

Update: 6 December 2011 Be careful when updating SMSF trust deeds



Fleming Muntz
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Summary

Accountants, financial planners and other professionals are very much aware of the need to regularly review and update a trust deed which created a self managed superannuation fund ("SMSF").

Practitioners should ensure that any changes to a SMSF trust deed do not have an unwanted impact on their client's estate planning.

What are the problems?

SMSF trust deeds are routinely reviewed and updated to ensure that they comply with current requirements of the governing legislation.

What is sometimes overlooked is the *impact* of the changes to the trust deed, and particularly to any death benefit nomination that a client may have made in the course of their estate planning.

On completion of a trust deed review and update, the deed is generally filed away in a safe place, and not given any further thought until the time of a future review.

It is important however, to undertake a review of the updated trust deed to ensure that any death benefit nomination that a client may have made in relation to payment of their member entitlements on death is not inconsistent with the terms of the updated deed.

If an updated trust deed changes the way in which a death benefit nomination should be made, then an existing nomination may be invalid, and a new nomination will need to be signed to ensure it complies with the requirements of the updated trust deed.

How can Fleming Muntz help?

Fleming Muntz has experienced estate planning lawyers who can review both a SMSF trust deed, and a client's existing death benefit nomination, to ensure that the nomination complies with the trust deed and is in accordance with the client's wishes.

If a fresh death benefit nomination is needed, then our estate planning lawyers will work promptly with you and your clients to ensure the nomination is prepared and signed without delay.

Please contact us if we can be of assistance to you or your clients.

Important fine print

This update is for general information only. It is not a complete guide to the area of law. Competent advice should be obtained before taking any action.

We resent unwanted email as much as anyone – if you would prefer not to receive any further updates, please telephone us on (02) 6021 2222 or email to enquiries@flemingmuntz.com.au.

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