Buying Property in an SMSF

Property has and will continue to be a long favoured asset class due to the consistent capital returns and yields offered. It is the preferred asset of many, who believe it is a tangible asset that they feel confident will always return real value. It's no surprise then, that there has been an increase in the number of trustees investing in property, especially with the ability to borrow to do so!

There are several ways a fund can acquire property, including:

- Purchasing the property with existing superannuation cash
- Borrowing to purchase the property, and
- If the property is classified as business real property the property can be in-specie transferred into the fund via a contribution.

Regardless of how the property is acquired it is important to ensure all transactions are conducted at arms-length, on commercial terms and recorded at current market values.

There are a number of steps which should be followed to avoid any issues along the way.

1. Establish the SMSF

If you are going to borrow money to acquire property you should consider a corporate trustee structure for your fund. Not only do the majority of banks prefer an SMSF with a corporate trustee, in some cases they also provide a higher Loan Value Ratio (LVR) for corporate trustee funds.

2. Roll in your existing superannuation

It can take 4 - 8 weeks for the fund to receive a member's rollover entitlement from another fund. To avoid being caught out with no cash to pay for the property deposit or settlement, you should arrange your rollover promptly.

Super Tips

Please keep in mind, if you rollover or cease making contributions to your existing provider, you may lose any insurance benefits you currently have in place. You should consider whether it's beneficial to leave a small cash balance in that fund and to continue to make contributions to preserve your insurance, or speak to a Financial Adviser to arrange direct insurance via your SMSF.

Obtaining insurance is not always easy so we strongly recommend you speak to a Financial Adviser prior to commencing any rollovers.

3. Obtain loan pre-approval (if borrowing is applicable)

There are a number of banks who offer SMSF Property Loans, so trustees have a number of options available to choose from.

It is important to understand what percentage they are willing to lend (LVR) as an SMSF loan will differ to a normal home loan. Consideration should be given to the interest rate and fees but also it is important to understand what documentation the bank requires in order to approve a loan. Due to the risks associated with borrowing in super, some banks require a formal statement of advice as evidence you have sought the advice of a licensed financial planner who has analysed your specific personal situation and recommended borrowing is suitable for you.

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4. Arrange for employer contributions to be directed to the SMSF

The fund needs to ensure that at all times it has sufficient cash in the bank account to service the loan and cover any expenses which arise. An SMSF is not permitted to have a bank overdraft and if this occurs it is considered a compliance breach. Arranging for your employer to make your super guarantee contributions into the SMSF can assist with the cash flow of the fund, especially if at any time the property is not rented.

5. Source the property

Once it's confirmed how much the fund can borrow it is possible to then establish how much the fund has to spend. It is important to allow for all costs which cannot be financed, for example any improvements required to the property. Be sure to leave enough cash in the SMSF's bank account for unexpected expenses ie. repairs and maintenance which may be required before the property can be leased.

6. Signing the contract and establishing the borrowing structure (Bare Trust)

Depending on which state the property is located will dictate whether the bare trust needs to be established before the contract is signed. Care also needs to be taken to ensure the correct purchaser name is on the contract as the requirements here also vary from state to state.

7. Obtain final loan approval and vetting of documents

Once the Contract, Borrowing Structure and required documentation has been completed and signed the, bank can provide final loan approval and sign off on the loan documents.

8. Property settlement

Once the above has occurred the property can be settled. If borrowing is not required then steps 3, 6 and 7 are not relevant.

Super Tips

Check what the requirements are for your relevant state for the naming on the initial contract.

Depending on which state you are in, it may not be possible to have the contract signed 'and or nominees'.

Check which name you need to have recorded on all other documentation as the naming requirements vary from state to state.

Ensure all property expenses, such as stamp duty are paid for by the SMSF and not the member as this may cause duplicate stamp duty issues.

Source: https://www.superguardian.com.au/pdfs/Buying-Property-SMSF.pdf

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