

WHAT IS a superannuation death benefit?

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When you pass away, superannuation does not automatically form part of your estate assets which are distributed in line with a Will. Making a valid beneficiary nomination can help ensure your superannuation death benefit is distributed according to your wishes.

Who gets my superannuation when I die?

Superannuation death benefits are paid from the leftover superannuation in your account at the time of your death. This may include insurance and income streams purchased via a rollover of superannuation. Many superannuation funds allow you to nominate which beneficiaries should receive your death benefit.

Types of Nominations

Binding nomination

This is a written direction to your superannuation fund with directions as to how your death benefits are to be distributed. If valid, the superannuation trustee is bound to follow these instructions. Binding nominations generally need to be renewed at least every three years, unless your fund allows a non-lapsing nomination which (if validly made) remains current until you cancel or change it.

Non-binding

You can nominate your preferred beneficiaries, but the superannuation trustee has discretion to determine who ultimately receives your death benefit.

No nomination

If no nomination is made, the superannuation trustee will use its discretion to decide who will receive your death benefits.

Some superannuation funds have specific clauses in the trust deed stipulating to whom the death benefit will be paid in the event of no valid nomination from the member.

Potential beneficiaries can lodge an appeal with the Australian Financial Complaints Authority (AFCA) if they dispute the death benefit distribution applied by the superannuation trustee.

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What is a valid nomination?

A nomination is valid if it is:

- In writing,
- Correctly signed, dated and witnessed,
- Has not expired, and
- Specifies what percentage of the death benefit will be distributed to each beneficiary with the total of all parts adding up to 100 per cent.

It is important to note that whether your nomination is valid is assessed when you pass away, not when you submit a nomination form.

If you make a binding nomination which is not valid at the time of your passing, the superannuation trustee will often distribute your death benefit using full discretion, i.e., the superannuation trustee determines who ultimately receives your death benefit.

It is important to regularly review and update your nomination in the appropriate format.

What happens if a beneficiary predeceases me?

In the event one or more of your nominated beneficiaries predeceases you, the superannuation trustee may:

- Pay the deceased beneficiary's share to your estate and distribute any remaining death benefit in line with your nomination, or
- Exercise trustee discretion to split the deceased beneficiary's death benefit amongst any other beneficiaries identified by the trustee at the time of your death. They may then distribute any remaining death benefit in line with your nomination, or
- Deem the entire nomination to be invalid - they will utilise their discretion to identify eligible beneficiaries and determine the amount each will receive, which may not align with your previous nomination.

Please contact your superannuation trustee to confirm what could happen in the event one of your nominated beneficiaries predeceases you.

Who can you nominate?

Under superannuation law, you can nominate a dependant which includes:

- Your spouse or de-facto spouse, including same sex partners.
- Children, including step and adopted children, children of your spouse and other children within the meaning of the Family Law Act 1975.
- Individuals who were financially dependent on you at the time of your death.
- Someone in an interdependency relationship with you. This is a close personal relationship between two people who live together (or living separately due to disability) where one or both provide financial support, domestic support and personal care.
- Your estate (by nominating your legal personal representative, i.e., the executor of your Will or person(s) granted letters of administration if there is no valid Will).

Why can't I nominate other family or friends?

The law only allows you to nominate someone who fits one of these beneficiary categories. However, if you nominate your estate, you can direct benefits to be paid to friends or other family members through the instructions in your Will.

What happens if I die without a valid binding nomination?

In the absence of a valid binding nomination, the super trustee will use its discretion to decide which dependant(s) will receive the death benefit. The super trustee can also choose to pay an amount to the legal representative of your estate.

Making a binding nomination can help ensure your death benefit is received by intended beneficiaries.

Where can you check your beneficiary nomination?

Your Annual Statement details your current beneficiary nomination. You can also contact your superannuation fund and/or login to the member portal on your fund's website.

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How can I ensure my superannuation death benefits are distributed according to my wishes?

If you'd like to make a nomination or change an existing nomination, please read your superannuation fund's nomination of beneficiary form carefully then complete the form and send it back to your superannuation fund.

If you have a self-managed fund, you can also make a binding nomination in accordance with the rules in the trust deed.

Nomination of beneficiary forms can typically be downloaded from your superannuation fund's website, or you may have received a copy in your superannuation fund's welcome pack. You should regularly review your nomination to make sure it reflects your wishes and personal circumstances.

It is important to follow the instructions on the Nomination of beneficiary forms precisely, which includes having the form correctly witnessed at the time it is signed. If a nomination is challenged by a potential beneficiary after death and is found by the superannuation trustee to be invalid, your money may not reach the intended recipient.

Taxation of death benefits

The taxation rules relating to death benefits are complex and different taxation treatment applies depending on who receives your death benefit and how it is paid.

A death benefit is tax free if paid to:

- A spouse (legal, de facto or former, including a same-sex partner),
- A child under age 18 (including a stepchild or adopted child), or
- Any other person in an interdependency relationship with the deceased at their death.

If a death benefit is paid to a child under age 25 as an income stream, this ceases when the child reaches age 25. Any remaining balance is then paid to them as a tax-free lump sum.

Any other beneficiary who is a tax dependant will incur the following tax treatment, depending on whether it is paid as a lump sum or income stream.

Tax rates if death benefit is paid as a lump sum:

Tax components	If paid to tax-dependant	If paid to non-tax dependant
Tax-free	Nil	Nil
Taxable component (taxed element)	Nil	15%
Taxable component (untaxed element)	Nil	30%

Tax rates if death benefit is paid as an income stream:

Tax components	If paid to tax-dependant	If paid to non-tax dependant
Tax-free	Nil	Nil
Taxable component (taxed element)	Nil	Marginal tax rate* less 15% offset
Taxable component (untaxed element)	Marginal tax rate less 10% offset	Marginal tax rate^

Medicare levy may also apply.

*Nil tax rate applies once they turn age 60.

^Tax offset of 10% applied once recipient turns age 60.

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