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# *Super inheritances:* The lump sum versus pension conundrum

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Let's look at the case of Richie and his wife Sue.

Richie is a member of a superannuation fund which also has life insurance.

At the age of 60, Richie passes away. To remove any uncertainty around his estate, he had a binding nomination in favour of his wife, Sue (aged 57).

In accordance with this nomination, the super fund's trustee pays the insured amount of $1,000,000 into Sue's personal bank account.

## Can Sue use the recontribution strategy?

Having seen her bank balance grow by $1,000,000, Sue wonders whether she can contribute the insurance proceeds into her personal super fund.

Ideally, she wants the proceeds invested in the tax friendly superannuation environment because her existing investments, together with her employment income, has placed her in a high tax bracket.

From a technical perspective:

- Sue can contribute up to $540,000 using the non-concessional bring-forward provision;
- The contributed amount will be preserved (i.e. locked away) until she meets a relevant condition of release (e.g. permanent retirement before her 60th birthday otherwise a mere cessation in employment after her 60th birthday).
- But that leaves $460,000 remaining in her bank account until the 3-year bring forward period elapses with any interest income accruing during this time being assessable at her marginal tax rate.

**So instead of having the $1,000,000 paid into her bank account, could Sue have rolled over the $1,000,000 directly into her own super fund?**

The short answer is, no.

This is because super law only permits Richie's death benefit to be paid to Sue as either a lump sum or pension.[1]

In other words, super law doesn't allow a death benefit to be rolled over into the beneficiary's own personal super fund.

And because Richie's super fund doesn't pay pensions, Sue's only option was to receive Richie's death benefit as a cash lump sum.

## Key takeout: implications for superannuation life insurance cover

When considering superannuation life cover ensure that the chosen ownership vehicle aligns with your estate planning objectives and gives your beneficiaries the flexibility to choose how to take the benefits.

For instance, if your spouse is nominated as beneficiary, and the intention is to retain the insurance proceeds in super via the payment of a pension to them, then the life cover should be acquired via an SMSF or a super fund ownership structure that facilitates the payment of death benefits to eligible dependents in the form of a pension.

It should also use an appropriate life insurance product.

However, keep in mind that taking a lump sum payment may also provide a bonus in the form of an anti-detriment payment which is basically a refund of the contributions tax that has been paid over the years.

These payments are only available on lump sum payouts, not pensions.

So, depending on your needs and objectives (or those of your beneficiaries) which may be around maintaining an ongoing income stream, or taking some money to retire debt, you need to ensure that the superfund supports those objectives, be it an SMSF or a public offer fund.

1 Regulation 6.21(2) Superannuation Industry (Supervision) Regulations (SISR) 1994 stipulates the forms in which a death benefit can be paid. In the context of the Act, s 55A specifies the rules about cashing benefits after the death of a member with respect to the Operating Standards under s 31 SISA.

## 1. What would have been the benefits of Sue opting for a pension?

If Richie's super and insurance had been held in a super fund which supported the payment of a super pension, Sue could have benefited in these ways:

***PROS:***

- The insurance proceeds are able to be retained in super and invested within a **tax free environment** without invoking her non-concessional contributions cap.
- Pension payments are **tax free** in Sue's hands (as Richie had turned 60).
- On Sue's death, any balance remaining in her super fund account(s) could be paid directly to her children, keeping the proceeds outside of her **estate**.
- Sue retains **ongoing full access** to capital and can withdrawal lump sums in the future.
- Superannuation, as an investment vehicle, provides Sue with a degree of **asset protection** from any subsequent bankruptcy/relationship breakdown.

***CONS:***

- There could be future superannuation and related taxation **legislative risk** by retaining the proceeds within the super environment.
- The costs associated with ongoing investment via a super fund.

## Final observation

Any consideration for superannuation life cover should always be made in light of the estate planning objectives of the life insured and their intended beneficiary(s).

From a surviving spouse's perspective, the ability to retain a superannuation inheritance within the super environment offers considerable appeal. Logistically however, this can generally be achieved by electing for a pension.

It's therefore critical that the super fund ownership structure facilitates the payment of death benefits to eligible dependants in the form of a pension, where the pension option is desired by the beneficiary.

Otherwise superannuation contributions caps and work test constraints (for a surviving spouse over 65) could result in significant capital sitting outside of super, leading to potential taxation and/or asset protection issues.

# Who is Australian Unity Personal Financial Services?

We specialise in providing professional strategic advice to help you improve your current financial position and ultimately achieve your long term lifestyle goals.

Importantly, our initial advice isn't a 'set and forget' service. Instead we offer you regular financial mentoring and ongoing guidance – in all aspects of your personal finances – to set you, and keep you, on the path to financial wellbeing.

Our team of experienced financial professionals can provide you with a detailed and totally tailored blueprint for financial success in any or all of the following areas:

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- Retirement planning
- Investments
- Superannuation
- Home loans
- Commercial loans
- Investment loans
- Equipment finance
- Car finance
- Personal estate planning
- Business estate planning
- Personal risk insurance
- Business risk insurance.

Australian Unity has a proud 175 year heritage of helping Australians create secure financial futures. This pedigree and experience, combined with our corporate strength and leading edge strategic advice capability, means we are uniquely placed to offer you high quality personal financial services... each finely tuned to your particular needs to ensure you achieve your vision of a secure financial future.

After all, your financial wellbeing is at the heart of everything we do.



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