5 THINGS THAT CAN GO WRONG

When an SMSF Invests in Property

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INTRODUCTION

Direct Property is a popular SMSF investment choice, whether it be residential or commercial.

As it often represents a substantial proportion of an SMSF's total investments it pays to make sure that you avoid any pitfalls.

We've noted some problem areas worthy of attention together with our tips to keep compliant:

You fail to comply with legislative requirements

The Superannuation Industry (Supervision) Act 1993 (SIS) has very specific rules regarding direct property investment. Most notably, you cannot purchase residential property from related parties. Only business real property can be purchased from related parties.

Speak to your SMSF Adviser/Accountant/Administrator before entering into any direct property transactions so you can be sure that the investment will comply with SIS requirements.

You do not adequately protect your Direct Property investment

Amongst other things, s. 52 of SIS requires you as SMSF Trustee to exercise, the same degree of care, skill and diligence as a prudent superannuation trustee would exercise in relation to money they invest for the benefit of others.

As it is likely that your Direct Property investment make up a significant amount of your total SMSF investments, it is prudent to insure this investment.

QUICK TIPS

Consider adequate Landlord insurance to protect your SMSF Direct Property Investment and make sure the policy is held in the name of the SMSF Trustee as trustee for the SMSF.

You do not adequately consider the liquidity of the investment

An investment into Direct Property is not readily converted to cash at times you may need to make payments. When you invest into Direct Property you need to consider how much should remain available in your SMSF cash account or accumulated with new contributions so that you can meet all the SMSF expenses and other costs that arise from time to time.

QUICK TIPS

Set out a liquidity plan before you purchase your SMSF Direct Property to make sure you will always be able to pay any expenses and liabilities such as tax when they are payable.

You do not obtain a tax depreciation report

As the owner of a Direct Property, your SMSF may be entitled to substantial tax deductions but these need to be properly assessed and quantified. Failing to obtain a tax depreciation report can mean your SMSF ends up paying more tax than it may otherwise have to pay.

Use a reputable Tax Depreciation Report provider to maximise the deductions your SMSF is entitled to.

Be careful who you lease your property to and for how much

SIS places restrictions on who can lease your SMSF Direct Property and there are also tax rules impacting how your lease amount should be determined.

You cannot lease residential property owned by the SMSF to yourself or your related parties. Only business real property can be leased to related parties. If you are not sure who is a related party of your SMSF, check with your SMSF Accountant/Administrator first. Any lease should be for an arm's length rate to avoid punitive tax outcomes.

QUICK TIPS

Obtain a lease appraisal including comparables before you enter into your SMSF lease agreement.

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