



# Removal of election to treat super income streams as lump sums

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*This Guidance note contains general information and examples. It may omit details that could be significant in your personal circumstances*

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This information is for people who are under 60 years old and are:

- receiving a super income stream (this includes transition-to-retirement income streams (TRIS) and disability income streams paid from super)
- considering commencing a super income stream after 1 July 2017.

## **What has changed?**

Effective 1 July 2017, you can no longer be able to elect to treat your super income stream benefits (that is, the periodic payments you receive) as lump sums for tax purposes. This election has been removed for everyone who is receiving a super income stream.

This change means that, if you are receiving a super income stream, and normally would have made this election, you will no longer have access to the super lump sum low rate cap for payments from your income stream. Therefore, the amount of tax you have to pay on your super income stream may change.

## **How the election works**

Prior to 1 July 2017, regulation 995-1.03(b) of the *Income Tax Regulations 1997* allows you to elect to treat one or more payments from a super income stream as a super lump sum for tax purposes. Generally, this option was used to take advantage of tax concessions available when between your preservation age and 60 years old.

If you have made this election (or make it prior to 1 July 2017), it changes the tax treatment of the payments because you have been able to access the low rate cap (currently \$195,000). Super lump sums up to this cap are tax-free. The cap applies to reduce the amount of tax you pay on the taxed component of your benefit through a super lump sum tax offset.

Effective 1 July 2017, the removal of this election means you can no longer treat pension payments as lump sums for tax purposes. Instead, they will be taxed as income stream benefits. Under the PAYG rules, your fund may need to withhold more tax from your payments.

## **Tax treatment of partial commutations**

You may choose to take some of your super income stream as a lump sum. This is known as a 'partial commutation' of your income stream.

### **Prior to 1 July 2017**

Prior to 1 July 2017, the law treats a partial commutation as an income stream benefit for tax purposes. As with your periodic payments, you can elect to treat the partial commutation as a super lump sum for tax purposes.

### **From 1 July 2017**

From 1 July 2017, the election that allows a partial commutation to be treated as a super lump sum for tax purposes will be removed. However, the law has been amended to treat partial commutations as super lump sums for tax purposes, so the effect will not change.

Also, from 1 July 2017, all commutations, including partial commutations, do not count towards the minimum annual pension payment requirement for super income streams.

## **What you can do**

### **What you can do before 1 July 2017**

| <b>Situation</b>                                                                                                  | <b>Action</b>                                                                                                                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| If you are making one or more elections to treat super income stream benefits as super lump sums for tax purposes | Consider how the changes will affect your pension payments – for example, your super fund may start to withhold tax from your payments.<br>Review your arrangements to elect to treat income stream benefits as super lump sums for tax purposes and consider any resulting income tax consequences. |

|  |                                                                                                                                     |
|--|-------------------------------------------------------------------------------------------------------------------------------------|
|  | From 1 July 2017, your super fund will treat the pension payments you receive as super income stream benefits and may withhold tax. |
|--|-------------------------------------------------------------------------------------------------------------------------------------|

### What you can do after 1 July 2017

| Situation                                                                                     | Action                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| If you are receiving a super income stream (this includes a disability income stream or TRIS) | You will no longer be able to elect to treat periodic payments from your super income streams as super lump sums for tax purposes.<br>Your super fund will treat the payments you receive as super income stream benefits and may withhold tax accordingly.                                                                    |
| If you are considering commencing a super income stream                                       | Be aware that periodic payments received from a super income stream will be taxed as income stream benefits and cannot be taxed as lump sums.<br>Before commencing an income stream, we recommend you seek the advice of a professional (such as an accountant or financial planner).                                          |
| If you are considering making a partial commutation of a super income stream                  | Partial commutations from super income streams will be treated as super lump sums for tax purposes.<br>You will no longer need to do an election to treat partial commutations as super lump sums.<br>Partial commutations will not count towards the minimum annual pension payment requirement for your super income stream. |

### Examples

| Main points                                                                                                                                                                                                                       | Example                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>■ <i>Between preservation age and 60 years old</i></li> <li>■ <i>Recipient of a TRIS</i></li> <li>■ <i>Makes elections to treat TRIS benefits as super lump sums in 2016–17</i></li> </ul> | <p><i>Jodi is 57 years old in 2016–17. In addition to her income from employment (\$40,000 per year), she commences a TRIS from her self-managed super fund (SMSF) part-way through the financial year. Jodi receives three payments of \$12,000. She has received no previous super lump sums and the full \$195,000 low rate cap is available to her.</i></p> <p><i>Jodi receives benefits totalling \$36,000 in 2016–17, with tax-free components of \$3,600, and taxable components (taxed in the fund) of \$32,400.</i></p> <p><i>Before she receives each payment, Jodi elects to treat her TRIS benefits as super lump sums for tax purposes.</i></p> <p><i>In her 2016–17 tax return, Jodi:</i></p> <ul style="list-style-type: none"> <li>■ <i>does not include the tax-free component of \$3,600, as it is non-assessable non-exempt income</i></li> <li>■ <i>includes the taxable component of \$32,400 as assessable income.</i></li> <li>■ <i>receives a super lump sum tax offset – which means that the rate of income tax on the lump sums is nil because the taxable component (\$32,400) does not exceed her unused low rate cap.</i></li> </ul> |

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|                                                                                                                                                                                                                                                                                                                                             | <p><i>Jodi continues to receive quarterly TRIS benefits in 2017–18, totalling \$48,000. She is no longer able to make the elections to treat the TRIS benefits as super lump sums.</i></p> <p><i>In her 2017–18 tax return, Jodi:</i></p> <ul style="list-style-type: none"> <li>■ <i>does not include the tax-free component of \$4,800, as it is non-assessable non-exempt income</i></li> <li>■ <i>includes the taxable component of \$43,200 as assessable income</i></li> <li>■ <i>is taxed at her marginal tax rate</i></li> <li>■ <i>receives a tax offset of 15%.</i></li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <ul style="list-style-type: none"> <li>■ <i>Receiving an account-based income stream</i></li> <li>■ <i>Permanently retired</i></li> <li>■ <i>Between preservation age and 60</i></li> <li>■ <i>Elects to treat a partial commutation as a super lump sum in 2016–17</i></li> <li>■ <i>Makes a partial commutation in 2017–18</i></li> </ul> | <p><i>Danny turns 56 years old during 2016–17 and retires on 8 October 2016. He immediately starts an account-based income stream that he receives in monthly payments. He decides to take a partial commutation from his income stream in 2016–17.</i></p> <p><i>Before he receives the partial commutation payment, Danny elects to treat his income stream benefit as a super lump sum for tax purposes. He has previously used \$25,000 of his low rate cap in 2015–16; therefore \$170,000 of this cap is still unused.</i></p> <p><i>On 29 August 2016, he receives the partial commutation of \$28,000 from his SMSF. The lump sum has only a taxable component that was taxed in the fund. The fund does not withhold any tax from the payment.</i></p> <p><i>Danny includes the \$28,000 as assessable income in his 2016–17 tax return. He receives a super lump sum tax offset – which means that the rate of income tax on the lump sum is nil because the taxable component (\$28,000) does not exceed his unused low rate cap.</i></p> <p><i>Danny continues his income stream in 2017–18 and again decides to take a partial commutation payment. The partial commutation now meets the definition of a super lump sum and no election is required. He has previously used \$53,000 of his low rate cap; therefore, \$142,000 of the cap remains.</i></p> <p><i>On 20 December 2017, he receives the lump sum payment of \$25,000 from his SMSF. The lump sum has only a taxable component that was taxed in the fund. The fund does not withhold tax from the payment.</i></p> <p><i>Danny includes the \$25,000 as assessable income in his tax return. He receives a super lump sum tax offset – which means that the rate of income tax on the lump sum is nil because the taxable component (\$25,000) does not exceed his unused low rate cap.</i></p> <p><i>Danny’s commuted amount in 2017–18 does not count towards the minimum annual pension payment requirement for super income streams. To meet this requirement, Danny would also need to make sure he receives sufficient pension payments during the financial year.</i></p> |

## **References**

|                                |                                                                         |
|--------------------------------|-------------------------------------------------------------------------|
| ATOlaw topic(s)                | Superannuation ~~ Income tax - individuals (superannuation) ~~<br>Other |
| Legislative references         |                                                                         |
| Related Rulings/Determinations |                                                                         |
| Case references                |                                                                         |
| Other references               |                                                                         |
| ATO references                 |                                                                         |
| BSL                            | SPR                                                                     |

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