

# TAX ON DEATH BENEFITS

The tax treatment of a death benefit depends on whether:

- it is paid to dependants or non-dependants
- there is an untaxed element in the benefit
- it is paid as a lump sum or an income stream.

It is often assumed that there is no tax on superannuation death benefits or that the definition of dependency in superannuation law determines the tax treatment of the benefit. This is not the case.

Death benefits are taxed depending on who receives the death benefit and it is the tax law definition of dependency (see below) that is crucial in determining the tax treatment.

While a beneficiary may be an eligible dependant under superannuation law, they may not necessarily be an eligible dependant under tax law.

## How death benefits are paid

Superannuation does not form part of a member's estate. On a member's death, super is generally treated differently from any other asset the member may have owned. Although a super fund trustee will often use a member's Will as a guide in deciding how to distribute a death benefit, it does not have to follow the member's instructions in that Will.

Likewise, a non-binding death benefit nomination that a member makes in their super fund is also just a guide for the trustee.

The distribution of a super death benefit is dictated by the super fund's trust deed unless a member has made a valid binding death benefit nomination. A binding nomination allows a member to elect (within superannuation rules) who should receive the benefit and so can be a vital estate planning tool. It can also be a valuable tool in planning a tax strategy for each beneficiary.

## Definition of dependant under tax law

A dependant is defined in tax law as:

- a spouse or de facto spouse (same sex included), a former spouse or former de facto spouse
- a child of the deceased under 18 years of age
- any person who relied on the deceased for financial maintenance at the time of death
- any person with whom the deceased had an interdependency relationship just before his/her death.

For the super law definition of dependant see the factsheet *Binding death benefit nomination*.



## Super benefits and components

The components of a super benefit have some bearing on that benefit’s tax treatment.

Members who are aged 60 or over are now eligible to receive their super benefits tax-free. This does not necessarily apply to death benefits paid through a super fund - see *Tax treatment of lump sum death benefits* below.

Super benefits consist of two components: tax-free and taxable. The taxable component may contain a taxed element and an untaxed element.

## Tax treatment of lump sum death benefits

This table summarises how death benefits are taxed depending on whether the payment is made to a dependant, legal personal representative or non-dependant. Generally, death benefits held within the Aon Master Trust do not have an untaxed element—check your benefit statement for details.

### General rule of thumb:

- ↳ Death benefits paid to dependants are tax-free.
- ↳ Death benefits paid to non-dependants are taxed.

Relationship to deceased member	Tax-free component	Taxable component	
		Taxed element	Untaxed element
Dependant or legal personal representative*	Tax free	Tax free	Tax free
Non-dependant	Tax free	Taxed at 15% plus Medicare levy**	Taxed at 30% plus Medicare levy

\* Generally, a legal personal representative is then responsible for withholding tax based on how the benefit is distributed.

\*\*A non-dependant does not receive the benefit of the low-rate threshold that allows for a certain indexed amount of a super benefit to be received tax-free. Also non-dependant beneficiaries are taxed on the taxable component of a lump sum death benefit, even if they are 60 years of age or over.

Note: Death benefits paid as an income stream are taxed differently—see *Tax treatment of income stream death benefits* on page 3.

### Example

Mary is a super fund member with \$100,000 in her account. On her death, in line with her binding death benefit nomination, the fund pays \$50,000 each to her non-dependent son Marcus (25) and dependent daughter Sarah (16). Each benefit has a taxable and tax-free component of \$25,000. The payment is from a taxed source.

The tax levied on the benefit would be as follows:

- ↳ As she is a dependant, Sarah will receive the full amount of \$50,000 tax free.
- ↳ As he is a non-dependant, Marcus will be taxed at 15% plus Medicare levy on the taxable component (\$25,000) of his \$50,000 death benefit.

The Aon Master Trust makes anti-detriment payments on death benefits to eligible dependants.

## Tax treatment of income stream death benefits

The tax treatment of income stream death benefits is shown below. Generally, benefits held within the Aon Master Trust do not have an untaxed element—check your benefit statement for details.

		Tax-free component	Taxable component	
			Taxed element	Untaxed element
Deceased member aged 60 or over	Dependant aged 60 or over	Tax-free	Tax-free	Taxed at PAYG rate*
	Dependant under age 60	N/A	Taxed at PAYG rate**	N/A
Deceased member under age 60	Dependant aged 60 or over	Tax-free	Tax-free	Taxed at PAYG rate*
	Dependant under age 60	Tax-free	Taxed at PAYG rate**	Taxed at PAYG rate

\* A 10% tax offset is available.

\*\* A 15% tax offset is available.

## PAYG payment summaries

### Death benefit paid to a dependant or legal personal representative

A super fund does not need to give a PAYG payment summary to a dependant to whom they pay a death benefit. The payment is not assessable and not exempt income for the dependant and so the dependant does not have to include it in their tax return.

If payment is to a legal personal representative, the fund must provide a PAYG payment summary to the legal personal representative within 14 days after making the payment.

### Death benefit paid to a non-dependant

A non-dependant receiving a death benefit from a super fund will receive two copies of a PAYG payment summary—one for their personal records, the other to lodge with their tax return for that year.

## Tax file number (TFN) and tax

Regardless of whether a trustee pays a death benefit to a dependant or a non-dependant, the fund must withhold tax at the highest marginal tax rate if the beneficiary has not provided their TFN.

## Anti-detriment payments

Funds have the option to increase the death benefit by paying an extra amount called an anti-detriment payment.

An anti-detriment payment is a refund of contributions tax that the member may have paid while in that fund, or since 1 July 1988 (whichever is later).

Anti-detriment payments can only be made to eligible dependants under tax law and can make a significant difference to the amount received.

## Have you got your death benefit nomination right?

Getting your death benefit nomination right is the key to getting the best tax treatment for your superannuation death benefit. Eligible dependants under tax law receive death benefits tax-free and, in the Aon Master Trust, may also receive the additional benefit of an anti-detriment payment.

A binding death benefit nomination can provide you with that assurance that your nominated dependants will receive the death benefits in the proportions that you have nominated.

If you make a binding nomination, make sure you renew it and re-assess it when your personal circumstance change—doing so will keep your nomination valid and binding.

See the factsheet *[Binding death benefit nomination](#)* for more information.

## Financial planning

You should consult a licensed financial adviser before making any decisions regarding a binding death benefit nomination, as there are significant tax and estate planning consequences. If you do not have an adviser but would like to be put in touch with one, call us on 1300 880 588 or email [contactaon@pillar.com.au](mailto:contactaon@pillar.com.au).

Please see the information on binding death nominations in your current Product Disclosure Statement (PDS). You can download a [PDS](#) or call us on 1300 880 588.

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