

Winding up a self-managed super fund

What you need to know



Our commitment to you

We are committed to providing you with guidance you can rely on, so we make every effort to ensure that our publications are correct.

If you follow our guidance in this publication and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it but we will not charge you a penalty. Also, if you acted reasonably and in good faith we will not charge you interest.

If you make an honest mistake in trying to follow our guidance in this publication and you owe us money as a result, we will not charge you a penalty. However, we will ask you to pay the money, and we may also charge you interest.

If correcting the mistake means we owe you money, we will pay it to you. We will also pay you any interest you are entitled to.

If you feel that this publication does not fully cover your circumstances, or you are unsure how it applies to you, you can seek further assistance from us.

We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at www.ato.gov.au or contact us.

This publication was current at **March 2009**.

Commissioner's foreword

Winding up your self-managed super fund (SMSF) is the final stage of running your fund. As a trustee, you have certain responsibilities that you need to meet once you decide to wind up your SMSF.

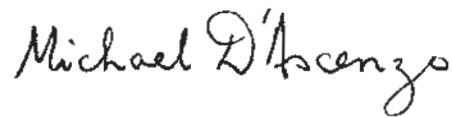
It is important to make sure no assets are left and that you meet all your reporting and administrative obligations.

One of these obligations is to let us know when your fund is being wound up. As the regulator of SMSFs, we need to know within 28 days of your fund being wound up.

Some other key activities you need to do include:

- dealing with member's benefits in accordance with the super laws and the trust deed
- arranging a final audit of the fund
- completing your reporting obligations with us and paying any final liabilities.

If you need help with winding up your fund, you can contact us for advice about what you need to do.



Michael D'Ascenzo
Commissioner of Taxation



Winding up your SMSF


Winding up an SMSF involves dealing with all of the assets of the fund so that the fund has no assets left, and completing all the reporting and other administrative obligations as a trustee.

If you decide to wind up your SMSF, as a trustee, you have some responsibilities that you need to meet.


Why trustees wind up SMSFs

Listed below are some common reasons why people wind up their SMSFs.

- SMSFs and the law surrounding SMSFs is complex. Not everyone is ready for this when they establish a fund. To effectively manage your own super, you need the time and expertise. In the end, some people realise that having and managing their own fund is not for them so they decide to wind up their SMSF.
- If all the members and trustees have left the SMSF (for example, they may have died), the fund needs to be wound up.
- If all the benefits have been paid out of the fund, the fund needs to be wound up.
- SMSF trustees that intend to move overseas may consider winding up their SMSF because the fund needs to meet the definition of an 'Australian superannuation fund'. The decision to continue with an SMSF when you are not residing in Australia should be made very carefully.

 **For more information about residency requirements, visit our website at www.ato.gov.au**

In some cases, you'll be able to pay benefits to members when you wind up your SMSF. In other cases, the members won't be able to, or won't want to take their benefits so you will need to roll them over to another super fund.

 **Once the fund is wound up, it cannot be reactivated, unless the wind up was in error. In this case, all outstanding returns for the intervening period will need to be lodged.**

What you need to do

If you have decided to wind up your SMSF there are some key activities that you need to do.

- Tell us within 28 days of the fund being wound up.
- Deal with the member's benefits in accordance with the super laws and the trust deed – this may mean paying them an eligible termination payment, if they are entitled, or rolling their benefits to another fund (you may need to sell assets to do this).
- Have a final audit of the fund undertaken.
- Complete your reporting obligations with us and pay any final liabilities.

There might also be other things that your trust deed requires you to do to wind up your fund.

Notify us

You need to let us know within 28 days of the fund being wound up.

You need to do this in writing and include:

- the name of your SMSF
- the Australian business number (ABN) or super fund number (SFN) of your SMSF
- a contact person, including their name, phone number and fax number
- the date you wound up your SMSF.

Send your letter to us at:


Australian Taxation Office
PO BOX 3578
ALBURY NSW 2640

Deal with members' benefits

You need to ensure that:

- you deal with member's benefits according to the super law and the trust deed
- your fund has no assets left once it has been wound up.

If you are winding up your fund and have not met a condition of release, you cannot access your super. Your super needs to be rolled over into another complying super fund.

 **There are serious penalties for using your super before you are legally allowed.**

If you are moving your funds into another complying super fund, there are two forms you may be required to complete:


1 Request to transfer whole balance of superannuation benefits between funds (NAT 71223)

This form can be used by members to request the transfer of the whole of their benefits to another super fund.

2 Rollover benefits statement (NAT 70944)


As the trustee of your fund, you need to complete this form when you rollover benefits to another fund. You need to keep a copy and send a copy to the fund you've transferred the benefits to.

If your members are entitled to take their benefits as a lump sum payment you will need to complete the *ETP payment summary – superannuation fund* (NAT 2606).

 **For more information about the requirements for lump sum payments, refer to the *ETP payment summary – superannuation fund instructions* (NAT 2656).**

If a pension or annuity payment was paid to a member and they had tax withheld, you will need to complete the *PAYG payment summary – superannuation income stream* (NAT 70987).

If you issued a payment summary throughout the year you will also need to complete the *PAYG payment summary statement* (NAT 3447).

 **There may be capital gains tax implications on the disposal of assets when you are paying benefits or rolling over benefits to another fund. Refer to our website at www.ato.gov.au for more information.**

Arrange a final audit of your fund

You are required to appoint an approved auditor to audit your fund each year. When you are winding up your fund, you still need to have an audit completed before you can lodge your annual return.

Complete your reporting responsibilities

If you wind up your SMSF, you need to lodge your final SMSF annual return. You need to lodge the *Self managed superannuation fund annual return* (NAT 71226) for the 2007–08 income year and onwards. You need to complete all the wind up labels, including:

- Was the fund wound up during the income year?
- Date on which the fund was wound up
- Have all tax lodgment and payment obligations been met?

You need to also finalise payment of any outstanding tax liabilities at this time.

➤ **For more information about how to complete this annual return, refer to *Self managed superannuation fund annual return instructions* (NAT 71606).**

If you have any returns from previous years still outstanding, then you also need to complete them.

➤ **If you need to lodge a return for any year before 2008, call us on **13 10 20** for help.**

⚠ **You need to receive confirmation from us that the wind up of your fund has been finalised before closing your SMSF bank accounts. If you close your SMSF bank accounts prior to receiving confirmation from us, any refund you may be entitled to cannot be banked.**

Confirmation of your wound up fund

To confirm that you have met all of your tax responsibilities, we will send you a letter stating that we have:

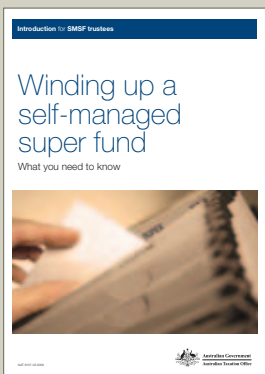
- cancelled your SMSF's ABN
- closed your SMSF's record on our systems.

It's important to wind up your fund correctly. If you have not lodged the required reports, it is likely our compliance team will contact you to do so. If you fail to carry out these responsibilities, you may be selected for further compliance activities. You may also be subject to penalties.

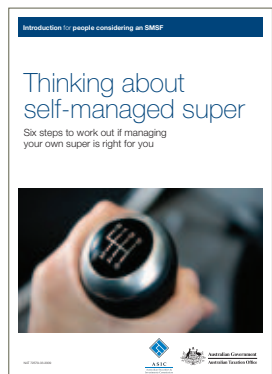
More information

Finding the right information for you

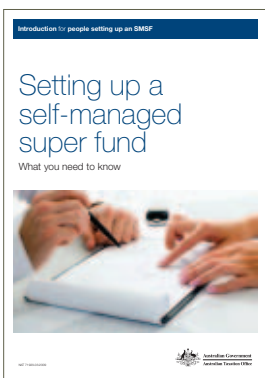
This introduction provides you with the requirements you need to follow when winding up your fund.



Thinking about self-managed super (NAT 72579) provides you with the steps you need to consider before setting up an SMSF.



Setting up a self-managed super fund (NAT 71923) provides basic information about how to set up an SMSF.



Running a self-managed super fund (NAT 11032) highlights your responsibilities and obligations as a trustee when operating your SMSF.



Useful services

To obtain a copy of our publications or for more information:

- visit www.ato.gov.au
- phone us on **13 10 20** between 8.00am and 6.00pm, Monday to Friday
- phone our publication ordering service on **1300 720 092**
- write to us at:
Australian Taxation Office
PO Box 3100
PENRITH NSW 2740

If you do not speak English well and want to talk to a tax officer, phone the Translating and Interpreting Service on **13 14 50** for help with your call.

If you have a hearing or speech impairment and have access to appropriate TTY or modem equipment, phone **13 36 77**. If you do not have access to TTY or modem equipment, phone the Speech to Speech Relay Service on **1300 555 727**.

