

Can I make sure my Superannuation assets go where I want them to?

Information Guide

Most people want a good deal of certainty when it comes to planning who is to receive their superannuation assets should they die.

Just how much certainty you can achieve will depend on the type of superannuation fund holding your entitlement and the particular deed that governs that fund.

It is important to remember that your will does not govern where your superannuation proceeds will go as that is the role of the fund trustee.

Employer funds

Many employer funds leave the ultimate discretion to the fund trustees. They usually allow the member to nominate who he or she would like to receive the funds and this nomination is usually followed.

Retail funds

Many retail funds leave the decision to the fund trustee. Where the fund has provided a facility for nominating a beneficiary, that nomination will invariably be followed unless there are compelling reasons not to.

Binding death benefit nominations

Some funds offer a binding death benefit nomination facility. If this is available and chosen by the member, the fund trustee must pay the deceased's benefit to the person or people nominated.

Other than where absolute certainty is required as to where any benefits will be paid, it is normally preferable to leave discretion with the trustee. The reason for this is that taxation and related laws as well as the circumstances of potential beneficiaries may continue to change. Rather than trying to predict the best outcome today, it is normally better to leave this decision until it actually needs to be made.

Self managed superannuation fund

In most cases the continuing trustee of a self managed superannuation fund (SMSF) will decide how a deceased member's death benefit will be treated.

It is critical therefore to ensure you are comfortable with the person or people who will be making the decision either directly as trustee or through the trustee company.

Know your deed

Ultimately, the trust deed governing your fund will determine the process for dealing with your superannuation assets following your death.

**Information Source – eLawyer*

NOTE: This information guide covers legal issues in a general way. It is not designed to express opinions on specific cases. It is intended for information purposes only and should not be regarded as legal advice. Further advice should be sought regarding your specific situation before taking any action.