

NOMINATION OR INSTRUCTION IN THE WILL

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From the previous articles, we have already discussed that before the distribution of an estate, the executor will first ensure that the debts and liabilities that the deceased owed is paid off from the deceased estate. However, there are two types of assets that are protected from the creditors' claims, namely the insurance proceeds and the Employees Provident Funds (EPF). These are the money that will be paid directly to the nominees upon one's demise.

Can a Will revoke the nomination in an insurance policy or EPF?

Generally, if the deceased have stated in their Will that they would like their insurance policies to be inherited by someone other than those they have nominated in the insurance policy or EPF, it will not take effect. The most effective way is to update the nomination in the policy or EPF. This is because a Will cannot override the nomination in an insurance policy or EPF nomination.

No nomination?

If no nomination is made under the EPF savings, the savings will then form part of the deceased's estate and will be distributed according to their Will or according to the law if they die intestate. This however also means that the EPF savings will no longer be protected from their creditors' claim.

While this principle also applies when there is no nomination under the insurance policy, there is a special rule that applies. If the nominee in the insurance policy is not the deceased's spouse, child or parent (if they have no spouse or child at the time the nomination was made), the nominee is merely the executor who temporarily manages the money and has a duty to distribute the insurance money to the legal beneficiaries according to the Will or if they die intestate, according to the law. As such, if they want someone who is not their spouse, child or parent to receive the money, they may either assign the policy to him/her or write a Will in which they name him/her as the beneficiary to their insurance policies.

What if there is no surviving EPF nominee?

The procedure to claim the EPF savings when there is no surviving nominee will depend on the amount of savings in the member's account:

EPF savings less than RM20,000 – The member's next of kin will first receive an initial sum of RM2,500 and the balance will be paid after two months from the date of the deceased's death.

EPF savings more than RM20,000 – The member's next of kin will first receive an initial sum of RM2,500 and the second payment (not more than RM 17,500) will be paid to the next of kin after two months from the date of the member's death. The remaining balance of the savings will be paid upon the submission of the Letter of Probate (if there is a Will) or the Letter of Administration (if the deceased died intestate) which is usually very costly and time-consuming.

What if there is no update of the EPF nominee?

As the general rule, a change in the status of the nominee will not cause the earlier nomination null and void. As such, the money may end up in the hand of a person who the deceased's did not intend to benefit. For example, if they have

nominated their ex-wife from their previous marriage in the EPF nomination, and they did not update your EPF after divorce, their ex-wife will end up receiving their EPF money. Unless they are intended to give the money to their ex-partner, they are advised to revise and update their nomination when there are major changes to their life such as marriage, divorce, new-born child and the death of their nominated beneficiary.

By appointing a nominee, the policy proceeds and the EPF savings can be distributed faster to the beneficiary without the need to obtain the Grant of Probate or Letter of Administration or Distribution Order which requires higher cost and longer time. Nevertheless, it is not uncommon to see that some people will still nominate a beneficiary for their insurance proceeds and the EPF in the Will just in case the nomination in their insurance policy or EPF has failed.