

Divorce and super



Super assets are treated like any other asset in a marriage or de facto breakdown.

What happens to super when a couple divorces?

Super assets can be divided up and shared between divorcing or separating parties in the event of a marriage or de facto breakdown. Couples can enter into agreements about how their super is to be split (called superannuation agreements) or, if they can't make an agreement, the Family Court can order that all assets, including super, be split into proportions determined by the court.

Who do divorce and super rules apply to?

Federal Law legislation, which sets out the rules relating to super and divorce, applies to:

- > married couples, and
- > de facto couples – whether of the same sex or different sex (except in Western Australia).

What is the process for splitting your super?

If you are separated or divorced you can request information from the Trustee about your spouse's superannuation in TWUSUPER. This ensures you both know the full value of any superannuation and can make informed decisions.

A decision about how to deal with the super interest will then need to be made – you can flag it for a future decision on how it should be split and paid or have it split between yourselves immediately. If you cannot agree, you can apply to the court to make an order.

Once TWUSUPER receives a valid superannuation agreement or court order it will advise both parties of the split and pay the spouse's entitlement to the relevant super account (see the Splitting super section below).

Who can request information about the super interest?

To be eligible to request information, you must be:

- > the superannuation fund member (the member spouse)
- > the spouse of a member (the non member spouse), or
- > a person who intends to enter into a superannuation agreement with the member.

If the request is from a non member spouse, the address of the member spouse will not be provided by TWUSUPER. Also, the member spouse will not be informed that the non member spouse has applied for this information. A \$50 fee applies for the supply of information.

Flagging super

Sometimes it may be better to maintain the super account and divide it later. In this instance, an account can be 'flagged,' which means the super fund is prohibited from making payments out of the account until the flag is either removed or lifted. The account will be maintained but the fund cannot pay out any benefits until the flag has been removed or lifted, either by agreement or court order.

Splitting super

A superannuation agreement or court order must be received by TWUSUPER in order for super to be split.

The agreement or court order must specify the super splitting amount or how it is to be calculated. An agreement must be accompanied by a copy of your divorce order (if divorced) or a separation declaration (if separated but not yet divorced).

The superannuation agreement must be prepared with the assistance of independent legal advice and must include the signatures of both spouses and their respective legal advisers.

A court order can be issued by the Family Court or a Federal Magistrates Court.

Upon receiving a superannuation agreement or court order, TWUSUPER will do one of the following:

- > If the non member spouse is an existing member of TWUSUPER or any of its divisions, we will transfer the super amount from the member account to the existing non member spouse account within three working days. We will also deduct a splitting fee of \$25 from the super account of both the member spouse and the non-member spouse.
- > If requested, we will transfer a non member spouse's benefit to a superannuation fund of their choice if they do not hold an existing account with us, provided the other fund accepts the transfer. They will be charged a withdrawal fee of \$50 (in addition to the splitting fee above) and the transfer will be subject to the provision of satisfactory identification documentation and other application requirements, unless it is pursuant to a court order.
- > We will establish an account within TransPersonal and transfer a non member spouse's benefit to this account if they don't request their benefit to be transferred to a superannuation fund of their choice within three working days or are not already a member of TWUSUPER. A splitting fee of \$25 will be deducted from the super accounts of both the member spouse and the non-member spouse.

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FACT SHEET - Divorce and super

Where a member spouse's accrued superannuation benefit is valued at less than \$5,000 it cannot be split.

Financial advice is only a phone call away

If you have any questions about splitting your superannuation, we recommend you seek legal advice or financial advice (as appropriate). As a member, you are entitled to one free consultation over the phone on a single superannuation issue with a qualified financial adviser.

If you have already used up your free consultation, further advice is available at an affordable rate and you can pay for it from your super account. Call **1800 222 071** and ask to speak to a financial adviser.

TAKE ACTION

Obtain information from TWUSUPER about a super interest by completing the *Declaration by applicant for information about Superannuation interest* (Form 6) - Part A and paying the fee of \$50.

TWUSUPER will respond to your request within five working days.

Obtain legal and/or financial advice and make a decision on what to do with your super - decide to either split it or flag it if appropriate.

With legal assistance, prepare a superannuation agreement or, if you cannot agree with your former spouse, arrange for the court to make an order.

Once TWUSUPER receives a valid superannuation agreement or court order we will transfer the super into the appropriate fund if all requirements are met.

FURTHER INFORMATION

If you would like more information, call **1800 222 071** or visit www.twusuper.com.au

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