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Superannuation and asset protection

Husbands and wives sometimes worry that if one of them dies before the other the survivor may form a second relationship which may lead to family wealth in their self managed superannuation fund ending up outside the family.

One answer is to provide for non commutable pensions to be paid as both retirement and death benefits and no matter in which order death happens.

The pensions can be set at the greater of a desired amount plus CPI and the minimum payment required by the regulations, or simply the minimum required amount.

At the death of the survivor the remaining capital reverts to the estate with consequent gifts to the children, possibly in the form of testamentary trusts.

The survivors' power to vary the arrangement is limited by requiring the consent of the children (if adults) or another family member or friend as a protector if the children are still young.

Because superannuation deeds vary, and because every family situation is different, there is no one size that will fit all situations.

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