



# The Sole Purpose Test

If you have an SMSF or are looking to establish an SMSF, it's important for you to understand what the sole purpose test is. This test is a key part of superannuation regulation and must be followed at all times.

The Sole Purpose test which is outlined in section 62 of the SIS Act requires that the superannuation fund is maintained only for the purpose of providing benefits to its members upon their retirement, or for beneficiaries if a member dies.

All trustees of an SMSF must comply with the sole purpose test to be eligible for the taxation concessions available to a complying superannuation fund.

## CORE PURPOSE

An SMSF must be maintained for at least one of the following core purposes.

- paying benefits to members on or after retirement from gainful employment;
- paying benefits to members when they have reached a prescribed age; or
- paying benefits on a members death.

## ANCILLARY PURPOSE

Ancillary purposes for maintaining a fund are for the provision of benefits to members in the following circumstances:

- termination of the member's employment with an employer who, at any time, had made contributions to the fund for that member;
- cessation of employment due to ill-health (whether physical or mental);
- death of the member after retirement where the benefits are paid to the member's dependants or legal representative;
- death of the member after attaining a prescribed age where the benefits are paid to the member's dependants or legal representative.

# Understanding the

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This last ancillary purpose allows a fund to provide benefits in situations of financial hardship and/or on compassionate grounds.

As a trustee one of your responsibilities is to ensure that the SMSF complies with the sole purpose test at all times. If a super fund trustee, member or related party benefits from any investment before retirement or preservation age, then the super fund has breached the sole purpose test.

## Sole Purpose Test Breach

Breaching the sole purpose test is detrimental to the health of your SMSF and also you personally. Let's say your fund purchased a holiday home to visit on the weekends. If you used the holiday home for your benefit, a members' benefit or anyone related to the fund, then this is a breach of the sole purpose test. This is only one example of how a trustee can breach the sole purpose test.

Any breach of this test will mean the SMSF will be deemed as non-complying and will suffer serious tax consequences. This will also bring unwanted attention from your SMSF auditor and the ATO.

## If a fund is deemed non-complying:

Your fund's total fund assets (minus Non Concessional Contributors) are subject to tax at the highest rate;

- Any income received in the financial year of the breach will also be taxed at the highest marginal rate;
- The member responsible for the breach becomes disqualified as a trustee and may not continue with the SMSF;
- The member responsible for the breach can face serious penalties such as fines paid from personal money and imprisonment.

If you have any questions about the **Sole Purpose Test**, give us a call on **1300 216 890**.



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