Australian Government
Australian Taxation Office

Guidance note for super

GN 2017/5

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

Changes to taxation of defined benefit income streams

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 **Paragraph**

This information is for people who are:

- retired and in receipt of a defined benefit superannuation income stream of more than $100,000
- receiving a defined benefit income stream and start receiving, or expect to receive, a reversionary defined benefit income stream upon the death of another person
- receiving, or may start receiving a defined benefit income stream and are due to turn 60 years old soon.

How will the taxation of defined benefit income streams change?

From 1 July 2017, the 'defined benefit income cap' limits the amount of tax-free income you can receive from a capped defined benefit income stream (pension or annuity).

For 2017–18, the defined benefit income cap will be $100,000 (the $1.6 million general transfer balance cap divided by 16).

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.

Changes from 1 July 2017

If you are 60 years old or over (or a death benefit dependant and the deceased died at 60 years old or over) and your capped defined benefit income exceeds the defined benefit income cap, you may have additional tax liabilities:

- If you are a member of a funded defined benefit scheme (taxed scheme), 50% of your annual income stream amount over $100,000 will be taxed at your current marginal rate.
- If you receive an unfunded (untaxed) component of your income stream, the 10% tax offset will not apply to untaxed-sourced benefits above the $100,000 cap.

Note that any taxed-source income is counted first ('stacked') before including your untaxed-source income in making these calculations.

Your defined benefit income cap for an income year will be reduced below $100,000 in some circumstances, including if you:

- are receiving a capped defined benefit income stream and turn 60 years old part-way through the year, and therefore begin receiving concessional tax treatment for that income
- start a capped defined benefit income stream with concessional tax treatment for the first time part-way through the year
- start receiving a reversionary defined benefit income stream with concessional tax treatment part-way through the year.

What you need to do

What you need to do before 1 July 2017

Situation	Action
If you are already receiving (prior to 1 July 2017) a capped defined benefit income stream, or may commence receiving one in 2017–18	You should determine the amount of defined benefit income you will receive. This amount will determine whether you are affected by the introduction of the defined benefit income cap.

What you need to do from 1 July 2017

Situation	Action
If you: ▪ receive more than \$100,000 income from a capped defined benefit income stream in 2017–18, and ▪ are 60 years old or over (or a death benefit dependant and the deceased died at 60 years or over)	You may need to lodge a tax return and you may have to pay tax on the excess. If the income is from a funded defined benefit income stream (the taxed element of the taxable component, and/or tax-free component), you will have to: ▪ include 50% of the excess over \$100,000 in your assessable income, and ▪ pay tax at your marginal rate. If the income is from an unfunded defined benefit income stream (an untaxed element of the taxable component) you will lose the 10% tax offset on the excess income over \$100,000.
If you: ▪ start to receive a capped defined benefit income stream part-way through a financial year, or ▪ are already receiving a capped defined benefit income steam and you turn 60 years old part-way through the year	Your defined benefit income cap will be reduced for the financial year, to reflect the portion of the year that you received concessional tax treatment for the defined benefit income.

Examples

Main points	Example
▪ *62 years old and retired* ▪ *In 2017–18, receives \$160,000 from a capped defined benefit income stream* ▪ *Paid from a funded defined benefit scheme (contains tax free and taxable components)*	*Frances receives defined benefit income that exceeds the \$100,000 defined benefit income cap for 2017–18 by \$60,000.* *Frances will have to lodge a tax return and pay additional tax in 2017–18.* *Frances includes \$30,000 (50% of the excess over \$100,000) in her tax return and it will be taxed at her marginal rate.*

- *59 years old and retired* - *In 2017–18, receives $150,000 from a capped defined benefit income stream* - *Paid from a funded defined benefit scheme (no untaxed element)* - *Turns 60 years old on 12 September 2017* - *Receives 80% of her benefits for 2017–18 ($120,000) after she turns 60*	*Mary receives a capped defined benefit income stream from a funded defined benefit scheme and she turns 60 years old during the income year.* *Her defined benefit income cap is reduced to reflect the period during 2017–18 in which her benefits were subject to concessional tax treatment (that is, from when she turned 60 years old).* *Mary's defined benefit income cap for 2017–18 is calculated as the percentage of the full defined benefit income cap that represents the portion of the year that she was 60 years old. Mary was 60 years old for 80% of the year, so her defined benefit income cap will be $80,000 (80% of $100,000).* *The defined benefit income that Mary receives after she turned 60 exceeds her reduced defined benefit income cap by $40,000. Therefore, she must include $20,000 in her tax return for 2017–18 (being 50% of the excess).* *The rules for the portion of the income Mary receives before she turns 60 have not changed. Mary must include in her assessable income any taxable component of the $30,000 she receives before she turns 60, and is eligible for a 15% offset.*

- *68 years old and retired*
- *Receives $160,000 from a pension that is a capped defined benefit income stream in 2017–18*
- *Pension is partially from a taxed source and partially from an untaxed source*
- *Pension includes:*
  – *$100,000 untaxed element*
  – *$40,000 taxed element*
  – *$20,000 tax-free component*
	Khoi's pension exceeds the $100,000 defined benefit income cap of $100,000 by $60,000.
	The sum of the taxed element and tax-free components ($60,000) is counted towards the defined benefit income cap of $100,000 first. Khoi has $40,000 remaining of his cap ($100,000 minus $60,000).
	The untaxed element is counted towards the cap next. $60,000 of the untaxed element exceeds the cap.
	Khoi lodges his tax return and includes the amount of the untaxed element in his assessable income (this is exactly the same as what happens prior to 1 July 2017). However, Khoi will not be eligible for a 10% offset on the $60,000 that has exceeded the cap. He will only be eligible for a $4,000 tax offset (10% of $40,000).

- *58 years old and retired* - *In 2017–18, receives $130,000 from a life-expectancy pension, a capped defined benefit income stream* - *Her spouse David dies on 12 September 2017 aged 65 years* - *On 12 September*	*Ann's life expectancy pension does not receive concessional tax treatment, as she is under 60 years old. However, her reversionary pension does receive concessional tax treatment, and is subject to the defined benefit income cap.* *Ann's defined benefit income cap is reduced to reflect the portion of the year that she received the reversionary pension. Ann received the reversionary pension for 80% of 2017–18, so her cap is reduced to $80,000 (80% of $100,000).* *Ann's defined benefit income cap is further reduced by*

2017, she also begins receiving a reversionary defined benefit pension worth $75,000 per annum. She receives $60,000 in 2017–18 which is partially from a taxed source and partially untaxed (tax-free component $40,000 and untaxed element $20,000) ▪ *Receives 80% of her life-expectancy pension for 2017–18 ($104,000) after starting to receive the reversionary pension*	*the income she received from her life-expectancy pension while she was also receiving the reversionary pension ($104,000). The defined benefit income cap cannot be negative, so her cap for 2017–18 is nil.* *The portion of Ann's reversionary pension from a taxed source ($40,000) exceeds her defined benefit income cap for the year by $40,000. She will need to include an additional $20,000 in her assessable income for 2017–18 (being 50% of the excess).* *Ann's total reversionary pension ($60,000) exceeds her defined benefit income cap for the year by $60,000.* *Ann would previously have been entitled to a $2,000 offset for the $20,000 untaxed element of the reversionary pension that she includes in her assessable income. However, she must reduce her tax offset by $6,000 (being 10% of the excess). The reduction is greater than the offset, so she is not entitled to an offset for the reversionary pension in 2017–18.* *Ann will also include in her assessable income any taxed and untaxed elements relating to the $130,000 life-expectancy pension.*

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 2017/4 *New transfer balance cap - defined benefits*
ATO references	
BSL	SPR