

Binding Death Benefit Nominations

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The total value of the superannuation pool has been growing significantly. With this comes a typical question covered in financial advice circles; 'How does my superannuation get paid in the event of death'. A common misconception is that a will automatically deals with an individual's superannuation assets. So how can you ensure that your retirement assets follow a desired outcome?

It can be wrongly assumed that all assets form part of a person's estate. However, this is not necessarily the case. Additional planning comes in the form of superannuation death benefit nominations, given that super is held in trust for you by the trustee of your super fund.

In simple terms, beneficiary nominations are elections that you make as to who will receive your superannuation benefit. The types of nominations include:

1. Non-binding nominations,
2. Binding nominations, and
3. Reversionary nominations (applicable to pension accounts).

The first type of nomination is 'non-binding' on the superannuation provider or trustee to follow. Although it is an instruction as to how you would like your super to be distributed, it is discretionary based and provides no certainty. Counter to that, a 'binding' nomination provides added security and certainty as to who receives your super benefit.

Binding death nominations are a powerful tool used to direct benefits to specific dependants in specific amounts, or to be dealt with under the written terms of a will. To be considered valid, a binding beneficiary form must nominate dependant/s (e.g. spouse or children) and requires completion in line with certain rules (e.g. Trust Deed, witnessing guidelines).

For the purposes of superannuation law, the full list of dependants include:

- A spouse,
- Children of any age,
- Any person(s) financial dependent on the member,
- Any person(s) in an interdependency relationship with the member,
- A legal personal representative (i.e. the executor or administrator of your estate).

While those considered 'tax dependants' end up paying no tax on superannuation death benefits, those classified as non-dependants can be subject to tax consequences.

Having a binding nomination can be an efficient way of paying funds direct to beneficiaries (i.e. skipping the estate administration process). This can be a prudent arrangement if you feel your estate could be disputed by an eligible family member. Hence, in conjunction with well documented estate plans, a binding nomination can be utilised to effectively manage the flow of benefits.

A binding nomination option may not always be valid – this may occur if circumstances change and you do not revise the nomination or the nomination lapses.

Conclusion

It is important to note that your superannuation can be distributed in accordance with beneficiary nominations. Binding death benefit nominations are documents in which you can remove the super fund trustee's discretion as to who is to receive your super fund assets upon death by specifying exactly to whom they are to be paid and in what amounts.

Careful consideration may be required so feel free to contact your adviser if you wish to discuss the process and documentation in further detail.

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