

# Your super and divorce

## GOLD STATE SUPER FACT SHEET

In the event of separation or divorce, you will need to take a close look at your super arrangements as the Family Law Act 1975 affects the way in which super entitlements are treated. This fact sheet looks at the implications of a marriage breakdown on your Gold State Super account.

### **SPLITTING YOUR SUPER BENEFIT IN THE EVENT OF A DIVORCE**

Super is treated as property that can be divided between parties in the event of a marriage breakdown. The splitting of your super can be authorised by:

- A formal agreement between you and your spouse called a 'Superannuation Agreement' or 'Binding Financial Agreement', or
- A 'Court Order' issued by the Family Court directing GESB to split your super.

GESB will split your super entitlement in accordance with the Agreement or Order and create a separate 'interest', ie a new account for your former, current or future spouse, unless otherwise directed by them.

### **CALCULATING THE VALUE OF YOUR BENEFIT**

The notional benefit amount shown on your most recent statement should not be used for family law valuation purposes because this value will not necessarily be representative of the true value of your benefit at a particular time for family law purposes.

For enquiries regarding your Gold State Super benefit amount, please complete the Family Court's Form 6 Declaration and the Superannuation Information Request Form, and return these to GESB. The forms are included in the Superannuation Information Kit (Do-it-yourself kit), which is available for download from [www.familylawcourts.gov.au](http://www.familylawcourts.gov.au). Once we receive the forms we will be able to calculate the value of your benefit, after applying the appropriate Commonwealth reduction factor.

**Note:** Effective from 1 March 2009, the Commonwealth government amended the Commonwealth *Family Law Act 1975* to extend superannuation splitting to de facto couples. However, the Commonwealth changes do not apply to de facto relationships in WA.

Upon receipt of a splitting order or agreement, GESB will identify the non-member spouse's interest, adjust the amount by growth rates specified in the legislation, and split your benefit. The non-member spouse will be required to meet any tax liability on their component of the superannuation benefit, unless your order specifies otherwise.

Depending on your age and the status of your Gold State Super account (ie deferred or active) at the time your super is split, your benefit may have a discount factor applied to your multiple.

### **AN ELIGIBLE PERSON HAS A RIGHT TO INFORMATION ABOUT YOUR SUPER**

GESB may be obliged by the provision of the *Family Law Act 1975* to provide specified membership information to an 'eligible person' at their request.

Eligible persons have the right to obtain information about a member's super. If a person is eligible to receive the information, we must provide it to them. Eligible persons include:

- A member of GESB
- Their married spouse
- Their former spouse
- A person who is intending to enter into a pre-nuptial super agreement with a GESB member

When an eligible person other than the member requests or receives information, the GESB member cannot be notified by GESB, due to requirements of the Commonwealth Family Law legislation.

The type of information that can be provided to an eligible person includes:

- Membership history
- The current value of the member's benefit (or information to allow it to be calculated), and
- Details of any existing splitting orders

The purpose of providing access to information is to enable both parties to be able to verify the value of a member's super entitlement if a property split or a super agreement is about to occur.

The person requesting information about the super account must complete two forms: a Superannuation Information Request form and a Form 6 Declaration to certify that they are eligible to request the information. These forms are included in the Superannuation Information Kit (Do-it-yourself kit), which can be downloaded by visiting the Family Law Court website at [www.familylawcourts.gov.au](http://www.familylawcourts.gov.au).

### **APPLICATION OF THE 'RIGHT TO OBTAIN INFORMATION' RULES**

The new Family Law legislation applies to all married couples who finalise a Court Order or super agreement on or after 28 December 2002. It does not apply to divorced couples whose property arrangements were legally finalised before the new laws came into effect on 28 December 2002, unless the Court sets aside an earlier Order.

If you have a Court Order from prior to 28 December 2002 which requires a payment from your superannuation account, please contact your Member Services Centre on 13 43 72.

## FEES AND CHARGES

Super funds are entitled to levy reasonable fees and charges to recover costs involved in providing information or administering Court Orders or super agreements. Currently, GESB does not charge a fee for this service, but this is subject to change without notice. Your Member Services Consultant will be able to confirm any applicable fees at the time of your enquiry.

Due to the complex nature of super and family law, GESB strongly recommends members and spouses seek legal and financial advice before finalising an agreement involving a super fund, as there may be tax and other financial implications. You may also be eligible for services from Legal Aid. For more information about Legal Aid, phone 1300 650 579.

## MORE INFORMATION

- Attend a free retirement planning seminar. Register online at [gesb.com.au](http://gesb.com.au).
- Call your Member Services Centre on **13 43 72**.
- See the 'Gold State Super Essentials' brochure, available at [www.gesb.com.au/brochures](http://www.gesb.com.au/brochures).

## How to contact us

☎ Member Services Centre 13 43 72    📠 Facsimile 1800 300 067    🌐 [gesb.com.au](http://gesb.com.au)  
✉ PO Box J 755, Perth WA 6842    📍 Level 4 Central Park, 152 St Georges Terrace, Perth

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