Keeping evidence to follow the paper trail

Tony Negline

"HE who keeps the best documentation generally wins the argument."

There is nothing truer in relation to superannuation investments.

Ensuring super fund documents are accurate and correct and retaining copies of these documents for many years is vitally important because innocent and not-so-innocent errors creep into super fund account balances and it can sometimes be very profitable to fix them up. This can only happen if proof can be provided.

One regular reader of *DIY Super* wrote a couple of months ago about his travails with his super fund, which he says has over 400,000 members. We'll call him Joe. His litany of complaints stretch over many years:

- Wrongly dating payouts of large lump sums when requested to do it on a specific date (for example, June 30 instead of July 1, which creates major personal income tax problems).
- Forgetting to follow major investment choice changes, so missing periods of large growth.
- Wrongly taxing lump sum payouts.
- Telling Joe he wasn't allowed to contribute $3000 to his wife's super and claim the $540 offset (as it turns out Joe made the contribution and claimed the offset anyway). "It was only by persistence over a long period in each case that all administration errors were reversed," Joe tells me.

Just before June 30, 2008, the super fund publicised a free switch opportunity (closing June 20 for changes which would take effect from July 1). The only problem was that the account balances on their website for the period June 14-23 were wrong and did not add up to a member's correct total.

"For example, my wife's two options (balanced and growth) in her account, as reported, totalled $90,000 less than the total," Joe says.

"We had no intention of switching but alerted them to the error on June 16 and later by fax, pointing out that you could not make a choice between options if you did not know what your own options were worth.

"They could not tell me what the correct individual totals were and did not fix this until June 24. They told me in writing that the half-yearly reports (which are sent out three months after the event) and their daily website balances were sufficient information.

"Not if they are wrong. At no time during that period of error was a notice placed on their website stating that a member's current balances within their investment did not add up to their total."

Joe takes his finances seriously and has enough time on his hands to carefully monitor every aspect of all his investments. He also has an economics degree from a London university and spent some time as CEO of a law school, "so I'm probably more able to smell a problem".

Joe also says that the super fund always seems to be "extremely defensive and an anti-client organisation".

"If you raise a question in writing, they sometimes reply saying that they have put it into their complaints process and will respond in about 90 days and enclose information about complaints processes and the ombudsman, and then they often do not reply," he says. "I shudder to think how many of the members have been dudded without adequate personal knowledge or have been beaten into submission."

It can be a nuisance keeping documentation for many years but Joe's situation shows exactly why this needs to be the case.

You would be wrong to think that these types of problems do not arise in self-managed funds.

The incorrect recording and misreporting of transactions within SMSFs arises frequently.

Trustees of SMSFs are required to keep documentation for five years and others for 10 years. I would argue that these time frames are too short. Superannuation is a long-term investment and the rules are forever changing.

No one can predict what records from 10, 20 or 30 years ago may be important at some future date.

As with Joe it might be important just to make sure you're not being ripped off.

One problem with all this record-keeping is how should it be stored?

No storage system is perfect. A lot of people simply keep paper. But the problem is that paper takes up a lot of space. It also fades or important parts of documents can get eaten by insects.

A lot of people scan paper documents into their computer and keep backup copies in another place.

The advantage of this system is that it reduces the storage space because once an electronic copy has been made it's no longer essential to keep the paper copy of most documents.

The problem with this approach is that computer programs are always changing and documents that can be read today may not be readable with updated software many years into the future.

Tony Negline may be contacted at www.allthingsconsdered.biz

Run your investment club without losing friends or money

WITH the market about to bottom, we are thinking of setting up a share group to start picking up cheap stock. What safeguards should we set in place to ensure that correct records are kept and that the interests of members are respected?

Investment clubs have been around since the late 19th century and are popular in most parts of the world. If structured correctly, they can provide a great opportunity to learn about investment markets, build a diversified portfolio, lower trading costs and have plenty of fun.

But as you have highlighted, proper safeguards are needed to minimise disputes and ensure that the club operates efficiently.

Probably the most important step is to decide who should join. This might seem obvious if you have already discussed the idea with three or four of

What to do

your friends but it is essential to get the right mix of people.

A common problem experienced by investment clubs is that some members will want to focus on short-term trading while others will prefer a buy-and-hold approach.

To make things work, you really need to have a shared investment philosophy and agree on the group's objectives right from the outset.

It is equally important to decide how big the club will be. While your initial temptation might be to keep everything small and close-knit, this is not always the best option.

If there are only three or four members, it can sometimes be hard to get sufficient people along to each meeting and the bookkeeping, reporting and administrative tasks can become burdensome.

Researching stocks can become a challenge as well. When you only have a few members, you might not have enough expertise in enough sectors to perform this function properly.

At the other extreme, having too many people can make the decision-making process unwieldy and you may need to be registered with ASIC as a managed investment scheme.

As a broad guide, overseas research suggests that five to 15 members is generally the best size.

The next task is to sort out what financial commitment will be required from each member. Most clubs are started with an initial lump sum that is topped up with an ongoing monthly subscription.

If the subscription is not affordable to everyone in the group, things can quickly run into strife. Once these issues have been canvassed, you can draw up a partnership agreement.

This document should cover the club's investment approach, meeting arrangements, the appointment of club officers if appropriate, membership requirements, the distribution of profits and losses, voting rules and processes for terminating the partnership. The ASX has a template agreement on its website and is a useful starting point.

If you want to avoid disputes, you should also have clear policies on contribution requirements, trading limits, access to the club's bank account, placing buy and sell orders, trading between meetings, permitted investments and so on.

Similarly, to allow for differing contributions and for the entry and exit of new members, it is generally a good idea to value each member's share in terms of a unit value. Finally, the key long-term safeguard is to have proper record-keeping procedures.

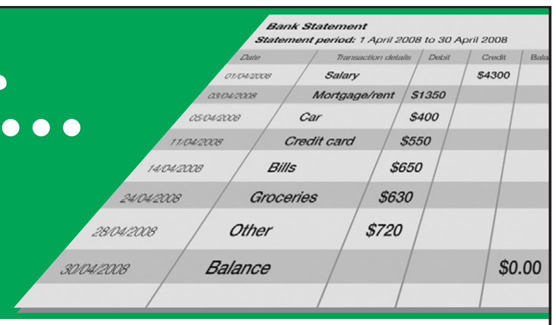
When people form an investment club, their initial focus is generally on what to buy and how much fun it will be to spend the profits. But from a legal and tax perspective, what you are actually doing is starting a business partnership and you should not underestimate the complexities involved.

For example, you may require specialist advice on how to account for capital gains, whether or not to register for GST and how to complete the partnership's tax return.

While membership of an investment club can be stimulating and enjoyable, it is vital to establish the ground rules and appreciate what you are taking on. If you don't get the right advice and systems in place, you can end up losing friends and money.

Andrew Quin, CPA, Wren Investment Advisers

You insure your home & car... What about your income?



Bank Statement
Statement period: 1 April 2008 to 30 April 2008

Date	Transaction details	Debit	Credit	Bala
01/04/2008	Salary		$4300	
03/04/2008	Mortgage/rent	$1350		
05/04/2008	Car	$400		
11/04/2008	Credit card	$550		
14/04/2008	Bills	$650		
24/04/2008	Groceries	$630		
28/04/2008	Other	$720		
30/04/2008	Balance			$0.00

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