Superannuation Death Benefits

What happens with my super in the event of death?

Your superannuation does not from part of your estate and is not automatically distributed through your Will upon your death. It is paid directly to one or more of your dependants or to your legal personal representative (eg your executor). You are able to make either of the following nominations.

Non–binding death benefit nomination

A non-binding nomination gives the trustee of your fund direction as to who you wish your benefit to be paid to, although ultimately the decision is at the discretion of the trustee. Whilst exercising this discretion, the trustee of the fund must consider all potential claimants. If no dependants can be found, the benefit will generally be paid to the deceased's estate subject to the governing rules of the fund.

Binding death benefit nomination

A superannuation fund can accept a binding death benefit nomination from a member to choose who they want their super paid to in the event of their death. The nomination provides greater certainty of outcome to the member and it relieves the trustee from deciding who is entitled to a payment.

This type of nomination is most relevant where the member is concerned that someone may challenge the trustee's discretion or the trustee may not follow their nomination (eg the member is in a second marriage or wishes to ensure that the trustee does not pay a death benefit to an estranged spouse or child).

Who can receive the super benefit?

A dependant for superannuation purposes can receive your super death benefit. This includes the following individuals:

- spouse (legal or de facto spouse)
- child of any age (including adopted child, step-child, ex-nuptial child)
- a person who is financially dependent on you or a person with whom you have an 'interdependency relationship'

What tax is payable?

The tax payable on a death benefit depends on who receives the benefit (dependant or non-dependant for tax purposes) and also the form of that benefit (lump sum or pension).

Dependant

A dependant for tax purposes is similar to the definition of dependant for superannuation purposes outlined above. However, on major difference is that it does not include a child over the age of 18. A tax dependant has the following two options when receiving a death benefit:

1. **Lump Sum.**
   This benefit is received tax-free.

2. **Pension.**
   A death benefit paid as pension will be tax-free if the primary or reversionary beneficiary is aged 60 or over.

   If both are under age 60 at the time of death, the pension (less any tax-free amount) will continue to be taxed at the reversionary beneficiary's marginal tax rate (less 15% pension tax offset) until the reversionary beneficiary turns age 60 (when it becomes tax-free).

   If the death benefit is paid as a pension to a dependent child, the balance must be paid as a tax-free lump sum when the child turns 25 (unless permanently disabled).

Non-Dependant

Individuals considered non-tax dependants (generally adult children) are forced to receive a lump sum payment.

In this case, the taxable component (taxed element) of the super benefit is generally taxed at 15% (plus Medicare levy). Any tax-free component of the super benefit is received tax-free.