

# Superannuation death benefits 2023-24



This chart outlines the issues a financial services professional may consider when a superannuation death benefit is paid from a taxed superannuation fund, including from the accumulation phase or retirement phase. Both the deceased and the beneficiary are assumed to be Australian tax residents. Capped defined benefit income streams and the subsequent death of a beneficiary aren't covered here.

## Death benefit eligibility

Is the intended beneficiary:  
a super law dependant (see Table 1) or  
the legal personal representative of the deceased?

YES

NO

Generally cannot be paid a death benefit<sup>1</sup>

## Pension eligibility

Is the beneficiary an eligible pension recipient? (see Table 1)

YES

NO

## Benefit payment form

Form of death benefit payment (superannuation death benefits can be paid as a lump sum, pension or a combination of both)<sup>2</sup>

Lump sum

Pension (new or reversionary)

## Transfer balance cap (TBC) – cap modification

Is the beneficiary a child of the deceased?

YES

NO

TBC modification may apply (see Table 3)

## Transfer balance cap – timing and value of credit

Did pension automatically revert to the beneficiary?

YES

NO

Timing of credit:	Later of: <ul style="list-style-type: none"><li>12 months from reversion<sup>3</sup></li><li>1 July 2017</li></ul>	Later of: <ul style="list-style-type: none"><li>death benefit pension commencement</li><li>1 July 2017</li></ul>
	Value at later of: <ul style="list-style-type: none"><li>date of reversion<sup>3</sup></li><li>just before 1 July 2017</li></ul>	Value at later of: <ul style="list-style-type: none"><li>date death pension commenced</li><li>just before 1 July 2017</li></ul>

## Taxation of pension

Age <sup>4</sup>	Tax treatment
Deceased or beneficiary – age 60 or more	NANE <sup>5</sup>
Deceased and beneficiary – both less than age 60	Tax free component – NANE <sup>5</sup>
	Taxable component – Marginal tax rate <sup>6</sup> less 15% tax offset

Commutated amount results in debit to transfer balance account

Commutated amount paid to beneficiary as a lump sum?

NO

YES

Commutated amount retains death benefit status and must be used to commence a death benefit pension within the fund  
OR  
rolled over to another fund to commence a death benefit pension.

## Taxation of lump sum

Beneficiary	Tax treatment	Taxable component (maximum rate of tax)
Tax dependant (see Table 1)	NANE <sup>5</sup>	NANE <sup>5</sup>
Tax non-dependant	NANE <sup>5</sup>	Taxed element 15% <sup>6</sup> Untaxed element 30% <sup>6,7</sup>
Legal personal representative/estate	NANE <sup>5</sup>	Benefit is taxed as above depending on the extent to which a dependant or non-dependant benefits from proceeds. <sup>8</sup>

TABLE 1: Dependants under super and tax law	Type of dependant		Eligible pension recipient
	Super	Tax	
Spouse (Table 2)	Yes	Yes	Yes
Former spouse	No	Yes	No
Child (Table 2)	Yes	Less than 18	Yes
		Age 18–24 and financial dependant	No, though may meet another definition
		Any age with qualifying disability <sup>9</sup>	Yes
		Age 18 and over who isn't financially dependent or doesn't have a qualifying disability	No
Person in interdependency relationship (Table 2)	Yes	Yes	Yes, though children must meet rules above
Ordinary meaning dependant	Yes	Yes	Yes, though children must meet rules above
Other	No	Yes <sup>10</sup>	No

TABLE 2: Dependant definitions	
Spouse	Includes: <ul style="list-style-type: none"><li>another person to whom the person is legally married</li><li>another person (whether of the same or different sex) with whom the person lives on a genuine domestic basis in a relationship as a couple, and</li><li>another person with whom the person has a certain type of registered relationship under certain state and territory laws. Currently, ACT, NSW, QLD, SA, TAS and VIC have laws enabling the registration of opposite and same sex couple relationships.</li></ul>
Child	Includes: <ul style="list-style-type: none"><li>an adopted child, a stepchild or an ex-nuptial child of the person</li><li>a child of the person's spouse, and</li><li>someone who is a child of the person within the meaning of the <i>Family Law Act 1975</i> (which includes children born as a result of artificial conception or under surrogacy arrangements).</li></ul>
Interdependency relationship	Two persons (whether or not related by family) have an interdependency relationship if all of the following are satisfied: <ul style="list-style-type: none"><li>they have a close personal relationship</li><li>they live together</li><li>one or each of them provides the other with financial support, and</li><li>one or each of them provides the other with domestic support and personal care.</li></ul> Note: Additional provisions apply where the dependency definition is not met due to one member having a disability.

TABLE 3: Transfer balance cap – cap increment for children			
Pension commencement	Parent had transfer balance account	Source of child pension	Cap increment <sup>11</sup>
Pre 1 July 2017	N/A	N/A	General transfer balance cap (ie \$1.6m)
On or after 1 July 2017	No	Accumulation phase	General transfer balance cap x % share of deceased's superannuation interests
	Yes	Retirement phase only	Value of pension(s) received
	Yes	Accumulation phase only	Nil-death benefit pension generally excessive only
	Yes	Both retirement and accumulation phases	Value of pension(s) received from retirement phase only. Pension paid from accumulation generally excessive.

**Footnotes:**

- Some trustees might be able to pay someone who is not a superannuation law dependant or legal personal representative of the deceased where it has been unable to find a superannuation law dependant or legal personal representative.
- A lump sum option may not be available in respect of complying pensions where there is a nominated reversionary beneficiary.
- A pension reverts on the day the individual dies.
- Age, in relation to the deceased, means age at the time of death and, in relation to the beneficiary, means age at the time they receive a payment.
- NANE = Non-assessable non-exempt income.
- Plus Medicare levy.
- An untaxed element may arise where a lump sum death benefit is paid to an entity which is not a dependant for tax purposes and where the fund has, or will, claim a deduction for either:
  - premiums paid for insurance policies in relation to the death benefit, or
  - amounts based on the fund's future liability to pay the benefit.
- The Medicare levy is not payable if a super death benefit is paid to the deceased's estate.
- A qualifying disability is one that:
  - is attributable to an intellectual, psychiatric, sensory or physical impairment or
  - a combination of such impairments, and
  - is permanent or likely to be permanent, and results in:
    - a substantially reduced capacity of the person for communication, learning or mobility, and
    - the need for ongoing support services.
- In certain circumstances, a beneficiary who is not otherwise a tax dependant that receives a death benefit lump sum in relation to a person who died in the line of duty as:
  - a member of the Defence Force
  - a member of the Australian Federal Police, State or Territory Police Force, or
  - a protective services officer,will be treated as a tax dependant.
- A cap increment is a modification to the child's transfer balance cap. It is the amount a child can receive in the form of a death benefit pension without exceeding their transfer balance cap. A death benefit pension is not assessed against a child's general transfer balance cap (ie \$1.7m from 2021-22)