What is a Binding Death Benefit Nomination?

Read on for answers

Coastal Law Group

WELCOME

Hi there!

Most Australians assume their superannuation will automatically form part of their estate when they die—but that's not always the case.

In many circumstances, your superannuation is dealt with separately from your Will. Without the right arrangements in place, the person you intended to receive your superannuation may not be the person who ultimately does. We're here to help make it simple.

This guide explains what a Binding Death Benefit Nomination is, how it works, and why it's an important part of a well-considered estate plan.

Estate planning doesn't have to be complicated. If you have questions or would like advice tailored to your circumstances, our team is here to help.

Coastal Law Group

Yes, we're a law firm—but not the kind you might expect.

At Coastal Law Group, we've created a welcoming space where people feel comfortable asking questions and planning for the future. We believe making decisions about your superannuation and estate plan shouldn't be intimidating or overwhelming.

Everyone deserves quality legal advice and the peace of mind that comes with a professionally prepared estate plan. Our team is here to help you put the right plan in place.

TOPIC ONE:
WHAT IS A BINDING DEATH BENEFIT NOMINATION

01 A binding death benefit nomination is a legal document that tells your superannuation fund who you want to receive your superannuation death benefit and any life insurance held within your super if you pass away.

02 Many people don't realise that their superannuation doesn't automatically form part of their estate. Without a valid binding death benefit nomination, the trustee of your superannuation fund will generally decide who receives your superannuation death benefit in accordance with your superannuation fund's governing rules and the relevant legislation.

03 By making a valid binding death benefit nomination, you can provide certainty about who should receive your superannuation, helping to increase the likelihood that your wishes are carried out

05

Important!

Not all binding death benefit nominations last forever.

Depending on the rules of your superannuation fund, your nomination may be lapsing, meaning it expires after a set period (commonly three years), unless it is renewed. Other funds allow non-lapsing nominations, which remain in place until you change or revoke them.

Understanding which type of nomination you have is important. If a lapsing nomination expires and isn't renewed, it may no longer bind the trustee of your superannuation fund. This could result in the trustee deciding who receives your superannuation death benefit in accordance with the fund's governing rules and the relevant legislation, rather than your original wishes.

Regularly reviewing your binding death benefit nomination, particularly after significant life events such as marriage, separation, the birth of a child or changes to your estate plan, can help ensure your superannuation death benefit continues to be distributed as you intend.

TOPIC TWO:
WHO CAN I NOMINATE TO RECEIVE MY SUPEANNUATION BENEFITS?

01

Who can you nominate to receive your superannuation death benefits in a Binding Death Benefit Nomination?

A binding death benefit nomination can only direct your superannuation to people who are legally eligible to receive it.

In most cases, you can nominate:

- your spouse or de facto partner;
- your children (of any age, including adopted children and, in some circumstances, stepchildren);
- someone who is financially dependent on you;
- a person with whom you are in an interdependency relationship; or
- your legal personal representative (the executor or administrator of your estate), so your superannuation can be distributed in accordance with your Will.

You generally cannot nominate friends, siblings, parents or other relatives unless they are financially dependent on you or are in an interdependency relationship with you.

Because each superannuation fund has its own rules and requirements, it's important to ensure your binding death benefit nomination is completed correctly to be legally valid.

Coastal Tip!

If you nominate your legal personal representative (being the executor or administrator of your estate) as the beneficiary of your superannuation death benefit, your superannuation death benefit can generally be paid into your estate and distributed in accordance with your Will.

This can be particularly useful where your estate plan includes testamentary trusts or more complex distribution arrangements.

TOPIC THREE:
ADVANTAGES AND DISADVANTAGES

This topic explores the advantages and disadvantages of implementing a binding death benefit nomination

01 Advantages of Having a Binding Death Benefit Nomination

The main advantages of having a binding death benefit nomination are:

- Greater certainty that your superannuation death benefits will be paid in accordance with your wishes.
- It may reduce the likelihood of disputes about who should receive your superannuation death benefit; and
- Your superannuation death benefits may be distributed to your loved ones more efficiently than if you leave it up to the trustee of your superannuation fund to decide who receives them.

02 Disadvantages of Having a Binding Death Benefit Nomination

As with all decisions, there can be downsides to consider as well.

The disadvantages to consider are:

- Strict legal and superannuation fund requirements mean a binding death benefit nomination must be prepared correctly to be valid;
- Just like your Will, you need to review your binding death benefit nomination regularly and ensure it stays appropriate for your changing circumstances; and
- Because it directs the trustee how your superannuation death benefit is to be distributed, it may reduce flexibility if your personal circumstances change and your nomination is no longer appropriate.

HAVE QUESTIONS?

Get in touch with us, we'd love to help!

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