



Family law and superannuation

Couples have the option of splitting their super entitlements on divorce or separation. Following is some important information about Family Law matters and how they are handled by AvSuper.

Under superannuation law, the term spouse includes married, de facto and same sex partners who live together in a genuine domestic basis in a relationship as a couple.

Who can ask for information?

The law allows the following people to ask for information about a member's super account:

- the member
- the spouse
- a person who intends to enter into a superannuation agreement with the member.

How do I ask for information?

You must obtain the Family Court's Superannuation Information Kit which includes a declaration that you are eligible to ask for information.

If a request for information is received from someone other than the AvSuper member, the Trustee cannot tell the member that the application has been received.

What information will I get?

AvSuper will only provide the information required by legislation. Generally, this is similar to the information provided in an account statement (including interim estimates). There is no charge for this information.

However, defined benefit members may request a valuation of their defined benefit. A valuation will only be provided if specifically requested and a fee of \$250 has been paid. Generally the Family Court will require a defined benefit valuation.

Professional Advice

AvSuper is not permitted to provide you with any advice on Family Law matters. If you have any queries, it is recommended that you seek legal advice from an appropriately qualified person.

Fees payable to the Trustee

The fees currently payable to the Trustee for Family Law issues are as follows:

Processing and responding to an Application for Information	\$ Nil
Processing and responding to an Application for Information where the value of a defined benefit interest has been requested#	\$250
Splitting a benefit under a Splitting Agreement or Order*	\$410 (\$205 for each party)
Flagging a benefit under a Splitting Agreement or Order*:	\$ Nil
Removing a flag under a Flag Lifting Agreement or Court Order*:	\$ Nil

Payable by the applicant and must accompany the Application for Information as outlined above. Cheques for the valuation of a defined benefit (where requested by the applicant) must be made payable to the AvSuper Fund.

* Generally split equally between the parties and deducted from the entitlement of each party.

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How can super be split?

Superannuation savings can be split as part of the property settlement either by a private Splitting Agreement between the parties or by Court Order. It can also be 'flagged' by a Flagging Agreement or Order.

'Splitting' means that a portion is to be allocated to a member's spouse as referred to in the Agreement or Order.

'Flagging' means that the decision on how to split the benefit is deferred until a later date. If the super becomes payable to the member while a flag is in place, the money cannot be paid and the Fund must notify the parties or the Court. AvSuper must then wait for further instructions from the parties or the Court before paying out any of the savings.

When an Agreement or Order is made

When an Agreement or Order is drafted, a copy must be provided to AvSuper along with any other required documents (your legal adviser will tell you what needs to be done) prior to a final order being made to ensure that it can be complied with under Fund rules.

The final Order or Agreement should then be sent to us so we can notify both parties that the Agreement or Order is in place. This notification will include details of the options available to the member's spouse in for their share of the member's super. It will also set out what action needs to be taken by the member's spouse, by when and the implications of us not receiving a reply.

The non-member spouse must also provide the following information to the Trustee:

- their full name
- their postal address
- their date of birth
- their AvSuper member number, if they are already a member

Important notes

1. The amount allocated to the member's spouse will be adjusted to take account of any fees that may apply.
2. The amount allocated to the member's spouse is not usually immediately available in cash. It must remain in the superannuation system until preservation age in most cases, or until the person meets one of the legal conditions that allows their benefit to be paid in cash.
3. The member's AvSuper account will be reduced by the amount allocated to the member's spouse and by any fees payable by the member. The reduction and new balance will be shown on the next annual super statement.
4. When allocating the required amount to the member's spouse, AvSuper may also need to split some of the tax components of the member's super. The components to be split, and the method by which they are to be divided between the parties, are set down in legislation.
5. The fees payable to AvSuper are subject to review from time to time and may vary without notice.

We strongly recommend you seek professional advice for your specific circumstances.

How do I contact the Trustee?

Please send all Family Law documentation to:

The Administration Manager
AvSuper Pty Ltd
GPO Box 367
Canberra ACT 2601



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GPO Box 367 Canberra, ACT 2601
Email: avsinfo@avsuper.com.au
Freecall: 1800 805 088
Phone: 02 6268 4722 Fax: 02 6268 4469

AFSL No. 239078 | ABN 84 421 446 069

This information is of a general nature only and does not take into account your personal objectives, situation or needs. Before making a decision about AvSuper, you should consider your own requirements and the relevant Product Disclosure Statement (PDS). For a copy call us or visit the AvSuper website, www.avsuper.com.au. AvSuper Pty Ltd (ABN 46 050 431 797, AFSL 239078) is the Trustee of the AvSuper Fund (ABN 84 421 446 069).

www.avsuper.com.au