

# The Flash

Bringing you valuable wealth and financial information

October 2024



## Take control of your super!

**Who decides what happens to your superannuation savings when you die?**

You may think that you do, but that isn't always the case. The ultimate decision may be made by someone you don't even know – the trustee of your superannuation fund. Let's look at how you can have greater control.

### Binding death benefit nominations

The most certain way to direct payment of your superannuation death benefit is by making a binding death benefit nomination. The nominated beneficiaries must be 'dependants' – a spouse, de facto spouse, child or financial dependant – or a legal personal representative (ie. the executor or administrator of a deceased estate.)

If the nomination has been properly signed and witnessed, and is still current at the date of death, then the trustees of the superannuation fund must pay the death benefit to the nominated beneficiaries.

Unlike Wills, valid binding superannuation nominations are unlikely to be overturned by a court, so they provide great certainty. It is up to the trustees of each superannuation fund to decide whether or not to allow binding nominations, so they aren't available to everyone.

Although some funds offer non-lapsing binding death benefit nominations, most are only valid for three years, so it's important to check yours and ensure it remains up to date.

### Trustee's discretion

The trustee is under a legal obligation to pay a death benefit to the member's dependants, and in most cases, benefits will be paid in a way that is consistent with the wishes of the deceased member. However, it is possible the trustee may recognise a wider range of dependants than the member would have liked – including a separated spouse.

In some cases, the member's preferred beneficiary may not meet the legal definition of a dependant. This may apply to parents. In the absence of any dependants and a legal personal representative, the trustee may exercise their discretion and pay the benefit to a non-dependant.

While dependants receive lump-sum death benefits tax free, the rate of tax payable by non-dependants can vary from nil to 30% depending on the components of the superannuation payment.

### Superannuation pensions

The situation is a little different if the member has already retired and is drawing a superannuation pension. With pensions, it is common to nominate a surviving spouse as a reversionary beneficiary. This means the pension payments will continue to be paid to the nominee, either until their death, or until the funds run out. If the reversionary beneficiary dies, any remaining balance is then paid out as a lump sum death benefit according to the type of nomination they have made.

### Good advice required

Increasing levels of wealth being held via superannuation and the nomination of beneficiaries should be made in the context of a comprehensive estate plan. This includes taking into account the way superannuation death benefits are taxed when paid to different types of beneficiary. Your financial adviser can help you make the right decision.



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