



Monthly Information Newsletter – Tax & Super

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SMSF regulations to allow six members under new legislation

A bill has been introduced into Parliament that partially implements a measure to allow an increase in the maximum number of allowable members in self-managed superannuation funds and small APRA funds from four to six.

First floated in the 2018-19 Federal Budget, the remainder of the measure is to be implemented through regulations. The bill also amends provisions that relate to SMSFs and small APRA funds to ensure continued alignment with the increased maximum number of members for SMSFs.

The reasoning behind the move is that SMSFs are often used by families as a vehicle for controlling their own superannuation savings and investment strategies. For families with more than four members, the only real options in the incumbent arrangements are to create two SMSFs (which incur extra costs) or place their superannuation in a large fund. The government says the change will help large families to include all their family members in their SMSF.

In some instances, the number of individual trustees that a trust can have may be limited to less than five or six trustees by state legislation. Such rules could prevent some or all members of a fund with five or six members from being individual trustees. In such cases, the members of a fund can use a corporate trustee in order for the superannuation fund to meet, or continue to meet, the amended definition of an SMSF.

Currently, if an SMSF has more than one director member, its accounts and statements for a year of income must be signed by at least two members in their capacity as individual trustees or as a director of a corporate trustee. As there cannot be more than four members of an SMSF under the current rules, these requirements ensure that all members sign the accounts and statements of SMSFs with one or two members. For SMSFs with three or four members, at least half of the members must sign its accounts and statements for an income year.

Under the updated requirements, an SMSF with one or two directors or individual trustees must have its accounts and statements signed by all of those directors or trustees. For all other SMSFs (that is, those with between three and six directors or trustees), the accounts and statements of the SMSF must be signed by at least half of the directors or individual trustees.

This approach maintains the standard under the previous provisions for funds that have between one and four directors or trustees and extends the requirement that at least half of the directors or trustees sign the accounts and statements of an SMSF with either five or six directors or trustees.

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