

Fact Sheet

What happens to my superannuation when I die?



During our lifetime we all accumulate or build up our superannuation to secure our retirement. Therefore, it barely crosses our mind as to what would happen to our superannuation when we pass away.

Does my superannuation form part of my estate?

No. Superannuation does not automatically form part of your estate and therefore it is not dealt with in your Will. It is essential that you have a Binding Death Benefit Nomination so that your superannuation can be paid in accordance with your wishes.

What is a Binding Death Benefit Nomination?

A Binding Death Benefit Nomination (**BDBN**) allows you to ensure that your superannuation is paid to your intended beneficiaries. On the BDBN you nominate who you want to receive your superannuation and the trustee of your superannuation fund must comply with your BDBN (provided it is valid).

Who can you nominate to receive your superannuation?

According to the superannuation legislation you can only leave your superannuation to your 'dependant' or your legal personal representative (i.e. the executor or administrator of your estate).

A dependant includes one or more of the following people:

- your current spouse (includes de facto and same sex partner);
- your children (includes step, adopted, ex-nuptial or children of a same sex relationship); and
- any person in an interdependency relationship with you.

What is an Interdependency relationship?

For the purposes of superannuation, an interdependency relationship is one where two people have a close personal relationship, live together and one or each of them provides both financial and domestic support and personal care.

What if I want leave my superannuation to someone who is not a classified as a dependant?

You may want to leave your superannuation to a non dependant person such as a sibling or your parents or even a friend. The only way to do this is to give it to them in your Will. In these circumstances you would nominate your legal personal representative and then your superannuation will be paid into your estate and it will be distributed in accordance with your Will. If you decide to do this it is important that you update your Will to deal with the distribution of your superannuation.

Can I change my binding nomination?

You can change your BDBN any time. To do this you would need to make a new BDBN.

How long does my BDBN last?

A standard BDBN expires three years from the date it is signed. However, some superannuation funds have an option for a non-lapsing Binding Nomination, which means they do not expire and remain in place until they are revoked.

How do I make sure that my binding nomination is valid?

To ensure that your BDBN is valid you need to ensure that:

- the person you have nominated is eligible to receive your superannuation;
- your percentage nominations equal 100%;
- you had capacity to make the nomination;
- the BDBN is witnessed by two people over 18 years of age and the witnesses must not be named in the Binding Nomination (for Self-Managed Super Funds it is essential that you follow the terms of the SMSF's trust deed to ensure that your BDBN is valid);
- the BDBN has not expired; and
- the BDBN must be sent to the trustee of your Super Fund.

What happens if my BDBN is invalid or if I don't have a BDBN when I die?

If you pass away without a valid BDBN or you haven't made a BDBN, the trustee of your superannuation fund will make the decision as to who should receive your superannuation.

How can Hunt & Hunt help?

Our experienced Estate Planning lawyers can assist you in preparing your BDBN to ensure that it is valid. If you nominate your legal personal representative to receive your superannuation our lawyers can also provide you with advice in updating your Will.

Contact Us today

The Wills and Estates team at Hunt & Hunt are experts in this area and would be very pleased to provide you with assistance and answer any of your questions.

Contact us at willsandestates@huntvic.com.au or on (03) 8602 9202.