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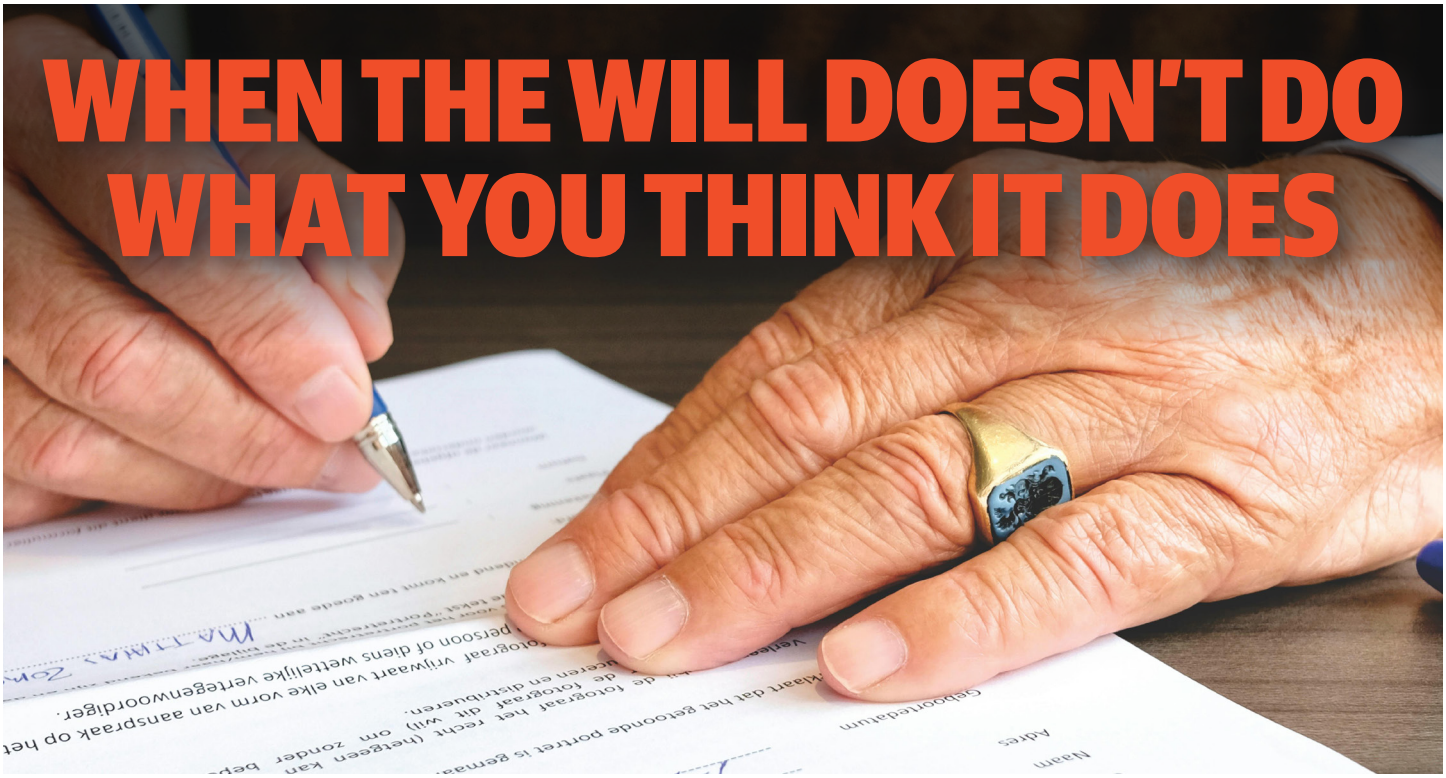
WHEN THE WILL DOESN'T DO WHAT YOU THINK IT DOES



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BY WEALTH ADVISER

The most common misunderstanding in Australian estate planning is that the will is the master document. People spend money getting a will properly drafted, sign it in front of witnesses, store it in a safe place, and assume that the document now controls who gets what when they die. The intuition is reasonable – for centuries the will has been the central instrument of inheritance. But for most Australian households today, the will controls a smaller share of total assets than people expect, and sometimes far less than the major assets.

This is because of how Australian wealth has been accumulated over the past four decades. Superannuation balances are larger than ever. Family homes are jointly owned. Life insurance is held inside super or with named beneficiaries. Increasing numbers of households hold investments through family trusts. Each of these assets passes on death through a mechanism that operates separately from the will. A perfectly drafted will, signed last week and stored with the family solicitor, may govern the contents of a home, a car, and a transaction account – and very little else of significant value.

The point of this article is not to alarm anyone but to clarify what actually decides where your money goes. Estate planning, properly understood, is not the exercise of writing one document. It is the exercise of coordinating a handful of decisions across several

INSIDE

Super is held in trust. The trustee of the fund is the legal owner of the balance; the member has a beneficial interest, but not direct ownership. When a member dies, the trustee — not the executor of the will — decides what happens to the balance. The will doesn't control this directly. The asset isn't in the estate.

different documents, each of which controls a different category of asset.

Superannuation: held in trust, not owned outright

The single most common surprise in this area is super. For households where super is one of the largest assets — which is to say, most households — the way it passes on death is the most consequential decision in the estate plan. And that decision is not made by the will.

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What the member does control is the nomination they make to the trustee. There are several types, and the difference between them matters more than most people realise. A binding death benefit nomination, if validly made and accepted, requires the trustee to pay the benefit as directed. A non-binding nomination is a statement of preference that the trustee will consider but is not required to follow. The default — no nomination at all — leaves the trustee with full discretion to decide who receives the benefit, subject to the fund's rules and superannuation law.

Within binding nominations, there is a further distinction that catches people out. Most binding nominations are lapsing — they expire after three years, after which they revert to non-binding unless renewed. Some funds offer non-lapsing binding nominations, which remain in force indefinitely, but this is only available where the fund's trust deed permits and the trustee accepts the nomination. The practical implication is that a binding nomination signed in 2020 may have quietly become non-binding in 2023, with the member entirely unaware. ASIC's 2025 review of how superannuation trustees handle death benefit claims found wide variation in practice across the industry, with significant gaps in some trustees' processes for managing nominations and processing claims.

A second mechanic is worth understanding. Even with a valid binding nomination, the people who can be named are restricted. Under superannuation law, a death benefit can only be paid to a "dependant" (which has a specific definition — spouse including de facto, children of any age, a person in an interdependency relationship, or a financial dependant) or to the member's legal personal representative (the executor or administrator of the estate). A nomination to a niece, a sibling, a friend, or a charity will generally be invalid unless an interdependency or financial dependency can be demonstrated. The way around this — for members who want their super to flow through their will to a non-dependant — is to nominate the legal personal representative, which then brings the super into the estate.

The third mechanic is tax. Super paid as a lump sum to a tax dependant — a narrower category than the super law definition, broadly excluding adult independent children — is tax-free. Super paid to a non-tax dependant attracts tax of up to 17 per cent on the taxable component and up to 32 per cent on the untaxed component. The difference between leaving super to a spouse and leaving it to an adult child can be tens of thousands of dollars in tax.

Reversionary nominations on pension accounts work differently again — the income stream continues automatically to the named beneficiary on the member's death. This was covered in detail in the Issue 135 article on surviving spouses; it remains one of the cleanest options for couples both in retirement.

Jointly owned property: who decided this, and when

The family home is the second largest asset for most households, and how it passes on death is determined by something most people signed without reading.

Property in Australia can be owned in two ways. Joint tenancy means each owner holds an undivided interest in the whole property; on the death of one owner, the survivor automatically becomes the sole owner. The asset never enters the estate. Tenants in common means each owner holds a defined share (typically 50/50 between spouses, but can be any proportion); on death, that share passes through the will rather than by survivorship.

For a couple buying a family home together, the difference is more consequential than it appears. Joint tenancy is the most common default. It is administratively simple — on the first death, the survivor produces a death certificate and the title is transferred without probate. But it also means the will is bypassed entirely for the family home. A will that

purports to leave a share of the home to children, or to a testamentary trust, is ineffective if the property is held as joint tenants. The home goes to the surviving spouse regardless.

For first marriages and uncomplicated households, this is usually exactly what the couple wants. For blended families, second marriages, or arrangements where each spouse has children from a prior relationship, joint tenancy can produce outcomes that don't match anyone's stated intentions. The classic case: a couple in a second marriage hold their home as joint tenants. On the first death, the home passes to the surviving spouse. That surviving spouse later updates their will to leave everything to their own children. The deceased spouse's children — who their parent had assumed would inherit a share of the home — receive nothing. The will of the first deceased had no power to prevent this in respect of the home. The decision was made the day the title was registered.

The practical lever here is the choice between joint tenancy and tenants in common. The tenants-in-common structure brings the property share into the estate, where the will controls its distribution. Many estate plans involve severing a joint tenancy specifically so that each spouse's half can be left through their will (often into a testamentary trust, which we covered in detail in Issue 130) rather than passing automatically to the survivor. The decision is straightforward to make, but it has to be made deliberately — and it has to be made before the first death.

The same survivorship principle applies to joint bank accounts. The surviving account holder simply continues to operate the account; the deceased's interest typically passes to them outside the estate, though resulting trust arguments can arise where the funding history of the account is contested.

Life insurance: nominated, by default, or by accident

Life insurance held outside super (sometimes called "retail" cover, distinguishing it from cover held within a super fund) has its own beneficiary mechanics. Where there is a valid nomination of beneficiary on the policy, the insurer pays the proceeds directly to the named person. The benefit doesn't form part of the estate. The will doesn't control it.

For policies held outside super, the rules about who can be nominated are far more permissive than super. Any person, any organisation, any trust — the policyholder is free to name whoever they want, with no requirement of dependency. This makes retail life insurance one of the most flexible estate planning instruments available.

The flip side of that flexibility is that the nomination, once made, becomes a powerful and often-forgotten document. A nomination made in someone's twenties or thirties may still name a former partner, a parent who has since died, or someone the policyholder no longer wants to benefit. Nothing about getting married, divorced, or having children automatically updates an insurance nomination. It sits there until it is changed.

For policies held inside super, the nomination operates through the super fund and follows the super dependant rules described above. The same lapsing-versus-non-lapsing distinction applies, and the same restrictions on who can be named.

The default — where no nomination has been made or where the nomination has lapsed and is invalid at the time of death — typically sees the proceeds paid into the estate to be distributed under the will (for non-super cover) or to the trustee for distribution at discretion (for super-held cover). For a household whose intentions are simple — "everything to my spouse" — the default outcome may align with the will. For a household with more nuanced intentions, default treatment is rarely what was intended.

Trust assets: the deed, not the will

For households with assets held inside a family trust — discretionary or otherwise — the destination of those assets on death is controlled by the trust deed and the appointor structure, not by the will. We covered family trusts and their planning dimensions in Issue 124, and testamentary trusts in Issue 130; the relevant point for this article is narrower.

Assets inside a trust are not owned by the individuals who benefit from the trust. They are owned by the trustee, held for the benefit of the beneficiaries as defined by the deed. When a controlling individual dies, the trust continues. The assets do not move into the estate. Instead, control of the trust passes to whoever the deed names as the successor — typically through the role of "appointor," who has the power to appoint and remove trustees. If the appointor role isn't clearly addressed, control of the trust can be unclear or contested at the worst possible moment.

The will has a role here, but it is indirect. A will can deal with the deceased's personal interest in trust assets to the extent that interest exists (for example, an unpaid present entitlement owed by the trust to the deceased), and it can deal with shares in a corporate trustee. But the trust assets themselves — the property, the investments, the businesses — are governed by the deed. Coordinating the will and the trust deed is a meaningful exercise that goes well beyond simply having both documents.

A note on notional estate (New South Wales)

One regional complication is worth flagging. Most Australian states and territories treat assets that pass outside the will as genuinely outside the estate — they can't be challenged, clawed back, or reallocated through a family provision claim. New South Wales is the exception. The notional estate provisions allow a court, in certain circumstances, to

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treat non-estate assets (including super death benefits and assets that passed by survivorship) as if they were part of the estate for the purposes of family provision claims. This means that in New South Wales, the boundary between estate and non-estate assets is more porous than it appears, and an aggrieved claimant may be able to reach assets that the deceased deliberately structured to bypass the will. Other states do not have equivalent provisions, though law reform on the question has been considered periodically.

Estate planning is a coordination exercise

If there is a single insight the foregoing is meant to deliver, it is this. The will is one document among several, each of which controls a different slice of the estate. A coordinated plan recognises that super passes through nomination, jointly owned property passes by survivorship, insurance passes by direct nomination, and trust assets pass through the deed. The will catches what's left.

The implication isn't that wills are unimportant — they remain essential, particularly for assets in sole names, for guardianship of minor children, and for direction on what happens to non-titled assets. The implication is that estate planning has to be approached as a coordination exercise rather than a document-drafting exercise. Updating a will without updating the super nomination, or without considering whether the family home should be held as tenants in common rather than joint tenants, leaves the most consequential decisions in default settings that may bear no resemblance to what the will intends.

Most households will find, on review, that the components of their estate plan have been put in place over many years, with different advisers, in response to different prompts, and have never been considered together. Bringing them into alignment is rarely complicated. But it does require recognising that the alignment is the work — and that the will, however carefully drafted, is not the whole answer.

Worth Thinking About

A handful of questions worth raising with your adviser at your next review:

- For each of my super accounts, is there a valid nomination in place, what type is it, and when was it last reviewed?
- Is my super nomination directing the benefit to a tax-effective recipient, or is it likely to attract significant tax?
- Is my family home held as joint tenants or tenants in common, and is that the right structure for my circumstances?
- Do I have life insurance policies — inside or outside super — with nominations that may be out of date?
- If I have assets in a family trust, who controls the trust on my death, and is that documented clearly in the deed?
- Do my will, super nominations, ownership structures, and any trust deeds work together as a coordinated plan, or have they been put in place separately over time?

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EOFY WITHOUT THE LAST-MINUTE SCRAMBLE

pexel.com

BY WEALTH ADVISER

The end of financial year conversation in Australia is dominated, almost without exception, by one topic: superannuation contributions. For four to six weeks every year, the financial press, bank emails, and adviser newsletters circle back to the same content – concessional caps, carry-forward, spouse contributions, the bring-forward rule. It is important material. We have covered it in detail in Issues 132 and 133. But it crowds out something worth noticing: the genuinely valuable EOFY actions are often not the ones that get the most attention.

The decisions with the largest or most durable effect on a household's tax position frequently sit outside super. Capital gains and capital losses get realised through investment decisions that have nothing to do with the contribution caps. Deductions can be brought forward in ways that quietly reduce a high-income year. Charitable giving can be structured so that one year's donation is spread across five tax returns. Investment property timing can shift a renovation decision into a year where it actually matters. None of these will be flagged by a generic EOFY checklist, and none of them require a last-minute rush to top up a super account.

This article is being written with roughly four weeks left in the 2025-26 financial year. The window is genuinely tight, but not closed. What follows is a guide to the non-super decisions that are still worth thinking about now – what's still possible, what's worth raising with an adviser this month, and what's likely to be too late to act on.

Capital gains and capital losses: the most overlooked EOFY decision

For households with investments outside super, the single most consequential EOFY decision is usually about realising – or deliberately not realising – capital gains and losses.

The mechanics matter, because they're not symmetric. Capital losses can only offset capital gains, not other income such as wages, interest, or rent. But once they offset gains, they do so before the 50 per cent CGT discount is applied, which makes losses more valuable than they first appear. A $10,000 capital loss applied against a $20,000 long-held capital gain reduces the gain to $10,000, which is then

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halved by the discount to a $5,000 taxable amount. The same loss against a discounted gain post-discount would only reduce taxable income by $10,000 of the discounted figure — a worse outcome.

This produces a small but useful planning point. If a household has realised a capital gain earlier in the financial year — perhaps from selling shares, an investment property, or a managed fund holding — and is also holding investments showing unrealised losses, there is a window before 30 June in which the losses can be crystallised to offset the gain. The reverse also applies: if losses have been realised and gains are unrealised, the question is whether to bring forward a sale to use the losses now or carry them forward.

Two cautions matter here. The first is the wash sale rule. Australia does not have a fixed waiting period like the United States' 30-day rule, but the ATO's anti-avoidance ruling (TR 2008/1) makes clear that selling an asset purely to crystallise a loss and then immediately repurchasing the same or substantially the same asset is at risk of having the loss disallowed. The test is substance-based and fact-specific. Households wanting to maintain market exposure typically do so by switching into a genuinely different — though similar — investment, rather than buying back the same security a few days later.

The second caution is the holding period. An asset sold within 12 months of purchase doesn't qualify for the 50 per cent CGT discount, so a sale brought forward by a few weeks can convert a discounted gain into a non-discounted one. For investments approaching the 12-month mark, the timing decision can be more valuable than the headline gain or loss.

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Bringing forward deductions: the prepayment window

For individuals — including investors with rental properties and salary earners with deductible work expenses — the 12-month prepayment rule offers a useful tool that is widely available but unevenly used.

The rule, which applies to prepaid non-business expenditure, allows an immediate deduction in the year payment is made if the eligible service period is 12 months or less and ends by the last day of the next financial year. The most common use cases are interest on investment loans, professional subscriptions, work-related course fees, income protection insurance held outside super, and rental property expenses such as landlord insurance.

A worked example. A taxpayer with an investment property loan who would normally pay roughly $24,000 in interest over the next twelve months can — if their lender allows — prepay the next year's interest before 30 June and claim the entire amount as a deduction in the current year, rather than spreading it across two financial years. For someone in the 37 per cent marginal bracket, that brings forward roughly $8,800 of tax benefit. In most years the move is a timing shift rather than a permanent saving — the deduction would have been claimed in the next year regardless. But for a taxpayer who expects their income to be meaningfully lower next year — because they are about to retire, take parental leave, or move to part-time work — claiming the deduction at a higher marginal rate this year does represent real money rather than just a deferral.

The same logic applies to professional memberships, subscriptions, and (for investors with margin loans or similar facilities) borrowing costs. The catch is administrative: the lender or service provider has to be willing to accept payment, and the payment has to actually be made before 30 June. Bringing forward expenses that wouldn't otherwise have been incurred is generally not a good idea — the deduction is real, but the cash outflow is also real, and only makes sense if the expense was coming anyway.

For self-employed individuals and small business operators, the prepayment rules differ slightly and are more permissive in some respects, but the same principle applies: the timing decision is genuinely available and underused.

Charitable giving: the structures most people don't know about

Donations to deductible gift recipient organisations are deductible against assessable income, with a few features that aren't widely understood.

The basic rule is straightforward — a donation of $2 or more to a registered DGR is deductible in the year it is made, provided the donor has a receipt. What's less widely known is that, for most donations, a donor can elect to spread the deduction over up to five income years. The election is made on a specific ATO form before lodging the relevant

tax return. This matters in two situations. The first is where a single large donation would otherwise reduce a donor's assessable income to nil – by definition, anything above that threshold is wasted from a deduction perspective. The second is where a donor has had an unusually high income year (a bonus, a business sale, an investment gain) but expects future years to be more modest. Spreading the deduction across years where the marginal rate is meaningfully different can materially change the net cost of the gift.

For donors with significant philanthropic intent, the structural options are larger. A private ancillary fund – which the federal government has announced will be renamed a "Giving Fund" once the relevant guideline amendments are made – operates as a personal charitable trust. Donations to the fund are deductible immediately, and the fund itself operates as a tax-exempt entity, with earnings on the corpus accumulating tax-free until distributed to operating charities. Under the rules currently in effect, a private ancillary fund must distribute at least 5 per cent of its net assets each year (with a minimum dollar floor for smaller funds), though the government has announced an intention to lift this to 6 per cent in coming years. For donors who want to give substantially in a high-income year but spread the philanthropic impact across decades, the structure is genuinely useful – though the establishment costs and ongoing compliance obligations make it more relevant for donations of meaningful size.

A simpler alternative is a sub-fund within a public ancillary fund – sometimes called a named giving fund. Public ancillary funds currently operate under a 4 per cent minimum annual distribution rate (lower than the 5 per cent that applies to private ancillary funds), with the same 6 per cent rate proposed under the Giving Fund reforms. The donor contributes capital to a sub-fund within an existing public fund (run by an external trustee), receives the deduction, and directs the distribution decisions over time. The administration is handled by the trustee, the cost structure is much lower than a private ancillary fund, and the entry threshold is correspondingly lower.

Workplace giving – where donations are made through pre-tax payroll deductions – is the most administratively simple option. The deduction happens at source, no end-of-year claim is required, and many employers match contributions. It is rarely the most tax-efficient structure for large gifts but is genuinely the simplest for ongoing giving.

Investment property timing: the small decisions that compound

Investment property owners face a series of timing decisions every year that are easy to overlook. Most aren't complex. The cumulative effect is.

Repairs and maintenance – distinct from capital improvements – are deductible in the year they are incurred. Bringing forward genuinely needed repairs into the current financial year (rather than letting them slip into July) shifts the deduction by twelve months. The distinction between deductible repairs and non-deductible capital improvements matters: replacing a broken fence is generally a repair; installing a new kitchen is generally a capital improvement, depreciable rather than immediately deductible.

Depreciation schedules are sometimes worth refreshing. A property purchased years ago without a quantity surveyor's report may have legitimate depreciation claims that have never been made. The cost of obtaining a depreciation schedule is itself deductible, and the deduction picks up not only future years but, in some circumstances, prior years through amendment.

Land tax and council rates paid in the current financial year are deductible in that year. Owners with the option to pay before or after 30 June should consider whether the timing matters for their particular tax position.

For owners considering selling, the contract date – not the settlement date – is generally what determines which financial year the CGT event falls in. A contract signed on 28 June settles in the current year for CGT purposes, even if settlement happens months later.

A handful of others worth checking before 30 June

Several smaller items are worth raising with an adviser even if they don't warrant their own section.

Private health cover for higher-income households can be a meaningful EOFY decision. The Medicare Levy Surcharge applies to singles with income above $101,000 and families above $202,000 in 2025-26 who don't hold an appropriate level of hospital cover. The surcharge ranges from 1 to 1.5 per cent of the relevant income. For households on the borderline, taking out cover before 30 June (and holding it for the full year going forward) may be worth more than the cost of the cover itself, though the daily-pro-rated structure of the surcharge means partial-year cover provides only partial relief.

Income deferral can matter for some taxpayers. The 1 July 2026 income tax change reduces the lowest marginal rate from 16 to 15 per cent for income between $18,201 and $45,000. For taxpayers whose total taxable income falls in that band, deferring assessable income from 2025-26 into 2026-27 – where genuinely possible – saves one cent in the dollar. The figure is small but it isn't zero, and for taxpayers with discretion over the timing of bonuses, contractor invoices, or other variable income, it's a consideration.

Family trust distributions need to be resolved by 30 June. Trustees of discretionary family trusts must make a valid resolution before the end of the financial year about how the

trust's income will be distributed; failure to do so generally results in the trustee being assessed at the highest marginal rate. This is a well-established annual exercise for trust beneficiaries, but worth flagging for households whose accountant doesn't routinely handle the resolution well in advance.

Worth keeping in proportion

A reflective note before closing. The decisions in this article matter, but they are rarely the main game. A household's long-term financial position is determined far more by the cumulative effect of investment strategy, contribution habits, and structural decisions taken across decades than by the timing of any single year's tax outcomes. Annual EOFY actions are the trim, not the keel.

That said, the trim still matters — because annual decisions compound across years, and because the difference between thinking about these things in early June and thinking about them on 1 July is the difference between acting deliberately and missing the window altogether. The four weeks before 30 June are not a window in which any household can transform its financial future. They are a window in which a handful of useful decisions can be made deliberately rather than missed by default.

Worth Thinking About

A handful of questions worth raising with your adviser at your next review:

- Do I have unrealised capital gains or losses that would change my tax position if I crystallised them before 30 June?
- Are there deductible expenses — investment loan interest, professional subscriptions, income protection — that I could prepay before 30 June?
- For any donation I'm planning this financial year, would spreading the deduction across multiple years produce a better outcome than claiming it all in 2025-26?
- If I make significant charitable gifts, would a structured giving vehicle (a sub-fund or a private ancillary fund) make sense for my circumstances?
- For any investment property I own, are there repairs I should bring forward, and is my depreciation schedule current?
- Am I close to the Medicare Levy Surcharge thresholds, and is private hospital cover worth considering before 30 June?
- If I'm a discretionary trust beneficiary, has the trustee resolved the distribution before 30 June?

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INVESTMENT BONDS

The Quietly Useful Structure Most People Don't Know

depositphotos.com

BY WEALTH ADVISER

For most of the past two decades, investment bonds – sometimes called insurance bonds – have been a fixture of adviser textbooks but a peripheral feature of actual planning conversations. Super did most of the work. Family trusts handled the rest. Investment bonds sat in the background, quietly used by a smaller number of households who knew about them, and ignored by everyone else.

That has shifted. The contribution caps have tightened over a decade of policy. Division 296 – the additional 15 per cent tax on earnings attributable to super balances above $3 million, and a further tier above $10 million – has changed the calculus for high-balance clients. Some of the alternative tax-effective vehicles that used to handle accumulation outside super (notably family trusts) have become more complex to administer and more carefully scrutinised by the ATO. Households looking for a long-term tax-effective place for additional savings have fewer obvious options than they did a decade ago.

In that context, investment bonds are getting a second look. They're not a substitute for super for most households, and they're not a replacement for trusts for the situations where trusts genuinely fit. But they occupy useful ground for a handful of specific circumstances, and the structure is straightforward enough that it deserves to be better understood than it is.

What an investment bond actually is

The basic mechanic is unusual enough that it's worth a brief grounding before discussing where the structure makes sense.

An investment bond is a tax-paid investment vehicle, regulated as a life insurance product. The investor places money with a life office (Generation Life, Australian Unity, Resolution Life, MLC and others all offer products in this space), and the life office invests the money across a menu of underlying options – diversified portfolios, single-asset-class funds, or specific managed strategies. The crucial feature is that earnings inside the bond are taxed at a flat 30 per cent (the life company tax rate), and that tax is paid by the bond, not by the investor. The investor receives no annual distributions, no tax statements, and no franking credit refunds. The bond simply grows, with tax having already been paid internally.

That treatment becomes more useful with time. Hold the

bond for at least 10 years and continue to satisfy the 125 per cent contribution rule (which we'll come to), and any withdrawal after the 10th anniversary is tax-free in the investor's hands. The investor doesn't include the proceeds in their tax return at all. Within the first 10 years, withdrawals are subject to personal tax on the earnings component, but with a non-refundable 30 per cent tax offset to recognise the tax already paid by the bond.

The 125 per cent contribution rule is the feature that makes ongoing contributions practical. The investor can contribute as much as they like in the first year. In each subsequent year, they can contribute up to 125 per cent of the prior year's contribution without resetting the 10-year period. Exceeding 125 per cent — or skipping a year and then making a contribution in a later year — restarts the clock. Practically, this means a regular savings plan started with a modest first-year contribution can grow significantly each year while preserving the original commencement date.

Those three features — the 30 per cent internal rate, the 10-year rule, and the 125 per cent contribution rule — are the structure's load-bearing elements. With them established, the question becomes when this is genuinely useful.

Where investment bonds make sense

High-income earners whose marginal rate exceeds 30 per cent

The simplest case is also the most quantitatively obvious. The 30 per cent internal tax rate is materially below the top marginal rates that apply to high-income earners — 37 per cent above $135,000 and 45 per cent (plus the Medicare levy) above $190,000 in the 2025-26 year. For a household whose marginal rate sits at the top, earnings inside an investment bond are taxed at a rate that is up to 17 percentage points lower than the rate that would apply if the same investment were held directly in their personal name.

The arithmetic compounds. A household holding a directly-owned investment portfolio that earns $30,000 in income and growth in a year at the 47 per cent rate (top marginal plus Medicare) hands $14,100 of that to the ATO. Inside an investment bond, the same earnings attract $9,000 of tax. The $5,100 difference, reinvested year on year, builds materially over a decade.

Two qualifications matter. First, the 30 per cent rate inside the bond is the rate, not a maximum — the bond pays 30 per cent on its earnings, including realised capital gains, without access to the 50 per cent CGT discount that an individual investor receives on assets held more than 12 months. The bond also pays tax annually as earnings are realised inside it, whereas an individual investor can defer CGT until they choose to sell. So for a portfolio that derives most of its return from long-held capital gains rather than income, a direct holding can sometimes match or beat the bond on after-tax returns despite the higher marginal rate. Second, franking credits inside the bond are absorbed by the bond's own tax liability rather than refunded to the investor — for a low-income retiree with significant franked dividend income, this is a clear cost; for a high-income earner whose franking credits would otherwise be reduced or absorbed by their personal tax position anyway, it's less of a concern.

The structure tends to suit high-income earners during their accumulation phase rather than their retirement phase, because the comparison shifts in retirement when marginal rates are typically lower.

Education savings for children or grandchildren

The second clear use case is long-term saving for a child's education. Investment bonds were, for a long time, marketed primarily for this purpose, and the vehicle does fit it well.

The mechanics that make it suitable are several. First, the 10-year horizon aligns naturally with school or university funding — money set aside for a young child has a clear runway. Second, the 30 per cent internal tax rate is competitive against the alternative of saving in the parent's name (where the parent's marginal rate applies) or in a child's name (where the punitive minor income tax rates apply to unearned income above modest thresholds). Third, the bond allows the investor to nominate a child to whom ownership transfers automatically at a specified vesting age (typically anywhere between 10 and 25), without the transfer triggering a tax event and without resetting the 10-year period. The asset moves to the child cleanly, when the parent or grandparent decides, with no administrative fuss.

The alternatives are real and worth weighing. A parent could simply invest in their own name and pay school fees from the proceeds when needed — straightforward, but tax-inefficient if their marginal rate is high. A family trust can serve the same purpose with more flexibility but materially more complexity and ongoing cost. An education-specific managed fund offers similar tax outcomes with different fee structures. For a household with a clear long-term education goal and no need for the flexibility of a trust, the bond is often the cleanest answer.

Super-alternative use for clients at or near contribution caps

The third use case — the one driving the renewed adviser interest — is for clients who are at or near their super contribution caps and looking for additional tax-effective accumulation outside super.

The case is straightforward in shape. Concessional contribution caps sit at $30,000 per year. Non-concessional caps at $120,000. Carry-forward provisions and the bring-forward rule add some flexibility but don't fundamentally change the picture: there is a ceiling on how much

The bond is not a perfect substitute for super. It doesn't carry the same access constraints, which can be a feature or a drawback depending on the household's discipline. It's not subject to preservation rules, but neither does it have the same tax-free pension phase that super provides after age 60.

can be put into super each year, and many high-income or high-balance households have either already reached it or are approaching it.

For a client whose super balance is approaching $3 million and who is therefore looking at Division 296 territory, the calculation shifts further. Earnings on super balances above $3 million attract an additional 15 per cent tax under Division 296, and an additional 25 per cent above $10 million. For these clients, the bond's 30 per cent internal rate can be competitive with – and in some cases lower than – the effective rate on additional super balances, particularly for high-balance clients whose super earnings are increasingly captured by Division 296 tiers.

The bond is not a perfect substitute for super. It doesn't carry the same access constraints, which can be a feature or a drawback depending on the household's discipline. It's not subject to preservation rules, but neither does it have the same tax-free pension phase that super provides after age 60. And it doesn't qualify for the various social security and aged care concessions that apply specifically to super balances. For most households, the right approach is to use super first, up to the caps and any carry-forward room, before considering bonds – but for those with no remaining super capacity, the bond offers a tax-effective vehicle with internal earnings tax substantially below the personal marginal rate.

Other applications worth knowing about

Two further applications are worth flagging briefly without full treatment.

Investment bonds have estate planning features that resemble super and life insurance. Beneficiaries can be nominated directly on the bond, and on the death of the life insured the proceeds pass to the nominated beneficiary tax-free, outside the estate (though, like super and life insurance, the NSW notional estate regime can pull these proceeds back into reach of family provision claims). For donors who want to direct a portion of their wealth to a specific beneficiary outside the will – perhaps a grandchild, a charity, or a particular family member – the bond's nomination feature provides a clean mechanism without the complexity of a separate trust structure.

Investment bonds also operate, in some respects, as a simpler alternative to a family trust for clients whose primary motivation for considering a trust is tax-effective long-term accumulation rather than the flexibility of distributing income across family members each year. Trusts genuinely add value where income-splitting flexibility, succession planning, or asset protection is the driver. Where the goal is simply to accumulate tax-effectively over a long horizon, the bond's lower cost and administrative simplicity often make more sense.

When investment bonds aren't the right answer

The article would be incomplete without noting where the structure doesn't fit.

The 30 per cent internal rate is a floor, not a ceiling. For investors whose marginal tax rate is below 30 per cent – pensioners, lower-income earners, retirees in pension phase – a direct holding will typically be more tax-effective than a bond, because the personal rate that would otherwise apply is below the rate the bond pays internally. The non-refundable nature of the 30 per cent offset within the first 10 years means that a low-income investor who needs to withdraw before the 10-year mark cannot recover the difference between their lower marginal rate and the 30 per cent already paid by the bond.

Franking credits are a meaningful loss for some households. Australian shares typically carry franking credits that, in the right hands, can be refunded by the ATO. Inside a bond, those credits are absorbed by the bond's own tax liability. For a self-funded retiree whose direct portfolio of Australian shares produces substantial refundable franking credits each year, moving that portfolio into a bond means walking away from those refunds.

Liquidity and access are different in a bond than in direct investment. The 10-year rule creates a soft constraint – withdrawals are technically possible at any time, but doing so within the first 10 years sacrifices some of the tax benefit. For households whose savings goals have a shorter horizon, or whose circumstances may require unexpected access, the bond is a poorer fit than direct investment.

For Centrelink-assessed clients, bonds are treated as financial assets and subject to deeming, in the same way as direct investments and managed funds. They offer none of the favourable Centrelink treatment that applies to super balances held in accumulation phase below preservation age, which can matter for retirees still on the borderline of

pension entitlements.

Provider quality and fee structures vary materially across the sector. Some bond providers offer extensive investment menus and competitive fees; others charge meaningfully more for similar exposure. A bond is only as good as its underlying investment options, and the comparative cost analysis against a low-cost direct ETF portfolio is a genuine consideration that should inform the decision rather than be assumed away.

For all of these reasons, investment bonds are best understood as one component of a broader planning toolkit — useful in specific circumstances, but rarely the right answer on its own. They sit alongside super, direct investment, family trusts, and other vehicles, with the choice between them depending on the household's marginal rate, time horizon, liquidity needs, and existing structures.

Worth Thinking About

A handful of questions worth raising with your adviser at your next review:

- Does my marginal tax rate make a 30 per cent internal rate genuinely advantageous compared to direct investment?
- Have I used my super contribution capacity (concessional, non-concessional, and carry-forward) before considering bonds as an additional accumulation vehicle?
- If I'm saving for a child's or grandchild's education, is an investment bond the right structure compared to direct investment, a family trust, or an education-specific fund?
- For my Australian share exposure, what would the loss of refundable franking credits cost me, and does that change the analysis?
- If I'm considering bonds for estate planning purposes — to direct funds to a specific beneficiary outside the will — does the nomination feature suit my circumstances, and how does it interact with my broader estate plan?
- What are the fee differences across investment bond providers, and how do they compare to my current direct investment costs?

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- *Generation Life. "Investor strategies — making the most of the 125 per cent opportunity." genlife.com.au. Worked examples of the 125 per cent rule mechanics.*
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- *Resolution Life Australasia. "Investment Growth Bond — Invest Smarter." Issue date 1 June 2025. Product-level documentation on tax treatment and 125 per cent rule.*
- *Australian Securities and Investments Commission (Moneysmart). "Investment bonds." General consumer guidance on the structure, suitability, and risks. moneysmart.gov.au.*

Q&A: Ask a Question

Question 1

My partner and I own our home together. Does it actually matter whether we own it as "joint tenants" or "tenants in common"?

Yes, and the difference can have a significant impact on what happens to your home when one of you passes away. Both options describe how co-owners hold a property, but they work very differently from an estate planning perspective.

Under joint tenancy, each owner holds an undivided interest in the whole property. When one owner dies, their share automatically passes to the surviving owner, regardless of what the deceased's will says in relation to that property. This is called the right of survivorship, and it bypasses the estate entirely. For most first marriages and straightforward family situations, this is what couples want, and the administration is simple.

Under a tenants in common arrangement, each owner holds a defined share, often 50/50, but it can be any proportion. When one owner dies, their share forms part of their estate and passes according to their will. This structure is often used in blended families, second marriages, or where each spouse wants to leave their share to children from a previous relationship.

The decision is straightforward to make, but it has to be made deliberately, and ideally well before circumstances change. Speaking with your adviser, alongside a solicitor, can help you confirm whether your current ownership structure aligns with your broader estate plan.

Question 2

I've heard you can sometimes prepay expenses to bring forward tax deductions. How does that actually work?

The prepayment rules allow individuals to claim an immediate deduction for certain expenses paid in advance, rather than having the deduction spread across the year the expense relates to. For most non-business taxpayers, this works where the prepaid amount covers a period of 12 months or less, ending no later than the end of the following financial year.

Common examples include interest on investment loans, income protection insurance held outside super, professional memberships and subscriptions, and certain rental property expenses such as landlord insurance. If your lender or service provider accepts prepayment, you can pay the next 12 months' amount before 30 June and claim the full deduction in the current financial year.

In most cases, this is a timing shift rather than a permanent saving – the deduction would have been claimed next year regardless. But it can be genuinely useful if you expect your income to be meaningfully lower in the year ahead, perhaps because you're moving to part-time work, taking parental leave, or approaching retirement. Claiming the deduction at a higher marginal rate this year produces a real tax benefit rather than just a deferral.

Bringing forward expenses you weren't going to incur anyway is rarely worthwhile, since the cash outflow is real even if the tax deduction is. Your adviser can help you identify which prepayments make sense given your circumstances and expected income trajectory.

Question 3

Someone mentioned investment bonds as an option for saving outside super. What are they and how do they work?

Investment bonds, sometimes called insurance bonds, are a long-term investment structure offered by life insurance companies. You contribute money, the provider invests it across a menu of options similar to a managed fund, and earnings inside the bond are taxed internally at a flat 30%, rather than at your personal marginal rate. You don't receive distributions or tax statements each year; the bond simply grows with tax already paid.

Two features make them genuinely useful in the right circumstances. The first is the 10-year rule: hold the bond for at least 10 years and, provided the contribution rules (including the 125% rule) have been followed, withdrawals are generally tax-free in your hands. The second is the 125% rule itself, which lets you contribute up to 125% of the previous year's contribution each year without restarting the 10-year clock, allowing a savings plan to grow over time.

They tend to suit high-income earners whose marginal tax rate is well above 30%, those saving for a child's or grandchild's education over a long horizon, or those who have already used their super contribution caps and are looking for additional tax-effective accumulation. They're generally less suitable if your marginal rate is below 30%, or if you rely heavily on franking credit refunds, which are absorbed inside the bond.

A financial adviser can help you weigh whether an investment bond is the right fit alongside your existing super, investment, and estate planning arrangements.

With all these topics, there is no single "right" choice. Your personal situation matters, and you should seek advice from a licensed financial adviser to understand what is most appropriate for you.

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