

# Super Fund Ownership of Succession Planning Cover

1. Not all of the cover required by a Succession Plan can be held by a Super Fund;
2. If some of the cover required by a Business Succession Plan (such as the Buy/Sell cover) is held by (or on behalf of) a Super Fund, the Premium for that amount might be deductible (as long as there is no breach of the sole purpose test). The ATO is currently monitoring "Super Buy/Sell" for abuses;
3. It is not appropriate to hold Trauma cover in Super;
4. If a Trauma Buy/Sell Strategy was required, it might be necessary to have separate policies for the different Insured Events (including a stand-alone Trauma Policy);
5. If the Life Insured is under 55, any TPD benefit held by a Super Fund Will be subject to income tax at the rate of 20% when distributed to the Life Insured (the tax rate is 15% if between 55 and 60);
6. The Sum Insured (and therefore the Premium) needs to be grossed-up by 25% to achieve the targeted amount after payment of the income tax liability (the gross-up rate is 18% if between 55 and 60);
7. If the TPD is Own Occupation TPD, the cause of payment of the claim might not constitute a condition of release (in which case the payment Will be trapped in the Super Fund);
8. In the case of a Terminal Illness Benefit, the cause of payment of the claim might not constitute a condition of release (in which case the payment Will be trapped in the Super Fund);
9. A Death Benefit held by a Super Fund Will be subject to income tax at the rate of 15% if the Life Insured wishes to distribute any of the Insurance Proceeds to non-dependant children at the time of Death;
10. The Sum Insured (and therefore the Premium) needs to be grossed-up by 18% to achieve the targeted amount after payment of the income tax liability;
11. If the Sum Insured is not grossed up, the income tax liability with respect to the Death Benefit can only be avoided by omitting non-dependant children from any distributions and restricting the distribution to the spouse (if still alive) and dependant children (this can substantially increase the complexity and cost of preparing and regularly updating the Life Insured's Will in order to treat the children equitably);
12. This tax liability would compromise the effectiveness of any Testamentary Trust in the Life Insured's Will;
13. The Insurance Proceeds would be exempt from these income tax liabilities, if the Policy is beneficially owned by the Life Insured outside Super (in which case there would be no need to gross-up the Premium);
14. If all of the cover required by a Succession Plan is aggregated onto one Policy, the Premium can qualify for volume discounts of up to 25% that might not apply if the cover is held on separate, smaller policies;
15. The dollar benefit of a tax deduction for the Premium with respect to a smaller Sum Insured (such as the Buy/Sell cover in isolation) needs to be compared with the dollar benefit of a volume discount with respect to 100% of the aggregate Sum Insured;
16. The benefit of the tax deduction for the Premium also needs to take into account the cost of grossing-up the Premium to allow for the income tax liability with respect to cover held by the Super Fund;
17. If the different needs are not aggregated onto one Policy, each separate Policy needs to be reviewed and amended as needs change (which might require underwriting, medical tests, financial evidence, administrative time and cost);
18. If the equity in the Business is not owned by the Life Insured, the Proceeds of a Policy held by a Super Fund would not be paid to the appropriate Owner or Vendor (in which case the Vendor would have no sale Proceeds with which to fund its CGT liability on the sale of its equity);
19. The Premium for each Life Insured must be paid by their own Super Fund (thus, it is not possible to split the total Premium cost proportionately to the lives insured's equity in the Business, unless higher contributions are made to the Super Fund of the lives insured with lower Premiums in order to match the contribution with respect to the Life Insured with the highest Premium. This would increase the total cost of the Buy/Sell Strategy);
20. If a Life Insured has a Self-Managed Super Fund, they can obtain all of the benefits of a Single Policy Strategy as well as deductibility where appropriate;
21. Any Super contributions used to pay Premiums with respect to Insurance policies (the Proceeds of which would have been tax-free if held outside Super) limit the accumulation potential of the Super Fund.