

## CLAIMING A DEATH BENEFIT

### WHAT IS A DEATH BENEFIT?

A death benefit is the sum of money we pay to any beneficiaries after the death of one of our members and it includes:

- the balance of the deceased member's super account including contributions made by their employer, any personal contributions from the member, and any amounts which have been rolled over from other super funds, and
- any life insurance benefit which may be payable depending on the member's eligibility and the level of cover with Active Super at the time of their death.

If the deceased member did not have any insurance cover at the time of their death, the death benefit will reflect the balance of their super account with Active Super only.

Defined benefit funds may have different or additional requirements. For more information regarding defined benefits, please contact Member Services on 1300 547 873.

### Who can receive a death benefit?

The Trustee must pay a death benefit according to the rules set down in the Superannuation Industry (Supervision) Act 1993 (SIS Act) and the Active Super Trust Deed. These rules generally restrict the payment of death benefits to people who were a 'dependant' of the deceased member and the deceased member's legal personal representative.

### Who is a dependant?

As defined in the SIS Act, a dependant includes:

- the spouse
- a child
- any other person with whom the deceased had an 'interdependency relationship' just before they died
- any other dependant.

### Spouse

A spouse is someone who is legally married, a defacto (regardless of gender) or a person with whom the deceased was in a relationship that is registered on a

relationship register of a State or Territory.

### **Child**

A child includes an adopted child, a step-child, an ex-nuptial children, a child of the deceased member's spouse, and as defined under the Family Law Act 1975.

### **Interdependency**

Two persons have an 'interdependency relationship' if:

- they have a close personal relationship, and
- they live together, and
- one or each of them provides the other with financial support, and
- one or each of them provides the other with domestic support and personal care.

Additionally, two people have an interdependency relationship if they have a close personal relationship but do not satisfy the other requirements of an interdependency relationship because either or both of them suffer from a disability.

### **Who is a legal personal representative?**

The legal personal representative is usually the executor of the deceased member's Will but if the member did not have a Will, the legal personal representative is the administrator of their estate, who has been granted Probate or Letters of Administration from the Supreme Court.

### **Paying a benefit according to a binding nomination**

If the deceased member had made a valid binding nomination the Trustee must pay the benefit to the nominated beneficiaries as long as the nominated beneficiaries qualify as legal dependants or as a legal personal representative of the deceased member at the time of their death.

A binding nomination expires three years from the date of signing. If a person who is nominated is not a dependant or legal personal representative, the nomination will be deemed invalid.

An expired or invalid binding death nomination will result in the Trustee deciding to whom the death benefit will be paid.

### **What happens if the deceased member had not made a nomination or the nomination has expired or is invalid?**

When a deceased member has not made a binding nomination, the Trustee will, in its absolute discretion, pay the death benefit to one or more of the deceased member's legal personal representative/s or dependant/s, in the proportions the Trustee thinks fit.

## PROCESS OF ASSESSING A DEATH BENEFIT CLAIM WHEN THERE'S NO BINDING BENEFICIARY

In the absence of a binding death nomination, there are five key steps we take on behalf of the Trustee whenever they assess a death benefit claim.

### 1. Request for information

When we are notified of the death of a member, we will send a letter to the person who notified us explaining what the Trustee needs to fully assess the death benefit claim.

The letter will outline the approximate balance of the deceased member's super account and advise that we have switched the super account to the Cash investment option to minimise any fluctuations in the balance while we process the claim.

We will enclose two forms for the claimant to complete:

- Application for Payment – Death
- Notification of Tax File Number (TFN) for the deceased member's details (only if we do not have these details on file).

We may also ask the claimant to provide documents which prove their relationship to the deceased member and these may include a Marriage Certificate or Statutory Declarations.

Our letter may also include a Statutory Declaration for the recipient to complete if they do not want to make a claim on the deceased member's super benefit. Individuals providing a statutory declaration will also need to provide certified proof of identity.

If the claimant is the member's legal personal representative, we may ask for the Probate of the Will and the Affidavit of Assets, which shows the payable super benefit. If there is no Will, Letters of Administration including a copy of the Affidavit of Assets are likely to be required.

We may also ask for the contact details of any other potential beneficiaries so we can write to them and give them the opportunity to make a claim or confirm their claim intentions.

### 2. Identify all the dependants

After we receive all the documents back from the claimants, the Trustee will then decide which parties will receive a benefit payment.

If the deceased member had insurance cover with Active Super, the Trustee will also lodge a claim with our insurance provider.

The Trustee has a legal responsibility to:

- identify all the potential beneficiaries who may have been dependants of the deceased member. All dependants will be required to lodge a claim or confirm that they do not intend to claim.

- examine their relationship with the member and the extent to which these potential beneficiaries may have been financially dependent or interdependent at the time of the member's death.

The Trustee will make a decision based on:

- information provided by all the potential claimants or the deceased member's legal personal representative
- Will of the deceased member (if one exists)
- consideration of the position of any of the potential beneficiaries.

To make sure that the benefit is paid to the appropriate person/s, the Trustee must also take into account the circumstances of each of the potential beneficiaries at the time of the member's death.

### **3. Advise all claimants**

When the Trustee has decided which of the claimants will receive the benefit payment, we will write to all eligible claimants and advise them which beneficiary/s will receive the benefit payment, and how the benefit will be divided up if there is more than one beneficiary.

Claimants then have 28 days from the date they receive the letter to respond to the Trustee. They may choose to confirm their acceptance of the Trustee's decision or lodge a written notice of dispute with the Trustee.

If no response is received from a claimant, the Trustee will assume they have no objection to the Trustee's decision.

### **4. Manage any objections**

If any of the claimants lodge a written notice of dispute, their letter must outline the reasons why they object to the Trustee's decision.

The Trustee must review its decision if it receives any notice of dispute, and may ask the claimants for further information to help with the review.

When the Trustee has completed its review it will notify all claimants of the outcome.

If any of the claimants are not satisfied with the outcome of this review, they have the option to make a formal written complaint to the Superannuation Complaints Tribunal within 28 days of the Trustee's final decision.

### **5. Pay out the benefit**

Generally, no portion of the super benefit can be paid to beneficiaries until the Trustee is satisfied that they have dealt with any disputes and resolved any outstanding issues.

Once the Trustee has confirmed its final decision, we will pay the benefit to the beneficiaries. The payment will include the account balance and any insurance benefit.

The Trustee will also advise all the beneficiaries of the payment in a letter and explain the final calculation of the benefit including any tax which has been deducted from the payment amount.

### Documents required for payment

There are certain documents required in order to proceed with a death benefit claim. The following documents are required for all claims:

#### When there is a valid binding nomination

- Completed *Application for payment: Death* form from each claimant.
- Proof of identity of each claimant (e.g. certified copy of the claimant's passport or driver's licence). Please refer to the *Proof of Identity* fact sheet.
- Certified copy of the member's death certificate which specifies the cause of death.
- Proof of identity of the deceased member (i.e. certified copy of the member's birth certificate, passport or driver's licence). Please refer to the '*Proof of Identity* fact sheet.
- If the deceased member was divorced at the time of death, a certified copy of the Decree Absolute of Dissolution of Marriage

#### When there is no valid binding nomination

- Completed *Application for payment: Death* form from each claimant.
- Proof of identity of each claimant (e.g. certified copy of their passport or driver's licence). Please refer to the '*Proof of Identity*' fact sheet.
- Certified copy of the member's death certificate which specifies the cause of death
- Proof of identity of the deceased member (i.e. certified copy of the member's birth certificate, passport or driver's licence). Please refer to the *Proof of identity* fact sheet.
- Certified copy of the deceased member's Will (if one exists).
- If the deceased member was divorced at the time of death, a certified copy of the Decree Absolute of Dissolution of Marriage.

### ADDITIONAL REQUIREMENTS

In addition to the documents specified above, other documents will be required. The type of documents required will depend on who is making the claim, as follows.

### When there is no valid binding nomination

To enable the Trustee to assess the eligibility for a payment to be made to a spouse we require the following additional documents:

- Certified copy of the marriage certificate

### Payment to a de facto spouse

Under the Trust Deed, a de facto relationship has the same status as a legal marriage but we need the claimant to provide us with the following additional documents:

- Four Statutory Declarations:
  - 1) By the de facto spouse as the claimant confirming:
    - whether or not they were living in a bona fide domestic relationship with the deceased member at the time of their death;
    - when the relationship commenced and ended;
    - whether or not the relationship was continuous during the period.
  - 2) By a person having knowledge of the facts (e.g. a member of the deceased's immediate family) confirming:
    - whether or not the applicant was living in a bona fide domestic relationship at the time of the member's death;
    - whether or not the deceased ever married and if so, when and to whom;
    - whether or not that marriage (if there was one) was subsisting at the time of death and if not, when and how the marriage was terminated.
  - 3) and 4) By two independent persons, outside of any immediate family confirming:
    - the definite time from which they knew the deceased and the applicant, and the basis of this knowledge;
    - knowledge of the residential address of the deceased and the applicant, whether there was any public recognition of the relationship, and any other details thought to be of relevance.
- Documentary evidence of any joint financial arrangements (shared bank accounts, joint utility accounts, joint mortgages, etc) should be provided together with any other objective evidence of the nature of the relationship with the deceased the applicant wishes the Trustee to consider.

### Payment to a minor child of the deceased

The *Application for payment: Death* form provided on behalf of each minor child (includes an adopted child, a step-child, an ex-nuptial child or a child of the member's spouse) must be signed by their legal guardian. The following additional documents are required:

- Proof of identity of the legal guardian (i.e. certified copy of their passport or driver's licence)
- Certified copy of a document detailing the full name and date of birth of the child (e.g. birth certificate or adoption papers)

Payment to a minor will be made to a trust account, usually with their legal guardian to act as a trustee, accessing the funds to meet the needs of a minor in regards to their education, health and reasonable living expenses.

### **Payment to an adult child of the deceased (financial dependant)**

If the adult child of the deceased was financially dependent on the deceased at the time of death, the following additional documents are required:

- Certified copy of the claimant's Birth Certificate
- Statutory declaration detailing how and to what extent the claimant was dependent on the deceased member at the time of their death
- Relevant documentation to support the statement/s made in the statutory declaration

### **Payment to an adult child of the deceased (non-financial dependant)**

If the adult child of the deceased was not financially dependent on the deceased, the following additional documents are required:

- Certified copy of the claimant's Birth Certificate
- Written confirmation of the claimant's Tax File Number

### **Payment to an interdependent**

To enable the Trustee to assess the eligibility of a payment to an interdependent the following documents are required:

- A statutory declaration detailing the nature and extent of the interdependency between the claimant and the deceased member at the time of their death
- Relevant documentation to support the statement/s made in the statutory declaration

### **Payment to the Legal Personal Representative/s**

To enable the Trustee to assess a claim to the member's Legal Personal Representative/s the following additional documents are required:

- Certified copy of the deceased member's Will (if one exists)
- Probate of the Will (if one exists) including a copy of the Affidavit of Assets, indicating the superannuation benefit payable

OR

- If there is no Will, Letters of Administration including a copy of the Affidavit of Assets showing the superannuation benefit payable.

## TAX ON DEATH BENEFITS

The tax payable on a death benefit depends on whether you are eligible as a dependant defined under the Income Tax Assessment Act 1997 (ITAA). You may be a dependant for tax purposes if you are any one of the following:

- Deceased member's spouse, de-facto or former spouse
- Deceased member's child under the age of 18, a child under the age of 25 who is still at school or a permanently disabled child
- Person who had an interdependent relationship with the deceased member at the time of death
- Any other person who was fully financially dependent on the deceased member at the time of death.

The tax payable also depends on whether the benefit is paid as a lump sum or as a pension.

## TAX PAYABLE ON A DEATH BENEFIT PAID AS A LUMP-SUM PAYMENT

DEATH BENEFIT PAID TO	IS ANY TAX PAYABLE?
Dependant	No
Trustee of the deceased estate when the beneficiaries are the dependants of the deceased member	No
Non-dependant of the deceased	Yes, the taxable portion is taxed at the marginal tax rate or 17% <sup>1</sup> - whichever is lower. Any untaxed element is taxed at 32% <sup>1</sup> . If the non-dependant beneficiary does not provide a Tax File Number (TFN), the benefit is taxed at the highest marginal tax rate. <small><sup>1</sup>Includes the Medicare levy</small>

## TAX PAYABLE ON A DEATH BENEFIT PAID AS A PENSION

DEATH BENEFIT PAID TO:	IS ANY TAX PAYABLE?
Dependant spouse <ul style="list-style-type: none"><li>• 60 years of age and over</li></ul>	No, the taxable portion is not taxed. The untaxed element is taxed at the marginal tax rate less 10% tax offset.

- under the age of 60

Yes, the taxable portion is taxed at the marginal tax rate less a 15% offset but becomes tax-free when the beneficiary turns 60. The untaxed element is taxed at the marginal tax rate.

Child of the deceased member under the age of 25

For the Active Super Retirement Scheme and Active Super Defined Benefit Scheme, the benefit may be payable as an income stream until the child turns 25.

### NEED MORE DETAILS?

If you have any questions or if you would like more information about claiming a death benefit, please contact Member Services on 1300 547 873 between 8.30am and 5.00pm on any business day.