Owning Farm Land in a Self Managed Super Fund

Our core purpose is
'TO HELP COMMITTED CLIENTS ACHIEVE FINANCIAL SECURITY'

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Owning farm land in a Self Managed Superannuation Fund (SMSF) can create a tax effective way of separating the farming operation from the ownership of the farm land whilst achieving asset protection in the process.

Superannuation and land ownership is a complex area. The following information should be considered general in nature and before acting on this general advice your personal situation should be analysed in more detail.

Assets such as farmland can be owned in a SMSF, however a SMSF cannot operate a business. A farming business however can rent land owned by a SMSF at market value and claim a tax deduction for the rent. The advantage is that the SMSF is taxed on a concessional basis at 15% or 0% in pension phase. This leads to having more money available to invest. If the SMSF is paying a pension to members, the SMSF pays no tax on the rent and can access Capital Gains Tax benefits when the farmland is sold.

Self Managed Super Fund: Land Ownership

1. Transfer land to SMSF

Land owner → Transfers land → SMSF

CGT Exemptions
Stamp duty Exemptions*

2. Farming business pays lease to SMSF

Farm business → Lease paid at market value / Farm tax deduction → SMSF

Tax 15%
or
Tax 0%

SMSF → Cash withdraws if in pension phase → Mr & Mrs Farmer

Pension
Withdrawal

For example	
500 acres, Lease value	$45,000
Tax saving (assume 20% average rate)	$9,000
Tax in super fund (in pension phase)	$0

3. Consider estate planning requirements

It is important to understand that assets held in superannuation do not form part of your Estate. A SMSF is basically a form of Trust and therefore the assets held by the SMSF are under your control rather than legal ownership. Your Estate plan needs to reflect this. In farming situations it is common that although the land is in a SMSF there is a requirement for that land to end up with a specific family member (for example the son or daughter working on the farm). This can be achieved by using binding death nominations to ensure a particular asset ends up with a particular person. We also refer to this as 'inheritance protection' given the land transfers direct from the SMSF to the intended individual, by-passing the Estate and preventing it to be part of a Will challenge.

4. Additional tax planning opportunities

SMSF's in farming situations can be very useful for tax planning and debt reduction when multiple generations are involved. Lease payments and super contributions can be maximised to reduce tax and if the older generation have the ability to withdraw a pension the funds can be returned to the farm for working capital, repay debt, capital expenditure or drawings. This works really well when Farm management Deposits (FMD's) are withdrawn. Offset the FMD withdrawal with a super contribution and withdraw the funds as a pension. Similar taxation benefits can be gained where a company is part of the farm business structure. Super contributions can be used to offset dividends paid which can enable company tax credits (franking credits) to be refunded.

IMPORTANT DISCLAIMER: This document does not constitute advice. Clients should not act solely on the basis of the material contained in this document. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly and we therefore recommend that our formal advice be sought before acting in any of these areas. This document is issued as a helpful guide to clients and for their private information.

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The farmland may be contributed to the SMSF provided the contribution limits are not breached. From 1 July 2017 the contribution limits can be summarised as follows:

*Details	
CGT	$1,445,000
Non-Concessional	$100,000 per annum $300,000 bring forward option
Concessional	$25,000 (all ages)

*subject to legislation changes

The advantages and disadvantages of farmland being owned by a SMSF are outlined below. Please note that these are general in nature and a review of your individual situation would need to be completed to confirm if they apply to you:

ADVANTAGES

- The farmland can be transferred with no stamp duty being payable
- The farmland can be transferred with no capital gains tax consequences
- You continue to maintain full control of the farmland
- The farming operation continues in the same way as it has in the past
- Lease payments can be pre paid at the end of each financial year providing for tax planning opportunities
- This is not a one off transaction, that is additional land can be transferred in future years
- It will provide a tax effective way of building up off farm assets
- From pension age the superannuation can be accessed tax free
- This strategy is established as part of your succession and estate plan to provide certainty and security to future farming generations and non farming family members
- The SMSF can be used to hold other investments
- Tax free income – whether the next generation farm the land, or the farm is leased to another farmer, or the farm is sold, all income generated by the SMSF will be tax free (in pension phase)
- You are taking control of your superannuation investments and implementing a longer term investment strategy

DISADVANTAGES

- The land held by the SMSF cannot be used as security for future borrowing
- A lease payment needs to be made each year from the farm business to the SMSF. If not in pension phase this can impact cashflow.
- Additional administration work is required with the SMSF with financial statements and an annual return being required to be lodged each year

Owning farmland in a SMSF can be one way to create more wealth. By having an investment plan that involves superannuation there can be significant tax advantages at all stages of life – whilst working and accumulating investment assets, the transition phase between working and retirement and once the full retirement stage is reached. By paying less tax, more cash is available for investment assets to be accumulated and income is available to retire with.

At Mulcahy & Co our business is set up so that you can access the advice needed. We have experts in all areas of Accounting & Taxation, Financial Planning, Lending, Legal and IT to provide proactive and ongoing assistance

We offer a free no obligation meeting to review your situation. Call us today on 03 5330 7200 and take advantage of this valuable offer.

(Updated 30 June 2017)

Are You Financially Secure?

At Mulcahy & Co we are in a unique position to provide the expert advice and solutions of accounting, financial planning, lending, legal and information technology all under the one roof. This makes a normally complicated process seamless to help you on your way to becoming financially secure.

WHAT DOES BEING FINANCIALLY SECURE MEAN?

It means assessing your personal and business goals and developing a plan to achieve them.

1. **Goals & objectives**
2. **Estate plan**
3. **Risk plan**
4. **Asset protection plan**
5. **Taxation plan**
6. **Debt plan**
7. **Retirement plan**
8. **Business plan**
9. **Superannuation plan**
10. **Investment plan**

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