



A payment from a Super fund can only be paid to a SIS dependant.

Please note: there is a difference between the Tax Act definition and the SIS Act definition of a dependant.

As a payment must be made to a SIS dependant, the next question is “Is that person a Tax Dependant or not” – an adult child is a SIS dependant (so a payment can be made to them) BUT the adult child is a Non-Dependant for tax purposes.

All lump sum death benefit payments will be tax free if paid to a tax dependant.

The definition of a tax dependant includes a Spouse (including opposite sex de facto), a child of the member (under 18), a person who is in an interdependency relationship with the member and a person who is financially dependant on the member. An interdependency relationship exist between two people if:

- ➔ 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.

It is proposed that the taxation of a death benefit paid as a reversionary pension will depend on the age of the primary and reversionary beneficiary:

- If the primary beneficiary was **aged 60 or over** at the time of death, then payments to the reversionary beneficiary will be exempt from tax (given they were already being paid tax exempt to the primary beneficiary).
- If the primary beneficiary was **under age 60** at the time of death, the pension (less any deductible amount) will continue to be taxed at the reversionary beneficiary’s marginal tax rate (less any pension rebate) unless the reversionary beneficiary is aged 60 or over, in which case it will be tax exempt.

A pension will not be able to revert to a non-dependant on death - death benefit payments to non-dependants will have to be made as a lump sum. Lump sum payments to non-dependants (irrespective of their age) will be taxed in the same manner as other superannuation fund payments to someone in the age 55-59 group, though the entire taxable component (ie no tax free threshold applies) will be taxed at 15% (as is currently the case for the post-June 1983 taxed element).

This is more restrictive than existing rules where in some circumstances the lump sum can be paid directly to dependants or non-dependants.

Attached is a table that summarises the changes.

Death Benefit Treatment from 1 July 2007

Payment(s) made to	Type of payment	Treatment	
Dependants	Lump Sum(s)	Entire payment tax free	
	Reversionary Pension(s)	Deceased 60 or over	Tax free in recipient's hands
		Deceased under 60 but recipient 60 or over	Tax free in recipient's hands
		Deceased and recipient both under 60	Excess above any deductible amount taxed at recipient's Marginal Tax Rate less any pension rebate (if applicable).
Non-Dependants	Lump Sum(s) (Reversionary Pensions not available under new rules)	New Exempt Component (comprised of - Pre-July 1983 - Concessional - Undeducted Contributions - Post-June 1994 invalidity - CGT exempt)	Tax free.
		Post-June 83 and non-qualifying component	15%

Please note:

The existing rules apply until 1 July 2007 and the changes are dependent on legislation yet to be ratified

The summary above applies only to taxed funds ie not to government unfunded schemes