one, please let us know by emailing *mail@supervision.com.au*.

Supervision SMSF Client Snapshot

We have recently received a short report from our accounting software that uncovers some interesting statistics that you may want to share with you.

Count of Properties = 213 Properties of all Clients
Commercial Property = 50 (23.47%)
Residential Property = 163 (23.47%)

Listed Shares = 9272 different shares across all clients (51.44% of all Clients have Listed Shares)

Term Deposits = 353 different term deposits across all clients (8.15% of Clients have Term Deposits)

Lump Sum Member Benefits

Usually, money taken out of Superannuation before your 60th Birthday is taxable as personal income – minus tax already paid.

Did you know

that if you are over your preservation age but under 60 years of age, you may be able to withdraw money out of **Superannuation** and not add pay any personal tax? This affects people born between 1st of July 1963 & 30th June 1964.

You can take up to $230,000 out of your Superannuation as a lump sum payment after reaching preservation age and not reaching your 60th birthday. That income is not assessed in your personal return. If you take over $230,000, any dollars over the threshold ($230,000) will be taxed at 15%.

Any amounts taken out of Superannuation over the age of 60 either as a pension or lump sum does not add to your personal income and is tax free in your hands.

What is an LRBA?

You may have heard the term LRBA, Bare Trust, Custodial Trust etc. All these terms mean the same thing – a trust structure that will enable you to borrow money inside of Superannuation. We refer to an SMSF borrowing trust as an LRBA (Limited Recourse Borrowing Arrangement). The clues are in the name.

“Limited Recourse” means that the lender only has limited recourse in the case of non-payment of the loan. In the case of an SMSF, the only asset able to be “repossessed” from the SMSF is the asset named in the agreement. It does not allow the lender to access any other assets of the SMSF regardless of the value of the SMSF.

It is possible under the terms of the LRBA that a bank lending to the SMSF may not recover the full value of the loan despite the SMSF having hundreds of thousands of dollars' worth of other assets (cash, other properties, shares).

This case may arise when a property dramatically drops in value below the current loan amount and the SMSF does not make its payments.

Because the lender has no recourse over any other assets, the lender is taking more risk than loans between individuals and banks. To compensate for the additional risk that lenders take, they need to do two things to sure up recovery of the loan.

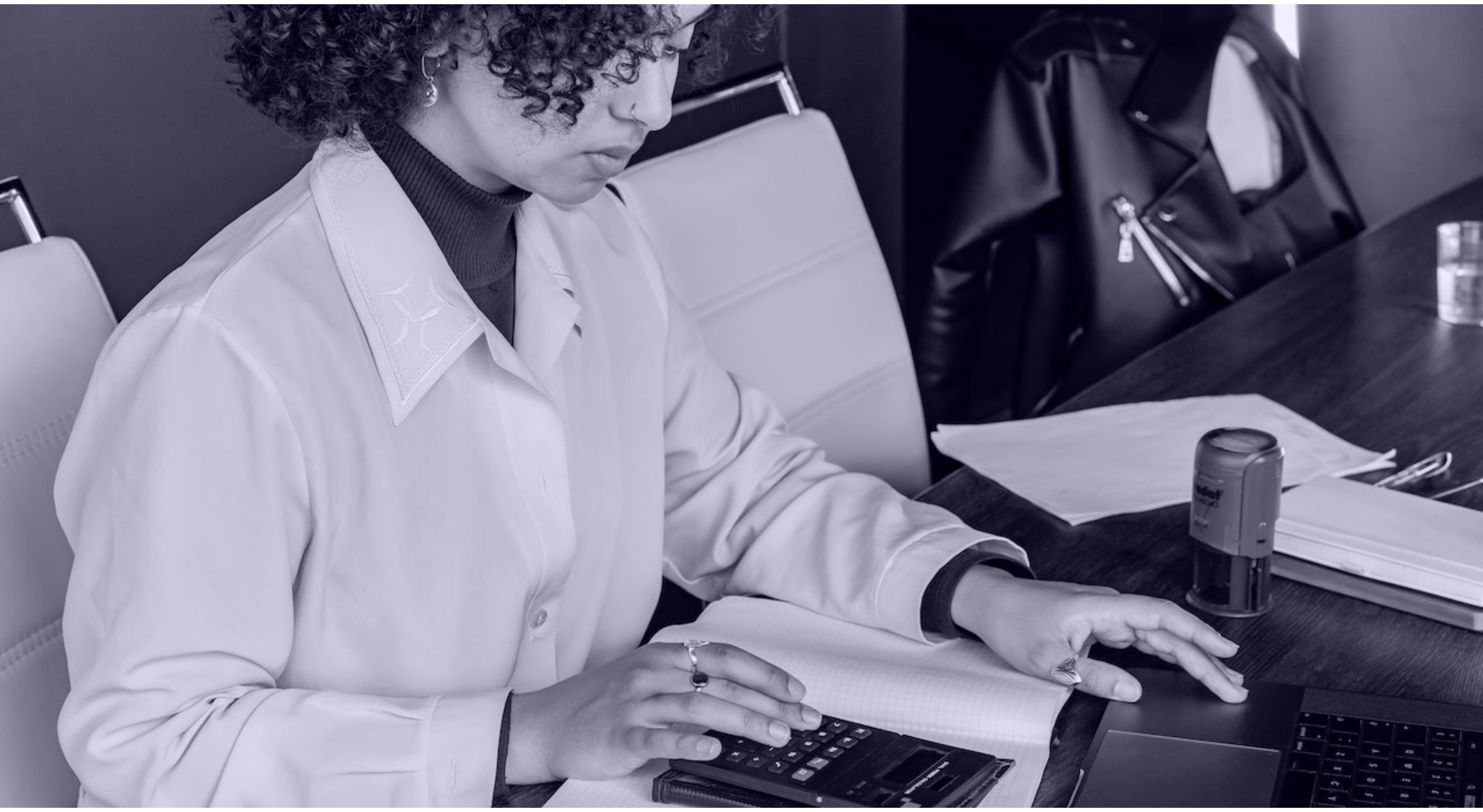
1. They require higher deposits than normal – up to 30% deposit may be required
2. The interest rate is significantly higher than normal home loans

If you want to borrow again for property #2, the lender will not consider the equity you have built up in property #1. You will need to satisfy the lender (bank) with cash deposits rather than built up equity. So, for those wanting to build up a property portfolio (multiple properties) using borrowing, paying off loans quickly to build up equity may be counterproductive to this strategy.

Leverage may increase returns, but it also increases the risk because of repayment of loans and interest costs incurred. The property must be a capital growth asset.

SMSF is not an attractive negative gearing vehicle as the tax rate is only 15% in comparison with individuals in higher tax rates.

Refunding of excess Franking Credits



Australian companies are taxed anywhere between 25 & 30%. When they distribute the proceeds of their profit to their shareholders after paying their tax, they can also pass on what is called “Franking Credits”- which is the amount of tax they have paid on the dividend or distribution paid. This system was introduced to stop the Government taxing the same profit twice- first in the hands of the company and second in the hands of the shareholder.

Because Superannuation’s tax rate is only 15%, it is possible for your SMSF to receive a cash refund if your credits are higher than the tax payable. If you are actively contributing, they can also cancel out your contributions tax. It gets even better for SMSF’s where the members are in pension phase because the tax rate is anywhere between 15% and zero%, resulting in large cash tax refunds.

Capital Gains Tax

Selling shares or property in your SMSF will trigger a Capital Gains tax event. If you are making profits in your SMSF, you will pay tax on those gains at the rate of 10% (if held over 12 months) or 15% (if held under 12 months). Any gains will be offset by capital losses that you have carried forward from previous periods.

Whilst making profitable investments in your SMSF is the main game and the most desirable outcome, buying and selling the same asset (usually shares) over and over will reduce your overall rate of return once tax is factored in. If you really like a company (share) and you want it in your portfolio over the longer term, there is little incentive to take profits and increase your tax. Holding that asset until reaching pension phase can be considered smart considering your capital gains are taxed at 0% after you start taking money from your account.

It is a fine balancing act between taking profits or holding and selling assets to reach the best tax outcome each year.

If you would like to work with Supervision to manage your SMSF's capital gains tax situation, please make an appointment and we can work with you to reach a great outcome. Our team will provide detailed reporting and guidance on how to manage your taxable position each year.

FAQ's With Shish

Hi, my name is **Shishpal Rana**, but the team call me Shish. My role is to review your SMSF returns each year and guide you through the annual audit process. I want to make you aware of a particular problem that I have seen.

Why paying your SMSF Corporate trustee ASIC fee is important?

Scenario – ABC Superfund not paying ABC Pty Ltd corporate trustee ASIC annual fee and have been reminded by ASIC on several occasion to pay the outstanding fee.

As a result, the corporate trustee of the SMSF is deregistered with the ASIC.

Issue/contravention – The company is deregistered by the ASIC for not paying the ASIC fee on timely manner and there is no active company acting as a trustee for the superfund.

Therefore, the SMSF fails to meet the definition of a Superfund and it is a breach of Section17A.

Solution – SMSF need to pay the ASIC fee immediately and write up a rectification plan to rectify the contraventions so that auditor can have a rectification date when lodging ACR with the ATO.

As your ASIC agent, Supervision sends out a series of emails asking you to pay your annual renewal fee. This is an automated system that will remind you if the notice is not paid. Please do not ignore these emails, it is your chance to make sure that you are able to register each year. ASIC are ruthless when it comes to fining overdue payments.

Editorial

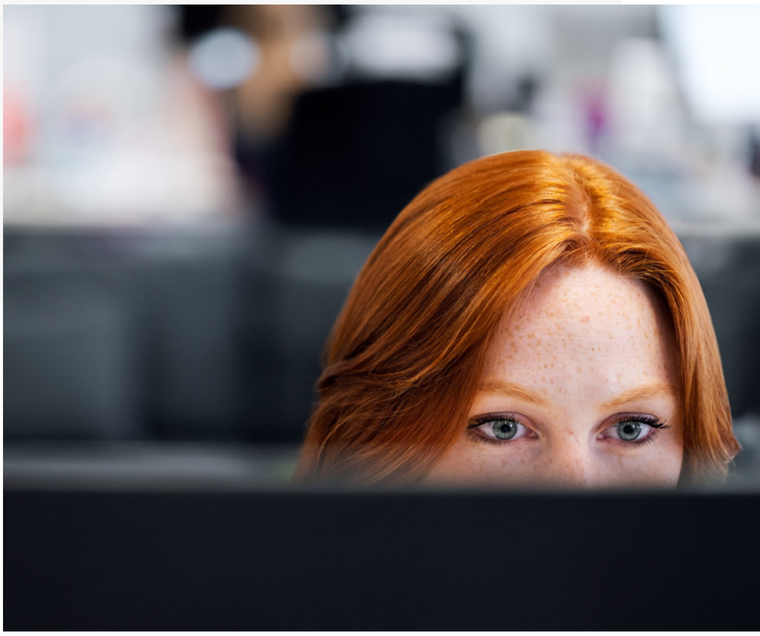
In our work with your SMSF, (the ultimate expression of self-determination) you, our clients have surprised and delighted us. Our team love working with you to solve problems and facilitate your dreams and schemes.

During any year we are grateful to take part in the highs and lows of the human experience. It can be entirely matter of fact and/or it can be intensely personal and emotional. We guide many new SMSF's into the world. We deal with death of members or the wind up of the SMSF. We get to share (vicariously) the joy of investment wins and in the disappointment of the losses. Without overcooking the rhetoric, we participate (sometimes in a big way and sometimes in a small way) in your venture, and we are grateful to be a part of it.

In terms of Global events, it's been interesting to say the least. The pandemic and subsequent world events have left us in a new state of normal. Some aspects of our lives are easy and others more difficult than they have ever been.

One thing that has increased is the amount of "free information" that is available online. Being able to "google" anything has been an amazing improvement to our lives. Barriers to entry for publishers has tumbled and business owners are able to go direct to market in an unprecedented way. There is something amazingly democratic and revolutionary about expressing your views online without any filters.

On the flip side, opinions and unsubstantiated claims can replace actual research and cause confusion about what are facts. The bar has been lowered in terms of what constitutes research especially when the algorithms point you back to confirm your bias. Unfortunately, the lower the bar, the more radical and dangerous some of the information is. Just because a commentator says something that appeals as common sense or becomes popular (or already aligned with your world view) does not necessarily mean that it is right, or they are an authority.



You have no idea what process the presenter has been through to bring you their version of the facts. More people today believe the world is flat which is laughable because everyone knows that it is a triangle. DYOR (Do Your Own Research), see what I mean...

Trust me I'm getting to the point of this article.

With all the excess information out there, there has never been a more important time to get proper advice. Not advice from a person with a camera and an agenda, but from trained experienced people that are required to study the literature and meet guidelines and ethical practices. Please don't leave your financial future to people that are not part of your extended community and have no real interest in your success over any timeframe. Take risk and live a rewarding life, but please be careful out there, some people are not always working in your best interests.

Please reach out to us about any investment that you think does not have the backing of people you know and trust. We are here to help and if you need a second opinion, we have a vast network of financial advice partners that can assist. We are looking forward to a huge year of advice and additional services.

Supervision GROUP

The Team behind SMSF Services

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