

SUPER DEATH BENEFIT NOMINATIONS

Estate planning is the planning and documentation of your wishes for the distribution of your wealth following death, including assets you own personally as well as assets you control.

Estate planning is a specialist area and it is therefore important you obtain professional legal advice in relation to all areas of your estate plan. However we outline below some of the issues you should consider for your Super Death Benefit Nominations.

Death benefits are funds paid upon death by the Trustee of your superannuation fund to your estate or to the beneficiary you have nominated. When nominating a beneficiary it is important you understand that there are implications for each choice you make, including the type of nominations that you make.

There are two types of nominations for beneficiaries: binding and non-binding.

NON-BINDING NOMINATIONS

Many death benefit nominations made by members of superannuation funds are not binding on the superannuation fund trustee. This means that the trustee of the super fund may exercise a discretionary power to determine how the benefit is distributed and to whom.

BINDING NOMINATIONS

Nominations may also be binding subject to the rules of the trust deed. Recently the Superannuation Industry (Supervision) Regulations were amended so that trustees may, subject to the deed, accept binding nominations. A death benefit will be binding on the trustees if:

- The nomination form includes the name of each person(s), or class(es) of person (e.g. spouse), and the allocation of the death benefit amongst nominees is clear;
- Each death benefit nominee is a legal personal representative or dependant of the member;
- The nomination form is dated and signed by the member in the presence of two adult witnesses, neither of whom is a nominee named in the notice;
- The nomination form contains a declaration by the witnesses, stating that the member has signed and dated the nomination form in their presence; and
- The nomination is valid.

The nomination is only valid for 3 years, therefore a new nomination form needs to be provided to the trustee every 3 years to ensure that your nomination is valid. You may also change your nomination anytime within the 3 year period. It would be prudent for you to ensure that your nomination is updated.

REGULAR REVIEW

It is important to review death benefit nominations regularly and to include full details of your beneficiaries – including their relationship to you, their full name and their address.

Keeping you superfund trustee informed of any changes to your beneficiaries – or changes to their personal details – will make the task of distributing your super much less complex for all involved.

Death benefits will have tax implications for the receiving beneficiary, so you should discuss your intentions with your solicitor. You can then ensure your Will fully reflects your intentions as well as make an informed decision on whether to make binding or non-binding nominations.