

Let's chat

Superannuation death payments – May 2021

With:

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Information provided is general in nature; precise application depends on specific circumstances

Taxes on paying death benefits

- How death benefits paid:
 - Lump sum
 - Pension/income streams
- Who can receive superannuation death benefits:
 - Superannuation definition
 - Tax law definition difference
- Lump sums:
 - Can be paid to superannuation law dependents and LPR
- Income streams:
 - Can generally only be paid to spouses, children (under the age of 18) and children who are financially dependent (between 18 and 25)

Taxes on paying death benefits

- Tax dependent
 - Does not include children over the age of 18 who are independent of deceased
- Means an adult child who is financially independent may not receive death benefits tax-free
- Can the adult child fit under a different definition?

Taxes on paying death benefits

Who	Superannuation law	Tax law	Form and manner of payment
Spouse/defacto partner	Yes	Yes	Lump sum or pension
Minor children	Yes	Yes	Lump sum or pension
Adult children (financially dependent)	Yes	Yes	Lump sum or pension (up to 25)
Adult children (independent)	Yes	No	Lump sum
Financial dependents and other dependents	Yes	Yes	Lump sum or pension
Estate	Yes	Look through)	Lump sum

Taxes on paying death benefits

- Payments to tax dependents:
 - Lump sum – no tax
 - Pension/income stream:
 - Deceased or recipient over 60, then taxable component is tax free or assessable with 10% tax offset
 - Deceased and recipient under 60, then taxable assessable at beneficiary's marginal tax rate with 15% tax offset
- Payments to non-tax dependents (adult independent children):
 - Lump sum – taxable component taxed at 15% or 30% depending of element taxed or not
 - Pension – unable to receive
- Payments to deceased estate:
 - Look through approach
 - If doesn't go to superannuation law dependent, then estate is taxed as a non-tax dependent
 - Streaming clauses in Will

Transfer balance cap

- \$1.6 million transfer balance cap for pension account
- Deceased spouse → withdraw all amounts over that cap for surviving spouse
- Managing BDBN with lump sums and pension? Leave it at surviving spouse's discretion.
- Reversionary pensions v non-reversionary death benefit pensions:
 - Reversionary pensions allow a 12 month grace period to get the transfer balance cap in order
 - Non-reversionary pension, trustee of fund is able to ensure transfer balance cap not breached (as no automatic reversion)

Superannuation proceeds trusts

- An option for young families
- Trust with beneficiary class limited to tax dependents under tax law
- Capital distributions only able to be distributed to tax dependents
- Allowing superannuation death benefits to be paid in a ‘tax-effective’ look through environment (as beneficiaries are limited)
- More limited than a general testamentary trust so query long-term benefit

Contact details

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