IM LAWYERS



Your guide to superannuation death benefit claims

Date: Saturday February 1, 2025

Losing a loved one is an emotionally challenging time, and navigating the process of claiming a death benefit from a superannuation fund can add to the stress. This blog outlines the steps to take when you need to make a death benefit claim through a deceased person's superannuation fund.

What is a superannuation death benefit?

In Australia, superannuation death benefits are payments made from a deceased person's super fund to their beneficiaries. These benefits may include the balance of the super account, life insurance proceeds held within the fund or both.

Determining if a person has life insurance inside their super

If you are the executor of the deceased person's Will, then you will have an obligation to take the below steps to ascertain the existence of any death benefits which might be attached to one or more super funds that the deceased person contributed to.

In Australia, most super funds provide life insurance as a default insurance when a member joins the fund. Members can opt-out if they choose. Steps need to be taken to determine whether the deceased did, in fact, hold a policy of life insurance inside their super (and sometimes they may have had multiple funds, each with their own insurance policy).

Some simple steps to track down life insurance policies inside super

> Check personal records of the deceased, such as bank statements or correspondence from any super fund(s). Note that some individuals have more than one super fund that might provide for payment of a death benefit.

Contact the deceased's employer (whether current as at the date of their death or any previous employers if known) to confirm if they contributed to a super fund on behalf of the deceased (by way of superannuation guarantee payments).

Use the Australian Taxation Office resource "Accessing a deceased person's tax and super information"

Identifying beneficiaries of superannuation death benefits

Under Australian law, superannuation death benefits are not automatically considered part of the deceased's estate. Instead, the super fund trustee decides who receives the benefit based on each fund's rules and relevant laws.

Beneficiaries typically fall into two categories:

Dependents: This includes spouses, children, and financial dependents.

Legal Personal Representative: This is the executor of the deceased estate (where there is a valid Will) who will be responsible for the distribution of the death benefit in accordance with the Will.

Binding Death Benefit Nominations

The deceased may have completed a Binding Death Benefit Nomination ("BDBN"). In a BDBN, the insured person nominates their chosen beneficiaries of their life insurance and super balance. Notably, however, the nominated person(s) must be a dependant as defined in the super fund's rules.

A valid BDBN legally requires the trustee to pay the benefit to the nominated person(s). If there is a non-binding nomination, the trustee has discretion for distribution of the benefit.

Notifying the super fund(s) of the death of a member

Once the super fund(s) are identified, they need to be notified of the member's death.

This typically involves:

Contacting the fund directly and informing them of the death of their member;

Providing a certified copy of the death certificate;

Submitting any additional documentation required by the fund, such as a BDBN, proof of identity for the claimant or evidence

of the relationship to the deceased.

Once all documentation is gathered, the claim can be submitted to the super fund. This is usually done via an online portal, email, or by standard post, depending on the fund's rules. Ensure all forms are completed accurately, and all supporting documents are included to avoid delays.

How long does a death benefit claim take?

After the fund has been provided with all the necessary documentation, it is then for the trustee of the super fund to make their decision. The super fund trustee will review the claim and determine how to distribute the death benefit.

This process can take several weeks or months, depending on the fund (some funds are more efficient in this regard than others). The trustee must follow the fund's rules and comply with the Superannuation Industry (Supervision) Act 1993 and other relevant 'fiduciary' obligations and laws. Thus, the process can take some time to complete.

How is a super death benefit paid?

Once the trustee makes a decision, the death benefit will be paid to the eligible beneficiaries. Payments can be made as:

a lump sum (a vast majority of cases);

an income stream (pension). Some funds are reverting to payments of death benefits via a pension (i.e. smaller payments spread out over a certain number of weeks or months); or

a combination of both.

Tax implications for recipients of a super death benefit

It is important to keep in mind that tax may apply to death benefits, depending on the recipient's status and the components of the super account (tax-free and taxable). It is advisable to consult a tax professional or financial advisor to understand the tax implications.

Options if a death benefit claim is denied or delayed

If a death benefit claim is disputed, delayed, or denied, you should seek legal advice early.

FREE ADVICE FROM AN INSURANCE LAWYER: 1800 001 339

Disputes can arise if:

the trustee’s decision is contested by other potential beneficiaries;

there is uncertainty about the validity of a BDBN;

the deceased’s estate is involved, and there are competing claims.

In such cases, the matter may need to be resolved through the Australian Financial Complaints Authority (AFCA) or the courts. Disputing trustee decisions regarding death benefit claims is legally complex, and you should always consult a lawyer experienced in this area of legal practice.

General considerations when making a death benefit claim

Finally, some general things to consider regarding death benefit claims.

Time limits

While there is no strict time limit for making a death benefit claim, it is advisable to act promptly to avoid complications. Notably, a death benefit (life insurance) will only be payable/valid if the insurance policy was in place at the time of death.

Taxation laws

As touched on above, death benefits may be subject to tax, particularly if paid to non-dependents. Understanding the tax implications is crucial. Get proper advice from an accountant, tax advisor or financial advisor.

Super fund trustee discretion

If no BDBN exists, the trustee has broad discretion in deciding how to distribute the death benefit.

Binding Death Benefit Nominations

The Trustees must ensure that any BDBN is valid and up to date, as they typically expire every three years (some funds are now allowing BDBNs to extend beyond this 3-year period).

Get legal help

Running a death benefit claim through a superannuation fund involves several steps, from identifying the super account to submitting the claim and awaiting the trustee's decision, and potentially disputing that decision.

Understanding the legal framework and seeking professional advice when needed can help ensure the process is handled smoothly and fairly. By following these steps, beneficiaries can navigate this challenging process with greater clarity and confidence.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.