

Nomination

1. What is nomination?

Nomination is a process whereby any person who is the owner of any deposits, mutual funds, shares, insurance policies, etc. appoint one or more nominees respectively who can receive the funds/ monies standing in the credit of any of the assets wherever nominated after the death of the owner.

2. Why to appoint a nominee?

A nominee is a trustee not the owner of the assets. In other words, he is only a caretaker of your assets. The nominee will only hold your money/asset as a trustee and will be legally bound to transfer it to the legal heirs.

Otherwise, if a person dies and hasn't nominated anyone, your legal heirs will have to go through the process of producing all kind of certificates like death certificates, proof of relation, Legal heirship or succession certificate, etc.

Nomination is usually done solely for the purpose of simplifying the procedure for settlement of claims of the deceased and is an ideal tool to reduce hardships during the settlement of claims in the vent of the death of the person who has done the nomination.

3. Who can nominate?

- Bank account holders having deposit accounts in their individual names or in joint names of two or more individuals can appoint a nominee to their accounts.
- A sole proprietor can appoint a nominee to the sole proprietorship account with the bank.
- In the case of a deposit account in the name of a minor, nomination shall be made by a person lawfully entitled to act on behalf of the minor in respect of a deposit account.
- Safe deposit locker holder(s) can appoint nominee(s) on their Safe deposit locker(s).
- A nomination can be made only in respect of a deposit account which is held in the individual capacity of the depositor, and not in any representative capacity such as the holder of an office like Director of a Company, Secretary of an Association, partner of a firm, or Karta of an HUF.

4. Important Information about nomination:

- One should appoint nominee at the time of opening an account or doing any investment.
- Give complete details about the nominee (full name, date of birth, address) when you fill in the details. This helps to avoid any confusion in case there is a claimant with a similar name staking a claim.
- Nomination could be made only by individuals applying for/holding units or assets on their own behalf (including joint ownership).
- Non-individuals including society, trust, body, corporate, partnership firm, karta of Hindu Undivided Family, holder of Power of Attorney can neither nominate nor be a nominee.

- A minor can be nominated and in that event, the name and address of the guardian of the minor nominee(s) should be provided by the unit holder.
- A non-resident Indian can be a nominee, subject to the exchange controls in force from time to time.
- Some investments (such as Mutual Funds) allow more than one nominee and the percentage of share that each would be entitled to.
- The nomination can be **cancelled or changed at any time**. You don't even have to inform the person nominated or earlier nominated.
- The nomination forms(Opening, cancelling, change) has to be filled **up by all joint holders**, irrespective of the mode of operation of the investment/deposits.

5. Nominations in Financial Products

Nomination facility can be availed by an individual for assets/ facilities like insurance policy, bank accounts, locker, society, demat accounts, shares, NSC, post office, mutual fund, PF, PPF& gratuity

Make sure, you have a nominee for your following financial products, if any for easy settlement of the claim. If you do not have any nominee mentioned, it can turn out to be a disaster for your dependents to get a claim after your death.

a. Insurance

A policyholder can appoint multiple nominees and can also specify their shares in the policy proceeds. Nomination in life insurance has one limitation, as insurance policies are bought to secure your financial dependents; your first choice of nominee has to be your family members. In case you want to nominate a non-family member like a friend or third party, you will have to show/prove the insurance company that there is some insurable interest for the person.

As per Section 39 of the Insurance Act, 1939, the insurance company must hand over the amount to the nominee mentioned in the policy. The nominee is expected to distribute it to the legal heirs listed in the policyholder's will. In the absence of a will, individual succession laws come into play.

b. Property in cooperative housing society

As with insurance amount, a nominee to a property in a housing society does not automatically inherit it. On the death of the original owner, the housing society has to transfer the shares of the deceased to the nominee, who must, in turn, transfer them to the legal heirs.

The purpose of nomination under section 30 of the Maharashtra Co-operative Societies Act, 1960 is essentially to provide the discharge of the societies' obligations. The nomination does not lay down any special rule of succession of properties of a deceased member overriding the general rules of inheritance.

c. Bank accounts and deposits :

The nominees in the case of bank accounts, mutual funds and other investments also need not be the automatic, sole beneficiaries. The RBI guidelines make this amply clear, that the money lying deposited in the account of the original depositor should be distributed among the claimants in accordance with the Succession Act or as per the depositor's will but the nominee cannot claim any absolute right over it.

Section 45ZA(2) of Banking Regulation Act merely put the nominee in the shoes of the depositor after his death and clothes him with the exclusive right to receive the money lying in the account. It gives him all the rights of the depositors so far as the depositors's account is concerned. But it by no stretch of imagination makes the nominee the owner of the money lying.

d. Mutual funds :

In case of mutual funds, multiple nominees can be appointed with percentage to be allocated to each specified. If there is multiple nominations and the percentage is less than 100% then the balance will be re-balanced to the first unitholder. If percentage is greater than 100% then nomination would be rejected.

A nomination is at folio level and all units in the folio will be transferred to the nominee(s). If an investor makes a further investment in the same folio, the nomination is applicable to the new units also. Transfer of units in favour of a nominee would be valid discharge by the asset management company against the legal heir.

The Nominee thereafter should handover the proceeds to the legal heir of the deceased as per the Will of the deceased or in case no Will then as per the Succession Law.

e. PPF :

You can nominate one or more persons as nominee in PPF. Form F can be used to change or cancel a nomination for PPF. Also note that you cannot nominate anyone if you open an account for a minor.

In case of death of the investor without a nomination, if your balance is upto Rs. 1 lakh, it will be settled to the legal heirs of the deceased on receipt of application in prescribed form, supported with necessary documents without production of succession certificate. If the balance is more than Rs. 1 lakh, it is necessary to produce a succession certificate.

f. Employees' Provident Fund :

The situation is different in the case of EPF. Here, it is the nominee, not the person stated in the will, who inherits the amount. In fact, according to the rules, you cannot nominate any person other than a family member to your EPF account, unless you do not have a family at all.

Moreover, once you acquire a family, you will have to change your nomination in favour of a member as per Section 61 of the Employee Provident Fund Scheme, 1952. You can also nominate multiple family members and state the proportions in which they will inherit the EPF monies.

g. Company Shares :

As per Section 109A of the Companies Act, the nominee legally inherits shares after the death of the original shareholder, even if the latter has named someone else in the will.

Where there are joint holders, then all the joint holders can together nominate a person to whom all the rights in respect of the said shares/debentures will vest in the event of the death of all the joint holders. In this context it should be noted that the nominee has no power if even one of the joint holders is alive.

h. Government Savings Certificates :

As per section 6(1) of the Government Savings Certificate Act, 1959, the nominee shall on the death of the holder of the savings certificate, become entitled to the savings certificate and the sum due thereon shall be paid to the nominee.

After the death of the holder of the savings certificate, the nominee so appointed shall merely be transferred the exclusive right to receive the money in the account, and not the ownership of the said sum. A nominee is a mere agent who is entitled to collect the money of the deceased. After collection, the money ought to be distributed among the legal heirs as per succession laws if the deceased has died intestate.

Conclusions :

- 1. Both in regard to joint holding as well as nomination, it needs to be borne in mind that the joint holder enjoys the privilege of withdrawing the investment and the nominee is entitled to collect the proceeds of the investment. This essentially facilitates the smooth operation and passing over of investments. But the joint holder or the nominee do not automatically become the legal owner of the property of the deceased, until so specifically directed under his Will.**
- 2. Both the joint holder or the nominee, if not directed to lawfully receive the property as a beneficiary under the Will, would be accountable to the executors of the estate of the deceased, to hand over the proceeds of the investment, which would ultimately be required to be allocated to the concerned beneficiaries in accordance with the terms of the Will.**
- 3. Where no Will is executed, division of the properties would be as per the Succession Laws. The joint holder or the nominee in such a case would be accountable to the legal heirs, who can claim their rightful share as per law.**
- 4. Nomination is one important aspect you should seriously consider, when checking for the financial products you have bought or plan to buy in future. It is advisable to change the nominee as per our Will for the aforesaid financial products so that your legal heirs do not face legal issues to claim their share after your demise.**