

Module 2 – Establishing the SMSF

- The basic conditions to qualify as a fund are set out in **s17A** of the **SIS Act**.
- Broadly, a fund is a superannuation fund with fewer than 6 members (other than single member funds) where:
 - Each trustee (or, where the trustee is a body corporate, each director) is a member of the fund;
 - Each member of the fund is a trustee or, where the trustee is a body corporate, a director of the body corporate;
 - No member of the fund is an “employee” of another member of the fund, unless those members are related; and
 - No trustee of the fund receives remuneration for his or her services. Note that s 17B of the SIS Act enables trustees and directors of funds to be remunerated for non-trustee duties or services, subject to certain Conditions.
- A person is disqualified under **s120(2) SIS Act** if they:
 - Have been convicted of an offence involving dishonesty
 - Have been subject to a civil penalty order under the super laws
 - Are insolvent under administration (including being an undischarged bankrupt)
 - Have been disqualified by a court or regulator (for example, by us or APRA).
- **s 126K** of the SIS Act, a disqualified person must not be a trustee of a self-managed super fund.
- **s17A(3)(c)** of the SIS Act sets out that where a member of the fund is under legal age and does not have a legal representative, the parent of the member must be a trustee of the fund in their place.

Module 3 – Contribution

- Superannuation contributions can be divided into two types:
 - Concessional (before-tax) and
 - Non-concessional (after-tax).
- Both types are subject to a contributions ‘cap’ ie limit.
- The 2020/2021 legislated rules impose an annual cap of \$100,000 for one year (1 July through to 30 June) for non-concessional contributions
- For the 2020/2021 year, there is an annual concessional contributions cap of \$27,500 all ages
- The minimum an employer must pay is called the super guarantee (SG):
 - the SG is currently 9.5% of an employee’s ordinary time earnings
- Exceeding the concessional cap: Since 1 July 2013, if a member exceed a member concessional cap, the excess concessional contributions count towards a member’s assessable income and are subject to their marginal tax rate plus an interest charge

Important Calculations

- Calculating SG component
 - $9.5\% \times \text{salary} = \text{super guarantee component}$
 - $109.5\% \times \text{salary} = \text{total amount received from employer ie salary and SG}$
- Financial year concessional cap \$27,500 (ignore any carry-over from previous years)
- Let’s say salary of \$100,000
 - $9.5\% \times \$100,000 = \$9,500$ super guarantee component
- How much can be salary sacrificed?
 - $\text{Current cap} - \text{SG} = \$27,500 - \$9,500 = \$18,000$

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1. Understanding the eBook Smsf Exam Sample
 - The Rise of Digital Reading Smsf Exam Sample
 - Advantages of eBooks Over Traditional Books
2. Identifying Smsf Exam Sample
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Smsf Exam Sample
 - User-Friendly Interface
4. Exploring eBook Recommendations from Smsf Exam Sample
 - Personalized Recommendations
 - Smsf Exam Sample User Reviews and Ratings
 - Smsf Exam Sample and Bestseller Lists
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 - Smsf Exam Sample Enhanced eBook Features
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 - Adjustable Fonts and Text Sizes of Smsf Exam Sample
 - Highlighting and Note-Taking Smsf Exam Sample
 - Interactive Elements Smsf Exam Sample
 8. Staying Engaged with Smsf Exam Sample
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Smsf Exam Sample
 9. Balancing eBooks and Physical Books Smsf Exam Sample
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Smsf Exam Sample
 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
 11. Cultivating a Reading Routine Smsf Exam Sample
 - Setting Reading Goals Smsf Exam Sample
 - Carving Out Dedicated Reading Time
 12. Sourcing Reliable Information of Smsf Exam Sample
 - Fact-Checking eBook Content of Smsf Exam Sample
 - Distinguishing Credible Sources
 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development

-
- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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