



## Financial Counselling Tidbit

April 2011

### Superannuation – Death Benefits

Many of you will have advised clients whose loved ones have passed away, leaving relatives to deal with grief, funeral arrangements, mountains of confusing paperwork, and occasionally a few nasty surprises, like outstanding debts.

Most people know that their superannuation fund offers life insurance, which may become payable once the member passes away. However, many people assume that the benefit will automatically go to their next of kin, or that it will be paid according to their will. Unfortunately, this is not necessarily the case.

### Binding Death Benefit Nomination

If the superannuation fund member has made a valid Binding Death Benefit Nomination, their death benefit (the total amount a super fund pays out when a member dies) will be paid directly to the person. If the deceased has made a nomination that is not valid under superannuation law, or if the nomination is more than 3 years old, the Trustee will have the discretion to decide the manner in which the death benefit is paid out, and to whom.

If there are a number of dependents, the trustee may choose to distribute the money amongst the dependents, or to other persons with a valid claim. Alternatively, the trustee may decide to pay the money into the deceased's estate.

### What if the deceased had debts?

Superannuation death benefit payouts to dependents are protected from the creditors of the deceased superannuation member. This means that any money paid by the Trustee to the beneficiary is protected from the deceased's debts. However, if the beneficiary has his/her own debts and is at risk of bankruptcy, the money may not be protected.

If the Trustee exercises its discretion to pay the money into the deceased's estate, the money may not be safe from the deceased's creditors.

### For your clients

It might be a good idea to remind your clients to check whether they have made a valid Binding Death Benefit Nomination, and if they have, to check that they are still happy with their choice (particularly if they have recently ended a relationship).

If your client's spouse has passed away without having made a valid Binding Death Benefit Nomination, and your client is unhappy with the trustee's exercise of discretion in paying out the death benefit, s/he can apply to the Superannuation Complaints Tribunal ("SCT") for review of the trustee's decision. If you are unhappy with a proposed payment made by a superannuation fund, you have 28 days to respond to the proposal. If you are unhappy with the final decision you have 28 days from the date of receiving the final decision to lodge a complaint with the SCT.

**For more information...**

Contact Michelle Schonstein on 02 9698 7277 if you have any questions you would like to discuss.

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If you would like this emailed instead of mailed or to be taken off the list then please email [Elizabeth@rlc.org.au](mailto:Elizabeth@rlc.org.au).

If you know of other financial counsellors we might have missed on the mail out, please encourage them to contact us for future editions.