Death Benefits

Whilst we don’t like to contemplate the possibility of our own death, it is comforting to know that the financial burden of our families may be lessened somewhat by the benefits payable from our superannuation schemes.

In this edition of SuperViews we focus on the benefits payable on the death of a member of the State Superannuation Scheme (SSS) and the State Authorities Superannuation Scheme (SASS). Primarily, we will address the benefits payable when a member dies while working for a scheme employer. We will discuss briefly the circumstances in which a death benefit may be payable where a member dies after leaving public sector employment.

Further information on these benefits is contained in the relevant Fact Sheets on the web at www.statesuper.nsw.gov.au. Your Annual Benefit Statement provides more detailed information about your death benefit. Alternatively, Customer Service is available to assist you:

- SASS 1300 130 095
- SSS 1300 130 096

Who is the death benefit paid to?

For both SSS and SASS, the benefit will be paid to an eligible spouse or de facto partner of the deceased. An eligible spouse or de facto partner is:

(a) the widow or widower of the deceased; or

(b) a person in a registered relationship or interstate registered relationship with the deceased within the meaning of the Relationship Register Act 2010 and is still in that relationship at the time of the deceased’s death, or

(c) a person who was in a de facto relationship - within the meaning of the Interpretation Act 1987 - with the deceased at the time of the deceased’s death.

A de facto partner may be a person of either:

- the opposite sex; or
- if the deceased dies on or after 19 January 2001, the same sex.

(Note: Where claims are made by more than one eligible person the Trustee may decide that a spouse or de facto partner’s benefit will be shared and the way in which that will be done.)

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What happens if the deceased does not have a spouse or de facto partner?
Where the deceased is not survived by a spouse or de facto partner, the benefit will normally be paid to the legal personal representatives of the deceased's estate.

What happens if the deceased is separated from their spouse at date of death?
Unless the deceased is divorced at the date of death, their ex-spouse may still be classified as an eligible spouse entitled to the payment of the death benefit.

Does the Trustee accept beneficiary nominations?
No. The scheme legislation does not allow a member to nominate a beneficiary for the death benefit.

However, in circumstances where the Trustee is required to pay the benefit to a member's estate, the executor must distribute the benefit in the manner specified in the Will. If you want your superannuation benefit to be treated differently to the other assets of your estate, you will need to refer to the benefit specifically. We recommend that you seek professional advice before drawing up a Will.

What benefit is payable on death in service?

**SASS Members**
- Where a SASS member dies **before attaining age 58 years**, the benefit will comprise:
  
  (a) the balance in the member’s Personal Account;

  (b) the employer-financed benefit of 2.5% of the higher of final salary or final average salary* for each accrued benefit point; and

  (c) if the member is covered for an Additional Benefit, the Additional Benefit of 4% of final salary for each prospective benefit point to age 58. (Further details about Additional Benefit Cover can be obtained from Customer Service.)

  - the average of the salaries for superannuation purposes, paid at date of death and the two preceding Annual Review Days (31 December)

  - Where a SASS member dies **after age 58 years**, the employer-financed benefit, in (b), is based on final average salary only and the Additional Benefit, in (c), is not payable.

**Note**: Whilst the SASS death benefit is normally a lump sum, pension options may be available in certain cases where a deceased member retained pension rights on transfer from a predecessor scheme. Please contact Customer Service for further information.

**SSS Members**
- Where there is an **eligible spouse** or **de facto partner** a pension benefit equal to two-thirds of the pension the deceased member would have been entitled to receive on normal (age) retirement, is payable. The pension benefit is based on the member’s salary and unit entitlement at date of death. Abandoned units have a reduced pension value. *(This pension is adjusted annually in line with movements in the Consumer Price (All Groups Index) for Sydney. A phasing-in formula applies in the first year after a pension begins.)*

  - If the member is not survived by any person eligible for a pension, the benefit is a lump sum equal to the withdrawal benefit that would have been payable on resignation from employment.

  - A pension may also be payable for eligible children of the deceased member in certain circumstances. *(See SSS Fact Sheet 12 – Child Pension.)*

**SASS and SSS Members**
In addition to the benefits outlined previously, a lump sum benefit equal to the sum of:

- the Basic Benefit of up to 3% of either final salary (if aged less than 55 at date of death) or final average

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salary (if aged 55 or over at date of death) for each year of service after 1 April 1988; and

- the balance (if any) in the Commonwealth Government Co-contribution Account.

**What benefit is payable when a deferred Member dies?**

If a member deferred their benefit on ceasing employment instead of taking the immediate lump sum withdrawal benefit, the death benefit is:

- for SASS, the lump sum that would have been paid to the deceased member at scheme retirement age;

- for SSS, if there is an eligible spouse or de facto partner, two-thirds of the pension that the deceased member would have been entitled to receive at the scheme’s normal retirement age. *(Where a pension entitlement does not exist, a lump sum equal to the withdrawal benefit is payable.)*

(Note: The Basic Benefit and balance (if any) in the Commonwealth Government Co-contribution Account will also be payable if the member did not take these benefits when the scheme benefit was deferred.)

**Is there any benefit payable when a pensioner dies?**

This depends on whether the pensioner had an eligible spouse or de facto partner at date of death. Generally the person must have been the member’s spouse or de facto partner at the time the member’s pension commenced and at the time the pensioner died.

The following exceptions apply to the requirement that the relationship existed or marriage took place prior to the member’s pension commencing:

- where there is a child born of the relationship who was wholly or substantially dependent on the deceased at any time, or an unborn child of the deceased who was conceived before and born alive after the pensioner’s death. (For the full pension entitlement to exist the relationship must have existed for at least 3 years before the pensioner’s death. A same sex partner is not eligible for a benefit in these circumstances.);

- where the deceased was an invalidity pensioner, the applicant for the benefit must have been the pensioner’s spouse or de facto partner before the pensioner reached the normal retirement age and for at least 3 years prior to the pensioner’s death.

**What benefit is payable when a pensioner dies?**

**SSS** on death of a SSS pensioner, an eligible spouse or de facto partner is entitled to a pension of two-thirds of the full pension payable at the pensioner’s date of death. *(In some circumstances children’s pensions may be payable.)*

(Note: SSS has a guaranteed minimum benefit equal to the lump sum withdrawal benefit payable on resignation. This is shown as the Immediate Lump Sum on your Annual Benefit Statement. All lump sum and pension payments made to you and other beneficiaries are measured against this amount. This measurement occurs when all benefit entitlements from the scheme are exhausted.)

**SASS** in certain limited circumstances, a pension benefit may be payable to the eligible spouse or de facto partner of a person who was receiving a pension from SASS at date of death. Some SASS members have retained a right to a pension following transfer from an earlier closed scheme. Please contact Customer Service if you want further information.

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Is there a death benefit payable if the SSS pension is commuted?

If the person has an eligible spouse or de facto partner at the date of death, the pension outlined previously is payable even if the person commuted all or part of their SSS pension entitlement.

Is tax payable on a death benefit?

- Generally, a death benefit paid as a lump sum to a dependant is not subject to Commonwealth income tax.
- A dependant for this purpose is defined in the Income Tax Assessment Act and includes:
  - any spouse or former spouse of the member (including a de facto partner of the opposite sex);
  - any child aged less than 18 years, of the member; and
  - any person with whom the member had an interdependency relationship.

The tax legislation defines an interdependency relationship as a relationship between two persons, whether or not they are related where,

- they have a close personal relationship;
- they live together;
- 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 of a type and quality normally provided in a close personal relationship.

In the situation where all of the above criteria are not met due to the fact that either person has a physical, intellectual or psychiatric disability, an interdependency relationship will still exist as long as the two persons have a close personal relationship.

An interdependency relationship does not exist if one person provides domestic support and personal care to the other person under an employment contract or on behalf of another person or organisation.

In determining whether an interdependency relationship exists, matters including, but not limited to, the duration of the relationship, ownership of property and the nature of the relationship, will be taken into account.

- Where a lump sum death benefit is paid to the personal representative of the estate of the deceased, no tax is deducted by the scheme administrator. However, tax may be payable by the estate, if the benefit is paid to a beneficiary of the estate who was not a dependant of the deceased.
- If the benefit is paid to a dependant of the deceased, the estate does not have to pay tax on the benefit.

Keep track of your benefits on the web at:

www.statesuper.nsw.gov.au

Register as a user and view the updated ‘Member Services’ area

- Use the Salary Sacrifice calculators to work out what’s best for you
- SASS members – request an online benefit quote, check your benefit points and contribution rate
- Deferred SASS members – request an online benefit quote
- SSS, PSS and Deferred SSS and PSS – request a quote or benefit estimate
- See the salary used to calculate your benefit estimate
- Look up your last Benefit Statement
- Download Fact Sheets, SuperViews newsletters, forms and the latest investment information

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