

Welcome:

Metzke+Allen would like to welcome the following team members:



**Emma Stewart** (Administration Support)

Emma's role in the administration team is the main point of contact for the firm's taxation office correspondence. Emma recently completed Year 12 at Notre Dame College, Shepparton.



**Nick O'Brien** (Assistant Accountant)

Nick has joined the Metzke+Allen team on a permanent part-time basis while he completes his final year of Bachelor of Business (Accounting) at Latrobe University.



**Kristy Hodder** (Senior Tax Accountant)

Kristy recently joined the firm and has been working in the accounting industry since 2006. She completed her Bachelor of Commerce at Latrobe University and is currently studying her CPA.

Welcome Back:



**Melinda Kittlety** (Senior Accountant)

We would like to welcome back Senior Accountant Melinda Kittlety after being on maternity leave since the birth of her daughter Harper.



**Melissa Walsh** (Tax Accountant)

Melissa is also back from maternity leave after the birth of her daughter Imogen. Melissa rejoins Brendan Armstrong's Taxation team.



**Shareena Pearce** (Senior Accountant)

Shareena returned in March to the Taxation and Business Services team. Shareena was on maternity leave after the birth of her daughter Pippa.



Have Your Say

Would you like to know more about topics that interest you or directly influence your business decisions? Let us know and we will include it in our newsletter. Email Jo - mail@metzkeallen.com.au



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# Client Update

## SMSF estate planning and death benefit nominations

What happens when someone passes away?

### Office News



## SMSF estate planning and death benefit nominations

Establishing an SMSF is a clear sign that you know the importance of planning for the future. But one other central consideration is to make sure you also plan for the time beyond your own lifetime.

One misconception many people have is that their normal "last will and testament" can be relied upon to distribute their estate, including money tied up in their SMSF. But the payment of such benefits upon the death of a member is done so in accordance to the governing rules of the fund, not according to the terms of a will.

This is why it is important for every member of an SMSF to direct how benefits are to be paid upon their death – and the death benefit nomination is the vehicle to make sure this is done.

A death benefit nomination is a written direction to the SMSF trustee that instructs the trustee to pay a member's entitlements to certain dependants and/or legal personal representatives (their estate) in the proportions the member wishes in the event of their death.

### Binding or non-binding?

The nomination can be binding – that is, it leaves no discretion to the trustee about how or to whom benefits are paid – or non-binding. The latter notifies the trustee of the member's preferred beneficiaries and the division of benefits, but leaves the final decision to the trustee (unless the governing rules of the fund provide otherwise).

A fund without a valid binding nomination will end up having benefits paid out according to:

- the trust deed (if provisions are included), or
- see the trustee being guided, as appropriate, by any non-binding nomination, the late member's will or just simply exercising their own discretion.

The reasons some SMSF members may opt for a non-binding nomination can include not having division of assets decided on the after death, or as superannuation, or as superannuation law dictates that benefits can only be directed to dependants or legal personal representatives anyway, or because as fellow SMSF members are family, the member assumes their benefits will end up in appropriate hands.

Also, leaving some discretion to the trustee allows for changed circumstances to be taken into account, particularly where a nomination was made some time ago and relationships or dependencies have changed in the intervening period. The trustee can also consider the tax implications of any particular benefit distribution when the time comes.

A binding death benefit nomination, as noted above, leaves no discretion to the trustee. Benefits must be paid out in strict accordance to the nomination, which can be used to ensure no disputes arise between feuding relatives, or to exclude wayward children or estranged children's spouses.

Also a binding nomination made for an SMSF does not have to be renewed or reconfirmed every three years (which is a legal requirement for other types of super funds). They are sometimes referred to as "non-lapsing binding nominations". However it has become accepted wisdom among superannuation industry circles that an SMSF member/trustee should consider refreshing a death benefit nomination every three years anyway, whether it is binding or non-binding – just to be certain and for further peace of mind, but also so that no future beneficiaries will have any reason to dispute or call into question a member's intentions.

Making a death benefit nomination binding potentially adds another ongoing requirement for members – to make sure the nomination is updated and continues to reflect your wishes should there be a change in family circumstances. Such changes can include the death of a dependant, the birth of a new dependant or the end of a relationship. Otherwise a binding nomination for an SMSF will remain in force until the member changes or revokes it.

Changing a death benefit nomination can be done at any time by completing a new nomination expressing the changed or new intentions of the member, and giving this to the trustee. The written notice needs to be signed and dated in the presence of two witnesses who are at least age 18, neither of whom is a nominee. Ask this office for help or guidance.

Barbara Evans - FCA Superannuation Manager



## What happens when someone passes away?

### Deceased Estates

At a time in our lives when we are dealing with the loss of a loved one there seems to be so much needed to be done from a legal perspective yet as your Accountants we will need a range of additional information in order to complete the necessary Taxation requirements.

From an Accounting point of view the following areas will be considered:

- Taxation implications
- Employment Termination (*if deceased person is employed at the time of their death*)
- Capital Gains Tax implications (*please discuss these with your Accountant to ensure you are fully aware of the implications for the beneficiary/ies of the Estate*)
- Superannuation implications (*please discuss these with your Financial Advisor or directly with the Superannuation Fund of the deceased person*)

This article is a summary of the various issues to be considered. Every situation is different, and we suggest you contact us when such an event occurs in your family so that we can assist where necessary.

### Taxation implications:

There will be a need for two Income Tax Returns to be completed; one for the Individual up until the date of death and another as the Estate for the deceased person, from the date of death to the 30th June of the relevant financial year. In order to complete the second return, we will require the following information to complete for an application for the Deceased Estate Tax File Number:

- Individual Trustee or Executor/s Details
  - Name
  - Address
  - Tax File Number
- Organisation acting as Trustee or Executor Details
  - Name
  - Address
  - Tax File Number
  - Australian Business Number (ABN) or Australian Company Number (ACN)

- Certified Copy of the deceased persons last Will and Testament
- Certified Copy of Death Certificate
- Certified Copy of Notice of Appointment of Trustee (including Probate or Letters of Administration)

*Note – the above documents will need to be Certified by a Barrister, Judge, Justice of the Peace, Solicitor or Police Officer – as Accountants, we cannot certify these documents for you.*

### Employment Termination:

An Employment Termination Payment is received from the deceased person's employer to forward payment for any Accrued Leave and Salary or Wages owing to the date of death. These amounts are taxed in dependant on whether the payment is made to:

- Directly to a Dependant of the deceased person
- Directly to a Non-Dependant of the deceased person; or the
- Trustee of the Deceased Estate.

As the formula for the calculation of the Tax payable can be quite complicated, please discuss the details of these payments with our Office to ensure that the correct amount is being received from the Employer/s.

Maree Pearse - Accountant

