



SELF-MANAGED SUPER AND DEATH BENEFIT NOMINATIONS

ENSURING YOUR SUPER BENEFITS ARE PAID ACCORDING TO YOUR WISHES

As your superannuation benefits are not directly owned by you, they do not automatically form part of your estate. As a result, your superannuation benefits may not be distributed according to your Will.

A superannuation fund's trustee has discretion over payment of your benefits unless a Binding Death Benefit Nomination (BDBN) is made. You can only be sure that your superannuation benefits will be directed to your estate or to specific beneficiaries when you instruct the fund's trustee to do so using a BDBN.

To ensure that the trustee will pay your superannuation benefits on your death in accordance with your wishes, you (the member) have the option of nominating a beneficiary through a BDBN.

A Binding Death Benefit Nomination:

- binds a trustee as to how to pay the superannuation death benefits;
- must be witnessed by two people who are not beneficiaries;
- may lapse after a 3 year period; and
- must be allowed by your Trust Deed.

A BDBN must nominate for the benefits to be paid to the estate (legal personal representative) or a beneficiary that meets the definition of dependant in the Superannuation Industry (Supervision) Act 1993.

People who meet the definition of dependant for this purpose are:

- your spouse;
- your children (regardless of age);
- people who are financially dependent on you at the time of your death; and
- people who have an interdependent relationship with you.

Same-gender couples are also eligible to receive their partner's superannuation benefits as a dependant.

BENEFITS OF A BDBN

In a recent case, a Self-Managed Superannuation Fund (SMSF) member made a non-binding nomination as to how his superannuation benefits would be distributed on death.

Upon his death, his daughter gained control of the SMSF and paid all the benefits to herself. Her brother (the deceased man's son), who believed he was entitled to receive 50% of their father's benefits, litigated the matter and lost.

If the SMSF member (the father) had put in place a BDBN such that his entitlements were paid equally to his son and daughter, this situation would have been avoided.

A NOTE OF CAUTION

A BDBN is a means by which a SMSF member can control how their benefits are paid on death and should be an important consideration of overall estate planning.

Do not sign a BDBN unless you have considered your entire estate plan, otherwise your estate may be distributed unequally to beneficiaries and hefty taxes may apply to the payment.

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07 **3360 9888**

17 Mt Gravatt-Capalaba Road, Upper Mt Gravatt Qld 4122

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