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ADVANTAGES AND DISADVANTAGES OF OWNING YOUR FARM IN A SELF-MANAGED SUPERANNUATION FUND (SMSF)

This is intended as a general guide and should be used in conjunction with professional legal, tax, and financial advice, specific to your individual circumstances.

ADVANTAGES

TAX BENEFITS
• Income from the farm (if leased to a related party on commercial terms) is taxed at 15% in accumulation phase and 0% in pension phase.
• Capital gains are discounted by one-third if the asset is held for more than 12 months.

ASSET PROTECTION
SMSF-held assets are generally protected from creditors in the event of bankruptcy or legal claims.

SUCCESSION PLANNING
The SMSF can act as a vehicle for intergenerational wealth transfer and transition of farm control, especially if children are members of the fund.

LEASING TO RELATED PARTIES
Farms that qualify as 'business real property' can be leased to related parties (e.g. to you or an associated entity) on commercial terms. This means that you can continue farming, while benefiting from the superannuation tax concessions.

DIVERSIFICATION & RETIREMENT PLANNING
Enables farming families to hold hold key assets in a concessionally taxed environment as part of retirement planning.

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DISADVANTAGES

SOLE PURPOSE TEST & COMPLIANCE RISK

• The SMSF must provide retirement benefits only.

• Any personal use of the farm by members (other than via a commercial lease) is strictly prohibited and non-compliance carries severe penalties.

LIQUIDITY ISSUES

Farms are illiquid and indivisible assets, which can make it difficult to meet pension or death benefit payments.

LIMITED BORROWING CAPACITY

Borrowing must occur through a Limited Recourse Borrowing Arrangement (LRBA), which are complex and highly regulated.

NO PRIVATE USE

Members and relatives cannot use the property for private purposes, including residence or agistment, unless under a formal commercial lease agreement.

SETUP AND ONGOING COSTS

Establishment, compliance, and ongoing management costs can be significant.

DIVISION 296 TAX

The government is proposing to amend the Income Tax Assessment Act by introducing a new Division 296, effective from 1 July 2025. The Division 296 tax will apply where the members superannuation balance exceeds $3M and will impose a tax of 15% on a proportion of the gain in the value of the members superannuation balance in the relevant income year. The tax will apply to unrealized capital gains, so that as the value of the farm increases, tax will be payable notwithstanding that it has not been sold.

Death Benefits Tax

If at the time of your death you are not survived by someone who is a death benefit dependent for tax purposes, then tax of 17% and up to 32% will be payable on your superannuation balance. If your farm is owned by your SMSF, then death benefits tax could be substantial.

Professional Advice Recommended

Due to the complex legal, tax, and compliance issues involved, professional advice from a lawyer, financial adviser, and accountant is critical.