



Australian Government

Australian Taxation Office

SMSFs post 1 July 2017- an ATO perspective

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Post 1 July 2017 – what hasn't
changed?

SMSFs post 1 July 2017

What hasn't changed

- When benefits can be accessed, ie in retirement phase.
- The types of payments that can be accessed in retirement phase.
- The minimum and maximum payment limits.
- Calculation of tax free and taxable components.
- Taxation of benefits payments – except note defined capped benefit income streams.

Transfer balance cap

Transfer balance cap (TBC)

- Tax exemption only available on \$1.6 million per taxpayer in retirement phase.
- Applies per taxpayer and not per fund – eg can't share \$3.2 million between husband and wife/mum and dad.
- Value of income stream (pension) counts towards TBC either:
 - as at 1 July 2017 or
 - pension commencement (whichever is later).

Transfer balance cap

Example:

- Husband and wife Mary and Robert are both receiving a pension from their SMSF.
- As at 1 July 2017 the value of the income stream (pension) Bob is receiving from their fund is \$1.8 million.
- The value of the income stream (pension) Mary is receiving from the fund their fund is \$1.2 million.
- Bob has exceeded his individual TBC by \$200,000 and must remove the excess by commuting it back to accumulation phase or paying himself a lump sum.

Transfer balance cap

- Any excess above \$1.6 million must either be:
 - commuted/rolled back to accumulation; or
 - taken as a lump-sum.
- Excess TBC applies to notional earnings on the excess.
- Excess transfer balance earnings compound daily.
- Excess transfer balance earnings continue to accrue until the ATO issues an excess transfer balance determination.
- Tax is imposed at a rate of 15% and after 1 July 2018 will apply at 30% for second or subsequent time an individual has an excess.

Transfer balance cap

Transitional relief:

- If on 1 July 2017 you are over the \$1.6 million cap by less than \$100,000 and you remove this excess by 31 December 2017, you won't have to pay excess TBC or account for notional earnings on the excess.

Transfer balance cap

- TBC debits and credits **do** include:
 - start of an income stream
 - other pensions received by individuals from a deceased spouse's super account or a former spouse's super account as part of family law settlement
 - commutation of an income stream
 - certain repayments of borrowings under LRBAs.
- TBC debits and credits **do not** include:
 - investment income and gains
 - investment losses
 - pension payments.

Transfer balance cap

Example:

- Robyn starts an account-based income stream valued at \$1.6 million on 1 July 2017.
- Robyn makes minimal drawdowns and good investment decisions so that the value of the assets supporting the income stream grows to \$1.8 million by 30 June 2018.
- Robyn won't have exceeded the TBC.

Transfer balance cap

- Alex starts an account-based income stream valued at \$1.6 million on 1 July 2017.
- Alex makes several drawdowns and suffers heavy losses so that assets supporting the income stream quickly reduce to \$1.2 million by 30 June 2018.
- Alex cannot start another account-based pension without exceeding the TBC.

Transfer balance cap

- SMSFs – commutations back to accumulation phase prior to 1 July 2017.
- Practical compliance guideline PCG 2017/5.
- The amount of the commutation is required to be worked out by the trustee and reflected in the SMSF's financial accounts for the year ended 30 June 2017, no later than the due date of the SMSF's annual return for the year ended 30 June 2017.

Transition-to-retirement income streams (TRIS)

Transition-to-retirement income streams (TRIS)

- From 1 July 2017, the earnings from assets that support a TRIS that is not in the retirement phase are no longer exempt.
- A TRIS that is not in retirement phase does not count towards an individual's TBC.
- A TRIS will be in retirement phase when the member is 65 years or older or has met a relevant condition of release with a nil cashing restriction (retirement, terminal medical condition, permanent incapacity) and they have notified the trustees.

Capital gains tax relief

Capital gains tax (CGT) relief

- Temporary relief available to super funds including SMSFs for certain CGT assets that lose their tax exempt status as a result of a member complying with the new TBC or changes to the taxation of TRIS.
- Only applies to assets held 9 Nov 2016 to 30 June 2017.
- Gives rise to a CGT event in 2016/17.
- Deemed gain in 2016/17 is effectively tax exempt.
- Cost base of asset and ownership period is re-set.

CGT relief

Segregated 9 November 2016 to 30 June 2017

- Hold the asset throughout the entire period
- Have a member who was required to comply with the new TBC or TRIS rules
- Move the asset from retirement phase to accumulation phase – deemed sale and repurchase of the asset on the day asset ceases to be a segregated current pension asset
- Gain or loss arising from deemed sale is disregarded.

CGT relief

Unsegregated 9 November 2016 to 30 June 2017

- Hold the asset throughout the entire period.
- Have a member who was required to comply with the new TBC or TRIS rules.
- Elect to apply CGT relief to some or all of the fund's assets.
- Deemed sale and re-purchase of relevant CGT asset on 30 June 2017.
- Can choose to defer capital gain that arises from deemed sale and re-purchase on 30 June 2017.

CGT relief

Segregated on 9 November 2016 switch to unsegregated between 9 November 2016 and 30 June 2017

- Hold the asset throughout the entire period.
- Have a member who was required to comply with the new TBC or TRIS rules.
- Choose to apply CGT relief to some or all assets that cease to be segregated.
- Deemed sale and re-purchase on day assets cease to be segregated.
- Gain or loss from deemed sale and re-purchase is disregarded.

CGT relief

Change from proportionate method to segregated method between 9 November 2016 and 30 June 2017

- CGT relief is not available in these circumstances.

TBC & CGT relief

Compliance considerations

TBC

- SMSF valuation guidelines.
- Consistent valuations for TBC and CGT relief purposes.
- Ensure value of commutations requested before 1 July 2017 are reflected in SMSF accounts by due date for lodging 2016-17 SMSF annual return.

CGT relief

- Irrevocable election.
- Election notified in CGT schedule for 2016-17 SMSF annual return.
- Election must be made by due date of SMSF's 2016-17 annual return.

Total super balance

Total super balance

- Distinction from \$1.6 million TBC.
- Calculated annually on 30 June.
- Effectively the sum of an individual's retirement phase interests and accumulation interests across all funds as at 30 June each year.
- Impacts on a member's ability to make catch-up concessional contributions, non-concessional contributions and eligibility for government co-contributions and tax offset for spouse contributions.
- Impacts SMSFs' and small APRA funds' ability to use the segregated method to calculate ECPI.

Total super balance

- From 1 July 2017, an individual's total super balance can be viewed at ATO online via MyGov.
 - based on data held by ATO from SMSF annual return and member contribution statement data.
 - > Tax agents can request their client's total super balance details through the Tax Agent Portal.
 - > Total super balance tested each year to determine eligibility to use remaining bring-forward concessional and non-concessional cap space.

Non-concessional contributions cap

Non-concessional contributions cap

- From 1 July 2017, the annual non-concessional contributions cap reduced from \$180,000 to \$100,000.
- Also available to people aged between 65 and 74 if they meet the work test.
- 3-year bring forward of non-concessional contributions available for people under 65.
- However, depends upon total super balance whether you have a 2- or 3-year bring forward period.

Non-concessional contributions ‘bring forward’

For 2017-18 to access the bring-forward arrangement:

- you must be under 65 years of age for one day during the triggering year.
- your total super balance must be under \$1.5 million at 30 June 2017.

Non-concessional contributions – 2017-18 bring-forward

Total super balance @ 30 June 2017	Maximum non-concessional contributions cap for first year	Bring-forward period
Under \$1.4m	\$300,000	3 years
\$1.4m to under \$1.5m	\$200,000	2 years
\$1.5m to under \$1.6m	\$100,000	No bring-forward period – general NCC cap applies
\$1.6m or more	Nil	NA

Non-concessional contributions – transitional period

- If you have triggered the bring-forward in 2015-16 or 2016-17 but have not fully used your bring-forward amount before 1 July 2017, transitional arrangements will apply.

- | Year bring-forward period started | Maximum bring-forward in 2017-18 |
|-----------------------------------|----------------------------------|
| 2015-16 | \$460,000 |
| 2016-17 | \$380,000 |
| 2017-18 | \$300,000 |

Non-concessional contributions cap

Example:

- Walter made a contribution of \$200,000 in 2015/16.
- He didn't have the funds to contribute up to \$540,000 before 30 June 2017.
- He sold an investment property in 2017/2018, and wants to contribute \$340,000.
- Can Walter contribute the \$340,000?
 - His modified cap is \$460,000
 - He only has \$260,000 left to contribute.
 - What about total super balance?

Non-concessional contributions cap

Example (cont.)

- If Walter's total super balance at 30 June 2017 was \$1.45 million can he make his top-up bring-forward contribution?
 - Yes – only has to have under \$1.6 million to make contribution.
 - Doesn't have to under \$1.4 million to make the \$260,000.

Non-concessional contributions cap

Example:

- Simone (55) makes a contribution of \$150,000 in 2017/2018.
- As at 30 June 2017 Simone's total super balance is \$1,395,000.
- Simone has triggered the bring-forward and \$300,000 contributions from 1 July 2017 to 30 June 2020.
- This is subject to the total super balance.
- It is 2019/2020 and Simone wants to contribute \$150,000.
- Can Simone make the contribution?

Non-concessional contributions cap

Example (cont.):

Total super balance as at 30 June 2019	Able to make \$150,000 contribution?
\$1,350,000	Yes – under \$1.6m
\$1,450,000	Yes – under \$1.6m
\$1,550,000	Yes – under \$1.6m
\$1,601,000 & above	No – over \$1.6m

Non-concessional contributions cap

- Non-concessional contribution cap for the year is worked out by subtracting any non-concessional contributions you have made during the bring-forward period from your maximum bring-forward amount.
- People who made the maximum contribution available in 2016-17 under the previous caps and bring-forward arrangements, eg \$540,000 won't be able to make further contributions until 1 July 2019 without triggering excess non-concessional contributions.

Concessional contributions cap

Concessional contributions cap

- From 1 July 2017, the concessional contributions cap is \$25,000 for everyone:
 - employer contributions
 - salary sacrifice contributions
 - personal contributions that are claimed as a tax deduction.
- From 1 July 2018 'carry-forward' unused concessional contributions cap.
- Rolling period of 5 years.
- Unused contributions not accessed after 5 years expire.
- Only if your total super balance is < \$500,000.

Personal super contributions deduction

Personal super contributions deduction

- 10% test removed – can claim tax deduction for contributions, regardless of employment status.
- Still need to notify trustee of intention to claim a deduction.
- Acknowledgement from the trustee is required.
- Needs to be done before lodgment of personal tax return, and before pension started.

Questions?
