

# Superannuation Death Benefits



## How is superannuation dealt with in the event of your death

Superannuation does not form part of your estate, and is not dealt with under your Will (unless the necessary steps are taken within your superannuation fund.)

The trustee of your super fund ultimately decides where your superannuation benefits will be paid. You are typically able to make two types of nominations to the trustees to instruct them of your wishes:

1. **Non-Binding Nomination:** this nomination will indicate your preferred beneficiaries and the amount and type of payment you desire the recipient(s) to receive. In this instance however, the trustees retain ultimate discretion over the amount, type and the recipient of the payment.
2. **Binding Death Benefit Nomination (BDBN):** with this form of nomination, the trustee has no choice but to follow the member's instructions, effectively a Binding Nomination removes the trustee's discretion. It should be noted that binding nominations are generally required to be renewed every three years however some super funds now offer non-lapsing binding nominations.

## Binding Death Benefit Nomination

In most cases, a BDBN will need to be signed by the member of the super fund and witnessed by two independent people over the age of 18 years. It is important to note that super funds may have different rules applicable, so you need to consult your super fund to ensure that you are following the required steps to put a BDBN in force.

For some super funds, if your personal circumstances change, your non-lapsing nomination may become invalid. This means that in the event of your death, the trustees may disregard your nomination and pay your death benefit to another beneficiary, at their discretion.

If you have a significant change to your personal circumstances, you may need to complete a new BDBN, even if you don't wish to change your nominated beneficiary, and simply wish to reaffirm your previous nomination. Examples of significant changes to your personal circumstances are if you:

- Marry
- Enter into a de-facto or similar relationship
- Separate from your spouse/partner on a permanent basis
- Have a child with a person other than your spouse/partner

BDBN's give you certainty in ensuring that your super benefits are paid in accordance with your wishes in the event of your death. This is important for your peace of mind.

The super fund trustee is bound by your BDBN so it can reduce the flexibility in how your benefits are paid (which could be a disadvantage if legislation or your personal circumstances change, and your BDBN has not been updated).

As superannuation legislation can be subject to change, it is important that your BDBN's are periodically reviewed (with your other estate documents) to ensure that they continue to fulfil your requirements.

## How can superannuation be paid?

Superannuation can be paid as follows in the event of your death:

- As a lump sum or pension to a spouse, a child under 18, a child over 18 and under 25 where financially dependent or a person whom is financially dependent on you
- As a lump sum to adult children, or
- As a lump sum to your Legal Personal Representative (the executor of your Will). *This has the effect of forcing your superannuation into your estate assets and therefore enables your Will to stipulate how it will be distributed.*

## Superannuation death benefits

Superannuation can be paid as a pension or a lump sum to your spouse in the event of your death, however it can now only be paid out as a lump sum death benefit to adult children.

The tax treatment of the death benefit would then differ according to whether the beneficiary is a dependent or a non-dependent.

For tax purposes a dependent includes a spouse or former spouse, a child under 18, a person that you may have an interdependency relationship with or any other person financially dependent on you.

Beneficiary (Tax Act Definition)	Tax-Free component	Taxable component
Dependent	Non assessable - no tax payable	Non assessable - no tax payable
Non-dependent	Non assessable - no tax payable	15% Tax 2% Medicare Levy <u>17% Total Tax</u>

## Summary

Superannuation does not form part of your Will (without a valid BDBN directing it to), so you need to ensure that you consider how your superannuation benefits will be dealt with in the event of your death.

Each super fund typically has their own rules and forms that are required to implement a valid BDBN, so each super fund needs to be considered separately.

## Contact Us

If you would like to further discuss Binding Death Benefit Nominations, please feel free to contact one of our Wealth Managers to arrange a time.



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