Australian Government
Australian Taxation Office

Guidance note for super

GN 2017/4

Page status: **Guidance – Not legally binding**

New transfer balance cap – defined benefits

Our commitment to providing you with reliable advice and guidance

We are committed to providing you with accurate, consistent and clear advice and guidance to help you understand your rights and entitlements, and your obligations.

If you follow our advice or guidance and it turns out to be incorrect, or you make a mistake because it was misleading, we will take this into account.

[Our commitment to you]

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

Table of Contents **Page**

This information is for people who are:

- retired and receiving one or more defined benefit income streams providing a total annual income of more than $100,000
- retired and receiving both account-based and defined benefit income streams
- making plans for how they will use their accumulated super when they retire, and expect to receive a defined benefit pension or annuity.

What are capped defined benefit income streams?

Capped defined benefit income streams include:

- certain lifetime pensions, regardless of when they start
- certain lifetime annuities that exist prior to 1 July 2017
- certain life expectancy pensions and annuities that exist prior to 1 July 2017
- certain market-linked pensions and annuities that exist prior to 1 July 2017.

If you are receiving an income stream, you should check with your super fund to determine if it is a capped defined benefit income stream.

If you have a capped defined benefit income stream, you will need to work out the 'special value' of the income stream (or contact your fund for help with this). This value will count towards your transfer balance cap.

You will also have a ‘capped defined benefit balance’, usually reflects the credits and debits in your transfer balance account that relate to your capped defined benefit income stream(s).

Calculating the 'special value'

To calculate the 'special value' of a capped defined benefit income stream, you first need to work out your annual entitlement.

To work out your annual entitlement, you need to 'annualise' the first payment you are entitled to receive from the income stream:

- after the income stream commences, or
- after 1 July 2017, for income streams existing before 1 July 2017.

You can use a formula based on the first payment entitlement for the year (see the examples that follow).

If you are receiving a **lifetime pension or annuity**, your special value is your annual entitlement multiplied by 16.

If you are receiving a **non-commutable life expectancy** or **market-linked product**, your special value is your annual entitlement multiplied by the number of years (rounded up to the nearest whole number) remaining in that product.

If your special value exceeds your transfer balance cap

If you only receive capped defined benefit income streams (and have no other retirement phase interests), the balance of your transfer balance account cannot exceed your capped defined benefit balance. This applies regardless of whether the special value of the capped defined benefit income stream exceeds the transfer balance cap. This means you will not have an excess transfer balance.

As such, you may not be required to commute amounts from your income stream(s) or pay excess transfer balance tax. However, if your annual benefits from the capped defined benefit income streams exceed the ‘defined benefit income cap’, you may need to include part of the excess amount in your assessable income. Your entitlement to the tax offset may also be affected.

The defined benefit income cap is $100,000 in 2017–18 and will increase in line with indexation of the general transfer balance cap (see GN 2017/5 *Changes to the taxation of defined benefit income*).

Capped defined benefit and account-based income streams

If you receive an account-based income stream and a capped defined benefit income stream, you will need to compare the balance of your transfer balance account (taking into account credits and debits from all of your income streams) to:

- your transfer balance cap, and
- your capped defined benefit balance.

If the balance of your transfer balance account exceeds your transfer balance cap, and also exceeds your capped defined benefit balance, the smaller of the two excess amounts will be your 'excess transfer balance'. This means that your 'excess transfer balance' cannot be greater than the value of your account-based income stream (see the examples).

If you have an excess transfer balance, you will need to remove the excess from your account-based income stream into an accumulation account or out of the super system, along with notional earnings on the excess. You will also have to pay excess transfer balance tax on notional earnings.

What you need to do

What you need to do before 1 July 2017

Situation	Action
If you're receiving a combination of account-based income stream(s) and capped defined benefit income stream(s) before 1 July 2017	You will need to contact your super fund(s) for an estimate of the special value of your capped defined benefit income stream(s) and the total value of your account-based income stream(s), at 1 July 2017. If the sum of the above values is more than $1.6 million, you can reduce the excess by: ■ transferring some or all your account-based income stream(s) back into an accumulation account ■ withdrawing some or all of your account-based income stream(s) from super (for example, as a lump sum payment). If you do not reduce the excess from your account-based income stream before 1 July 2017, you will still be required to reduce the excess and you may have to pay excess transfer balance tax. If you completely transfer or withdraw the account-based income stream(s), and the remaining excess is solely due to your capped defined benefit income stream(s), you will not be required to reduce further or pay excess transfer balance tax. However, if your annual benefits from the capped defined benefit income stream(s) exceed the defined benefit income cap: ■ you may need to include amounts in your assessable income from 1 July 2017, and/or ■ your entitlement to the tax offset may also be affected.

What you need to do from 1 July 2017

Situation	Action
If you start to receive, or will be receiving, a capped defined benefit income stream	The special value of this income stream will count towards your transfer balance cap. If your capped defined benefit income stream will cause you to exceed your transfer balance cap, you will not be able to transfer any other money to retirement phase without having an excess transfer balance.

Examples

Main points	Example
▪ *69 years old and retired* ▪ *Commenced a lifetime pension on 1 May 2012* ▪ *No other retirement phase income streams*	*Jane needs to work out the special value of her lifetime pension. The special value of her lifetime pension at 1 July 2017 is 16 times her annual entitlement for 2017–18.* *To work out the annual entitlement of her pension, Jane needs to 'annualise' her first fortnightly payment after 1 July 2017, which is $5,753.42. To do this, she first works out the daily rate by dividing her gross fortnightly payment by 14. She then multiplies this amount by 365 days.* *$5,735.42 / 14 x 365 = $150,000* *The special value of Jane's pension is 16 x $150,000 = $2,400,000.* *Although Jane exceeds her transfer balance cap of $1.6 million, because the excess is solely from a capped defined benefit income stream, she does not have an excess transfer balance.* *As Jane's benefits exceed her defined benefit income cap ($100,000 for 2017–18), she may need to include amounts in her assessable income. Her entitlement to a tax offset may also be affected.*
▪ *65 years old and retired* ▪ *Commenced a market-linked pension on 1 August 2015* ▪ *Pension term remaining is 18 years and 1 month* ▪ *No other retirement phase income streams*	*Malcolm needs to work out the special value of his market-linked pension.* *The special value of his market-linked pension at 1 July 2017 is his annual entitlement for 2017–18 multiplied by the remaining term. The pension's remaining term of 18 years and 1 month is rounded up to the nearest whole year (19).* *To work out the annual entitlement of his pension, Malcolm needs to 'annualise' his first weekly payment after 1 July 2017, which is $575.35. To do this, he first works out the daily rate by dividing his gross weekly payment by 7. He then multiplies this amount by 365 days.* *$575.35 / 7 x 365 = $30,000* *The special value of his pension is 19 x $30,000 = $570,000.* *Therefore, $570,000 counts towards his transfer balance*

	cap on 1 July 2017. If Malcolm has further funds still in accumulation phase he will be able to transfer a further $1,030,000 into retirement phase without exceeding his transfer balance cap. *As Malcolm's benefits do not exceed his defined benefit income cap, he will not be subject to additional tax on this income.*
■ *65 years old and retired* ■ *Receiving a capped defined benefit income stream with special value $2 million* ■ *Receiving an account-based income stream estimated value at $500,000 at 1 July 2017*	*June is receiving both a capped defined benefit income stream (estimated special value of $2 million) and an account-based income stream (estimated value of $500,000).* *June calculates that the value of her interests in retirement phase on 1 July 2017 will exceed her transfer balance cap. That is, the total of the special value of her capped defined benefit income stream, and the value of her account-based income stream, will be $2.5 million.* *Before 1 July 2017, June transfers her account-based income, valued at $500,000 stream back to an accumulation account.* *On 1 July, the special value of her capped defined benefit income stream ($2 million) will count towards her transfer balance cap. She will still exceed her transfer balance cap by $400,000. However, as this excess is solely from a capped defined benefit income stream, she does not have an excess transfer balance.* *As June's benefits in 2017–18 exceed her defined benefit income cap, she may need to include amounts in her assessable income. Her entitlement to an offset may also be affected.*
■ *68 years old and retired* ■ *Receiving a capped defined benefit income stream with special value of $1.8 million at 1 July 2017* ■ *$300,000 in accumulation interests*	*Greg is receiving a capped defined benefit income stream with a special value of $1.8 million on 1 July 2017. He also has $300,000 in accumulation interests.* *Greg's transfer balance cap is $1.6 million, and his capped defined benefit balance is $1.8 million.* *Greg exceeds his transfer balance cap by $200,000 on 1 July 2017, but does not exceed his capped defined benefit balance, and so does not have an excess transfer balance.* *However, if Greg commenced an account-based income stream using his accumulation interests, the combined total that counts towards his transfer balance cap and capped defined benefit balance would be $2.1 million ($1.8 million plus $300,000). Greg would exceed his transfer balance cap by $500,000, and his capped defined benefit balance by $300,000.* *In this case, Greg would have an excess transfer balance of $300,000 (the lesser of the two amounts above). Greg would need to commute the excess from his account-based income stream, along with notional earnings on the excess. He would also need to pay excess transfer balance tax.* *Additionally, if Greg's benefits in 2017–18 exceed his defined benefit income cap he will need to include amounts*

	in his assessable income from 1 July 2017. His entitlement to the tax offset may also be affected.

References

ATOlaw topic(s)	Superannuation ~~ Income tax - individuals (superannuation) ~~ Other
Legislative references	
Related Rulings/Determinations	▪ LCR 2016/8 *Superannuation reform: transfer balance cap and transition-to-retirement reforms: transitional CGT relief for superannuation funds* ▪ LCR 2016/9 *Superannuation reform: transfer balance cap* ▪ LCR 2016/10 *Superannuation reform: defined benefit income streams – non-commutable, lifetime pensions and lifetime annuities* ▪ LCR 2017/1 *Superannuation reform: defined benefit income streams – pensions or annuities paid from non-commutable, life expectancy or market-linked products*
Case references	
Other references	▪ GN 2017/1 *New transfer balance cap for retirement phase accounts* ▪ GN 2017/5 *Changes to the taxation of defined benefit income streams*
ATO references	
BSL	SPR