



Estate planning

Planning what happens to your estate when you die is a very important activity to ensure your assets are passed onto your chosen beneficiaries. However this is more involved than simply having an up to date Will.

Good estate planning centres around establishing, and importantly, documenting how you would like your assets to be distributed in the event of your death, taking into consideration issues like taxation and control.

Your directions are usually recorded in a Will. But it is important to remember that only assets owned by you can be distributed through a Will. Superannuation assets are owned by the Trustee of the superannuation fund and cannot be distributed via a Will.

By law, the Trustees of a superannuation fund retain the discretion as to whom and how your death benefits will be paid. Most superannuation funds offer non-binding beneficiary nominations. When you fill in your application form, you can nominate who you would like your beneficiaries to be in the event of your death. As the name suggests, the request is non-binding.

If seen as appropriate, the Trustee will pay your death benefit in accordance with your wishes, but this is not guaranteed. For example, if in a non-binding nomination you expressed your wish to have your benefits paid to your children or other dependants, rather than directly to your spouse, this may not be followed.

The introduction of "binding nominations" in 1999 has helped to eliminate this problem. Some superannuation funds now offer binding nominations.

Binding nominations allow a person to specify the beneficiaries and locks the Trustee of a superannuation fund into paying any death benefit accordingly, as long as the nominated dependants are eligible at the time of submitting the nomination and at the time of death.

An eligible dependant can include a:

- Spouse – includes a defacto spouse, but does not include a same sex partner or former same sex partner
- Child – includes adopted children, step children or an ex-nuptial child
- Interdependency relationship – includes persons who have a close personal relationship, live together and where each or either person provides the other with financial support and domestic and personal care
- Your legal personal representative – this achieves payment to your estate
- Financial dependant - other person financially dependent on you

A binding nomination must be in writing and will apply for a maximum period of three years.

It's worthwhile considering a binding nomination because it provides the certainty that your estate planning wishes will be adhered to.

For more information it is important to consult a financial planner who will be able to assist you determine the best solution for you.

*Disclaimer: The information contained in this article is of a general nature only. It does not take into account your particular objectives, financial situation or needs. Before making an investment decision, you need to consider, with or without the assistance of a financial adviser, whether the information is appropriate for your particular needs, objectives and financial circumstances.

Key points

- A Will cannot direct a Trustee of a superannuation fund where to pay your benefits
- You can make a binding nomination with your superannuation fund to ensure your chosen dependants receive your superannuation money when you die



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