

SPR 2006/MB1 -



Self-managed Superannuation Funds (Assets Acquired on Marriage Breakdown) Determination 2006

I, Raelene Susan Vivian, make this determination under paragraph 66(2)(d) of the *Superannuation Industry (Supervision) Act 1993*.

Dated this 28th day of August 2006

ORIGINAL SIGNED

(Raelene Vivian)
Deputy Commissioner
Australian Taxation Office

1. **Name of Determination**

This determination is the Self-managed Superannuation Funds (Assets Acquired on Marriage Breakdown) Determination 2006.

2. **Commencement**

This determination is taken to have commenced on 28 December 2002.

3. **Application**

This determination applies to the trustee of a self-managed superannuation fund that acquires an asset on or after 28 December 2002 in the circumstances set out in the determination at clause 4.

4. **Determination**

Subsection 66(1) of the *Superannuation Industry (Supervision) Act 1993* does not prohibit a trustee of a self-managed superannuation fund (the acquiring fund) from acquiring an asset from a related party of the fund if:

- (a) the asset is acquired for the benefit of a particular member of the acquiring fund by way of a transfer or roll over from the trustee of another regulated superannuation fund (the transferring fund); and
- (b) the asset represents the whole, or part, of either:
 - (i) that member's own interests in the transferring fund; or
 - (ii) that member's entitlements as determined under Part VIIIB of the *Family Law Act 1975* in relation to another person's interests in the transferring fund where that other person is the member's spouse, or former spouse, and
- (c) the transfer or roll over occurs as a result of that member's marriage breakdown.

5. Definitions

The terms used in this determination have the same meaning as used in the *Superannuation Industry (Supervision) Act 1993* (SIS Act). They include the following definitions from subsection 10(1) of the SIS Act:

‘asset’ means any form of property and, to avoid doubt, includes money (whether Australian currency or currency of another country);

‘member’ has a meaning affected by section 15B of the SIS Act;

‘Part 8 associate’ has the same meaning given by Subdivision B of Division 1 of Part 8;

‘related party’, of a superannuation fund, means any of the following:

- (a) a member of a the fund;
- (b) a standard employer-sponsor of the fund;
- (c) a Part 8 associate of an entity referred to in paragraph (a) or (b);

‘self-managed superannuation fund’ has the meaning given by section 17A of the SIS Act.

In section 66 of the SIS Act **‘acquire an asset’** does not include accept money – subsection 66(5) of the SIS Act.