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Make Sure You Don't Short Change Yourself :

Minimum Payments for Superannuation Pensions Payable from SMSFs

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Account based pensions

The presentation focusses on:

- *The calculation of account based pensions from a super fund*
- *Commutations from account based pensions*
- *Failure to pay the minimum pension*
- *Impact of an account based pension on transfer balance accounts*

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Pensions in SMSFs

Income stream benefit payments*	
	2021-22
Total benefit payments ($m)	*$ 15,242*
Average benefit payments per fund	*$ 73,692*
Median benefit payments per fund	*$ 49,653*
Average benefit payments per member	*$ 47,598*
Median benefit payments per member	*$ 32,973*
Number of members receiving benefit	*320,230*
Distribution of income stream benefit payments by benefit type	2021-22
Income stream benefit for a member 60 years old or older	*95.8%*
Income stream benefit for a member under 60 years old	*0.7%*
Transition to retirement	*2.6%*

**Source: ATO 2021-22 annual statistics - latest figures*

Why commence a pension in an SMSF?

Pensions in retirement phase attract generous tax concessions:

- *in the fund, and*
- *when received by the member or beneficiary*

if they comply with the superannuation standards.

The fund needs to ensure the pension standards are met including payment of a minimum amount to the pensioner.

Tax concessions available in retirement phase

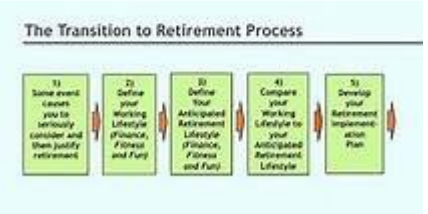
The proportion of the fund's income on investments that are supporting a pension in retirement phase is tax exempt.

Tax exemption on the fund's phase income is referred to as exempt current pension income (ECPI).

Account based pensions paid to fund members are tax exempt in retirement phase.

Transition to retirement pensions paid to fund members are tax exempt if they are in retirement phase.

Transition to retirement income streams



- *Amounts held in a member's accumulation account and a transition to retirement income stream where a person has not 'retired' for superannuation purposes is not in retirement phase.*

- *Income on fund investments that are not in retirement phase is taxed in the fund at 15%. Taxable capital gains on assets owned for longer than 12 months receive a 1/3rd discount.*

What is retirement phase?

Retirement phase occurs when an income stream has commenced and you:

- *have retired for superannuation purposes,*
- *have reached age 65,*
- *have a terminal medical condition for superannuation purposes, or*
- *are permanently incapacitated*

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Calculating exempt current pension income

There are two methods to calculate the proportion of the fund's income which is exempt from tax:

- *the segregated method*
- *the proportional or unsegregated method*

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Using the segregated assets method

- *Specific fund investments are allocated to retirement phase*
- *The income on those assets allocated to retirement phase is tax exempt*
- *A trustee resolution or minute is usually required to allocate the assets*
- *Segregation of assets is limited to certain SMSFs*
- *An SMSF that has disregarded small fund assets is required to use the proportional or unsegregated assets method*
- *Allocation of assets to pension phase can be done by the trustee or the fund accountant, for example*
- *There is no actuarial valuation or certificate required where the segregated method is used.*

Proportional or unsegregated method

- *The fund's tax exempt income (ECPI) is the proportion of the fund's income on assets which are attributable to the current pension assets.*

- *ECPI is actuarially calculated and requires a certificate from a qualified actuary prior to lodgement of fund's tax return for the relevant tax year.*

- *All SMSFs may use the proportional or unsegregated method however, if the SMSF has disregarded small fund assets the fund must use that method.*

Disregarded small fund assets

An SMSF has disregarded small fund assets if:

- *At least one member of the fund is in retirement phase*
- *Just before the start of the income year*
  - *A member has a total superannuation balance that exceeds $1.6 million (the total superannuation balance in all funds)*
  - *That member is in retirement phase in the fund or another fund*
- *During the income year the member has a superannuation interest in the fund (accumulation and/or retirement phase balance)*

Timing

Timing of capital gains in pension and accumulation phase

Examples:

- *Significant capital gains during the year are expected*
- *Commutation of current pension from the fund*
- *Increase in the accumulation account(s) of members who are also in receipt of pensions*

Calculation of Minimum Pension amount to be withdrawn each year

- *Pension payments are calculated by multiplying the balance in the pension account by a percentage factor.*
- *The percentage factor is based on the person's age as at 1 July in the financial year.*
- *The percentage factors for some years have* been *adjusted for various economic events such as GFC, Covid etc.*
- *Amount of the pension is rounded to the nearest $10. If it ends in $5 then it is rounded up.*
- *The pension is pro-rated if it commences or ends during a financial year.*

Calculation of Minimum Pension amount to be withdrawn each year

$$Minimum\ pension\ payment =$$

$$Balance\ of\ member's\ pension\ account \times percentage\ factor$$

Where:

The balance is the amount as at 1 July in the financial year

The percentage factor in Schedule 7 of the SIS Regulations is determined by the member's age as at 1 July in the financial year

Pension factors for account based pensions*

Age of pensioner	Income years inclusive	
	2019/20 to 2022/23	2023/24 onwards
Under age 65	2.0%	4%
65-74	2.5%	5%
75-79	3.0%	6%
80-84	3.5%	7%
85-89	4.5%	9%
90-94	5.5%	11%
95+	7.0%	14%

*Schedule 7 of the SIS Regulations

Pension commencing from 1 July 2019 to 30 June 2023

- *Albert commences an account based pension on 1 January 2020 at age 66.*
- *He wishes to commence the pension with $250,000 from his accumulation account in the fund*
- *Minimum annual pension for a full year is $6,250 (2.5% of $250,000)*
- *Minimum pro rata amount for 182 days over 366 days (2020 is a leap year) is $3,116.45*
- *Pension rounded to nearest $10 is $3,120*

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Pension commencing after 30 June 2023

- *Constance commences an account based pension on 1 September 2023 at age 70.*
- *She wishes to commence the pension with $500,000 from her accumulation account in the fund*
- *Minimum annual pension for a full year is $25,000 (5% of $500,000)*
- *Minimum pro rata amount for 303 days over 365 days is $20,753.42*
- *Pension rounded to nearest $10 is $20,750*

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Where minimum pension payment is not met

- *Retirement phase pensions that meet the minimum standards are treated as income stream benefits for tax purposes.*

- *Income on investments supporting the pension is tax exempt.*

- *Where the minimum pension standards are not met, the income on investments supporting the pension is not tax exempt for the income year.*

Transfer balance account

The transfer balance account records transfers into and out of retirement phase as a credit or debit. For example, the commencement of an account based pension is recorded as a credit and a full or part commutation of the account based pension is recorded as a debit.

The transfer balance account is maintained by the ATO from information reported by the trustee, fund accountant or administrator. It must be reported to the ATO within 28 days after the end of the quarter in which the event occurred.

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Failing to have minimum pension paid for the year

- *Bob is 73 and a member of the ABC Superannuation Fund*
- *He commenced an account based pension on 1 July 2023 with $200,000.*
- *The minimum annual payment is $10,000.*
- *Bob withdraws a pension of $5,000 during the year which is less than the minimum required amount.*
- *On 30 June 2024 the balance of Bob's pension account is $195,000.*
- *The amount of the pension withdrawn by Bob is less than the minimum.*

Failing to have minimum pension paid for the year

- *Because Bob did not withdraw the minimum pension amount the pension is taken to have ceased on 1 July 2023 and the amount withdrawn is treated as a superannuation lump sum.*

- *On 1 July 2024 Bob decides to recommence the account based pension with a balance of $195,000 which requires a recalculation of the minimum amount for the 2024/25 financial year.*

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Bob's Transfer Balance Account
Failing to have minimum pension paid for the year

Date	Transfer balance account event	Credit	Debit	Balance
1 July 2023	Commencement of account based pension	$200,000		$200,000
30 June 2024	Account based pension ceased to be in retirement phase		$195,000	$5,000
1 July 2024	Recommence account based pension	$195,000		$200,000

Impacts of not meeting the minimum payment requirements

- *The pension ceases for income tax purposes, except if the ATO makes an exception*
- *The ATO will treat the pensioner as not being paid a pension for the income year.*
- *In the following year if the pension meets the standards it is taken as if a new pension has commenced.*

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Exceptions to the payment rules

An exception applies to allow the pension to continue if:

1. *The minimum pension was not paid because:*
   - *An honest mistake of a small underpayment of no more than 1/12th of the minimum annual pension.*
   - *There were matters outside the trustee's control that prevented the pension from being paid.*
2. *The tax exemption would have continued if the minimum payment had been made.*
3. *The catch up payment was made as soon as practicable and was treated as being made in the previous income year.*
4. *Access to the exception applies only once to the fund.*

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Trustee fails to meet minimum pension standards - 1

- *Due to member being on jury duty the case runs longer than expected.*
- *Pension payments were made during the year but failed to make some due to circumstances beyond their control*
- *Under payment did not exceed 1/12th of the minimum pension payment*
- *Catch up payment made as soon as practicable*
- *No previous concession granted to the fund for the underpayment of the pension.*

Trustee fails to meet minimum pension standards - 2

- *Trustee travels overseas at short notice for an emergency*
- *Does not make 30 June pension payment from the fund*
- *The concession applies if the underpayment was:*
  - *an honest mistake*
  - *a small underpayment*
  - *minimum pension payments were always met in the past*
  - *catch-up made as soon as practicable*
  - *fund not previously granted the concession*

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Pension Planning Strategies

Make sure the fund has cash flow to pay the pension when it is due.

If the minimum pension is more than required:

a. *any excess could be recontributed back to the fund if the pensioner is under age 75 and they have a total superannuation balance of less than $1.9 million.*

b. *commute the pension so the minimum pension is reduced to the required level or cease receiving the pension.*

c. *changes to the pension can occur at any time during the year.*

Loss of ECPI on the death of a member receiving a pension

A pension ceases on the death of the pensioner except if it provides a reversion to a surviving dependant beneficiary.

- *The minimum annual amount of the reversionary pension must be paid for the income year in total to the deceased or reversionary pensioner.*
- *If the pension is not reversionary the pension has ceased on death and no further pension payments are required to be made.*
- *The benefit will be considered to remain in pension phase until a decision is made about payment of the death benefit as a new pension, lump sum or combination.*

Loss of ECPI on the death of a member receiving a pension

Payment of reversionary pension on death of the member

Ben commenced an account based pension on 1 September 2023 and nominated Tran as his reversionary beneficiary.

The minimum pro rata pension amount for the year was $12,000.

He died on 1 December 2023.

At the time of his death he had withdrawn $3,000 in pension payments.

As reversionary pensioner Tran will need to withdraw $9,000 before June 2024 for the pension to meet the minimum pension requirements.

Payment of death benefit as the result of a non-reversionary pension

Christine commenced an account based pension on 1 July 2019.

For the 2023/24 income year the minimum pension was $25,000.

She died on 25 February 2024.

At the time of her death she had not withdrawn any pension for the 2023/24 income year.

There are no further requirements to make any pension payments from Christine's pension.

Transfer Balance Account Report Requirements

- *If the pension is reversionary the ATO needs to be notified within 28 days after the end of the quarter in which the person became entitled to it.*
- *The balance of the pension on the death of the pensioner will be reported to the ATO.*
- *The ATO is to be notified in a transfer-balance account report (TBAR).*
- *The balance of the reversionary pension will be counted against the beneficiary's transfer-balance account 12 months after the death of the original pensioner.*
- *There is no requirement to report the death of the original pensioner as their transfer balance account ceases on their death.*
- *If the pension is non-reversionary the ATO is required to be reported if a dependant beneficiary commences a death benefit pension.*

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Transfer Balance Account Report Requirements

- *If the pension is non-reversionary the ATO is required to be reported if a dependant beneficiary commences a death benefit pension. There is no requirement to report the beneficiary receiving a death benefit lump sum.*
- *If the pension is non-reversionary the ATO needs to be notified within 28 days after the end of the quarter in which the beneficiary commenced the death benefit pension.*
- *The amount used to commence the death benefit pension will be reported to the ATO.*
- *The ATO is to be notified in a transfer-balance account report (TBAR).*
- *The balance of the new death benefit pension will be counted against the beneficiary's transfer-balance account on the day it commences.*

Payment of reversionary pension

Bob commenced an account based pension with $1 million on 1 July 2022 when he was 77.

Bob nominated Betty to receive a reversionary pension.

He dies on 30 September 2023 and at that time the balance of the pension is $985,000.

The balance of the pension of $985,000 is treated as Betty receiving a reversionary pension for transfer account balance purposes as at the date of Bob's death.

The receipt of the reversionary pension by Betty is required to be reported to the ATO by 28 October 2023.

The reversionary pension will be counted against Betty's transfer balance account on 30 September 2024 (12 months after Bob's death).

Withdrawal of lump sum while continuing to receive a pension

A person needs to decide whether they wish to receive a payment from the fund as a lump sum or pension. Lump sums can be paid from the accumulation phase account or from the commutation (conversion) of the pension in part or in full to a lump sum.

If the lump sum comes from a commutation the amount will not be counted against the minimum pension payment for the income year.

Any lump sum will consist of a taxable and tax free component as the proportional rule is required to be applied.

If the account based pension is a TRIS then it must be determined with the person meets a condition of release to be able to pay any lump sum

In specie transfer of assets as a commutation

It is possible to pay a lump sum by the transfer of the fund's investments to the value of the lump sum if permitted by the fund's trust deed.

The in specie of an asset from the SMSF is considered as a disposal and will be a capital gains tax event with possible implications for the fund.

Full commutation of the pension results in the pension ceasing and it is required to pay the minimum pension amount pro rated to the date of the commutation.

Partial commutation of the pension

Mary is a member of the XYZ SMSF and in receipt of an account-based pension.

The balance of the pension on 1 July 2020 was $200,000.

On 1 November 2020 Mary advises the trustees that she wishes to receive a lump sum of $50,000 which is greater than the minimum pension amount.

Mary does not wish to receive any further pension for the year.

The lump sum is transferred to Mary as publicly listed shares

The transfer of the shares as a lump sum will not count towards the minimum pension amount and she will need to make sure the minimum pension is also paid to her for the year.

Member's Transfer Balance Account

The member's transfer balance account records any amounts a person has transferred into retirement phase less any capital amounts that have been transferred out of retirement phase.

The TBAR determines whether the balance in the member's transfer balance account is in excess of the person's transfer balance account cap.

If there is an excess then the ATO will advise the member that they need to commute an amount from retirement phase to remain within the cap.

When a pension commences a credit is made to the account and if a pension is commuted a debit is recorded on the account.

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Member’s Transfer Balance Account

Debit	Credit
Commutation of a pension in whole or in part	*Amount used to commence a retirement phase pension*
Income streams that cease to be in retirement phase	*Balance of retirement phase pension at 1 July 2017*
Income streams that fail to meet the pension standards	*New income streams commenced after 1 July 2017 including reversionary and death benefit pensions*
Payments from pensions as a result of a family law split	*The balance of a TRIS when it enters retirement phase*
Loss of pension amounts due to fraud or bankruptcy	

Note: *The member’s transfer balance account is not adjusted by the payment of pension amounts or the investment income credited or debited to the account.*

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