



What happens to superannuation when you break up?

Unfortunately separation does happen, and depending on your circumstances, superannuation can be included as part of the division of assets. Depending on the situation, you might get some of your ex partner's super, or they may get some of yours. This is a complex area, so it's worthwhile getting professional advice if you need it, but to help provide a bit of understanding, see the information below.

A divorce from your husband or wife, or a separation from your de facto, could mean a division of your assets and debts, whether they're held individually or together, and superannuation is no exception.

The agreement or decision to split super is part of the overall settlement process, which will consider all of the assets and liabilities of a couple.

Even if one of you hasn't contributed to super for a long time, that person could still be entitled to a percentage of the other's super.

Below we explain a few things you may want to know, noting that if you're a de facto couple living in Western Australia, different rules may apply, as you're not subject to the same superannuation splitting laws.

How is super split in a divorce or separation?

There are several ways superannuation can be split.

1. A super agreement can be put in place before, during or after your relationship, as part of a broader binding financial agreement, which can specify how super is to be split upon separation or divorce.
2. If you don't have a binding financial agreement in place but have agreed how you'd like your super to be you've both come to.
3. If you can't reach an agreement, you may instead consider applying for financial orders, where a court hearing will determine how super is to be split between the two of you, noting there are time limits in place to do this.

WHAT'S INVOLVED IN THE PROCESS?

You may need to get information regarding the value of the super money that could be split between you. You can do this via your or your ex's super fund, provided the request is for purposes related to the separation.

To get this information, you'll need to provide various forms to the super fund, which you can locate in the Federal Circuit and Family Court of Australia's Superannuation Information Kit.

Once the super splitting order is made, whether by consent or after a court hearing, you'll also need to provide a copy of the order to the super fund for it to be effective.

Depending on the situation, if you want to defer making a decision around how super is to be split, or if you have an older style fund where splitting is not available until you're eligible to start taking the benefit, you could establish a 'flagging agreement' where the super fund is unable to pay out super until the flag is lifted.

WHAT POTENTIAL COSTS MIGHT YOU COME ACROSS?

Super funds may charge an administration fee for carrying out any requests around splitting super. These are separate to any costs for legal or financial advice, or court fees.

With that in mind, it's worth checking what the super fund may charge for things like:

- an application for information
- a super split
- implementing a flagging agreement
- lifting a flagging agreement

WHEN WILL THE MONEY BE PAID?

Because there are rules around when super can be accessed, be aware that splitting super won't necessarily result in an immediate cash payout, as super is treated differently to other assets and debts.

So, after the agreed amount has been transferred to your or your ex-partner's super account, the money must remain there until a condition of release is satisfied. What that means is, generally, you can't access super until you've reached your preservation age (which will be between 55 and 60, depending on when you were born) and you retire.

WHAT OTHER THINGS SHOULD YOU CONSIDER?

Some couples choose to leave their super untouched. Instead, they factor in the value of their super accounts while dividing up their other assets.

With that in mind, it's worth knowing the details of all your financial accounts, including your super, noting many Aussies have more than one super account.

You can search for lost or unclaimed super by doing a super search with your current super fund or by logging into your MyGov account.

WHERE CAN YOU GO IF YOU NEED MORE HELP?

Working out what you're entitled to can be complicated which is why it may be a good idea to get independent legal advice, even if things are amicable.

You might also think about consulting with your accountant or financial adviser.

Source: AMP

If you need a hand determining the most appropriate strategy for your circumstances, give Shaun or Vicky a call on (07) 4927 4588 (Rockhampton) or (07) 4939 1766 (Yeppoon).



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