

strategies for self managed superannuation funds - purchasing agricultural land with borrowed funds

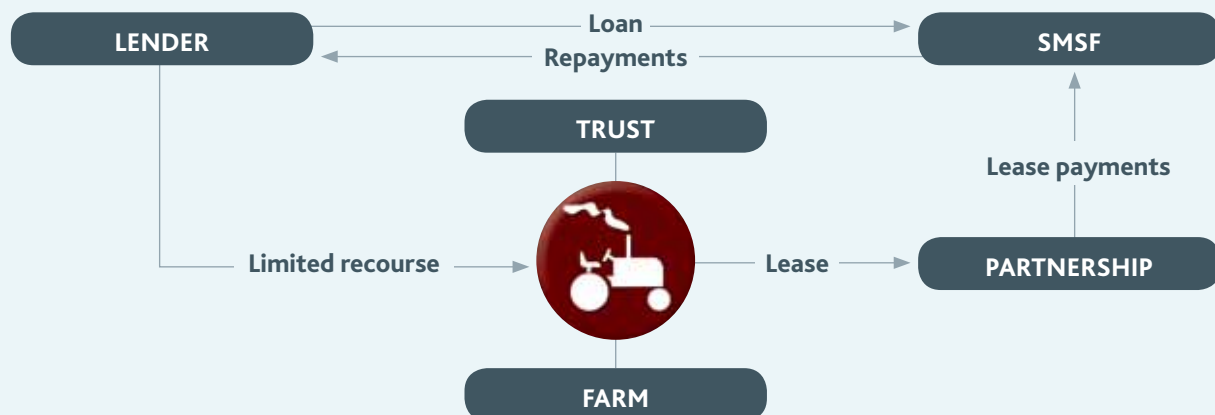
Changes to superannuation legislation now allow self managed superannuation funds (SMSFs) to borrow to invest, providing certain conditions are met.

If you are a farmer or a primary producer and have a SMSF, you are now able to use these arrangements to help you buy real property, used in your primary production business, through your SMSF.

How does it work?

If you are a primary producer who has a SMSF and you want to buy a farm, it may be possible to purchase the land through your SMSF (if the SMSF has enough funds for a partial payment). The SMSF purchases the land under an instalment arrangement that must meet certain criteria.

The SMSF makes a partial payment on the land using available funds and borrows more funds to pay the balance and other acquisition costs. The land is used as security for a limited recourse loan. In the event of default, the lender only has recourse to the land and cannot claim any other SMSF assets. The land is held in trust for your SMSF, and the SMSF has beneficial interest in the land, entitling your SMSF to any income it generates. Your SMSF then leases the land to the primary producer or other party at market rates. Your SMSF makes loan repayments, over an agreed term. After the loan is fully repaid, the legal ownership of the land can be transferred to the SMSF.



This strategy works best if you:

- are a trustee of a SMSF;
- wish to purchase farm land;
- are a primary producer;
- have a long-term investment timeframe.

super benefits for primary producers

Using your SMSF to buy agricultural land.

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The benefits of this strategy

- Your SMSF benefits from the income and capital growth of the farm over the long term.
- Lease payments are used to help repay the loan and expenses can be offset against lease payments.
- Your SMSF does not have to invest all of its assets in the land; it is able to diversify into other investments.
- SMSF assets are secure as the lender does not have recourse to your SMSF's assets in the event of default.
- Your SMSF may choose not to acquire the farm. If your SMSF decides to walk away from the arrangement the lender may dispose of the land and your SMSF may receive the residual amount after the loan is repaid.
- Once your SMSF acquires the land, income after expenses and any capital gain on disposal may be taxed at lower rates – 0% to 15%.

Some things you should consider

- Your SMSF trust deed must allow borrowing under an instalment arrangement.
- Investment in primary production business should be consistent with your SMSF's investment strategy. Risk, return, diversification and interest rates must be considered.
- The instalment arrangement must meet certain requirements to ensure that the SMSF remains complying.
- The trustee must act in the best interests of the SMSF beneficiaries.
- Your SMSF requires sufficient cash flow to service loan repayments over the term of the loan. Cash flow may be sourced from investment earnings or member contributions. Consider contribution limits.
- Arrangements must be at arm's length and transacted at market rates.
- You should weigh the benefits of the strategy against the costs of setting up and maintaining the instalment arrangement.

Case Study

Jane and John Jacobs are primary producers. They wish to expand their operations. They and their partners are also members of JJJ SMSF (SMSF). The SMSF has a corporate trustee and currently holds \$1,000,000 in its bank account. The SMSF acquires the adjoining farm under an instalment arrangement that meets prescribed conditions. The adjoining farm is worth \$1,500,000.

Under the arrangement, the \$800,000 from the SMSF's bank account is used to make an instalment on the property. The shortfall of \$700,000 plus \$100,000 in stamp duty and acquisition costs are funded by a limited recourse loan using the farm as security. The farm is leased to the partnership on an arm's length basis and the lease payments, together with other SMSF income and member contributions, are used to make loan repayments. Once the loan is paid off, the legal ownership of the farm can be transferred to the fund.

The importance of financial planning

There are a number of rules and regulations surrounding superannuation and planning for retirement. Your Westpac Financial Planner can provide advice about borrowing strategies for SMSFs that is personalised to your situation and goals. You should also seek professional tax and legal advice.

Things you should know: This information is current as at February 2008. This information has been prepared without taking into account your objectives, financial situation or needs. Because of this, you should, before acting on this information, consider its appropriateness, having regard to your objectives, financial situation and needs. The taxation position described is a general statement and should only be used as a guide. It does not constitute tax advice and is based on current tax laws and their interpretation. Your individual situation may differ and you should seek independent professional tax advice on any taxation matters. Any loan arrangements may be subject to the provision of personal guarantees which would expose the individual guarantors to potential personal liability. Westpac Financial Planners are representatives of Westpac Banking Corporation ABN 33 007 457 141 AFSL No 233714. Westpac's Financial Services Guide can be obtained by calling 131 817, visiting www.westpac.com.au or visiting any of our branches.

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