

# ***PR 2023/24A1 - Addendum - Allianz Guaranteed Income for Life***

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# Addendum

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## Product Ruling

### Allianz Guaranteed Income for Life

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Product Ruling PR 2023/24 to address the tax consequences of specific transfers of an interest in the Group Policy.

PR 2023/24 is amended as follows:

**1. Paragraph 3**

In the fifth sub-point of the first dot point, after 'investment in AGILE', insert '(except where specifically addressed in subparagraphs 9(fa), (ia) and (ib) of this Ruling)'.

**2. Paragraph 5**

In the second dot point, after 'invest', insert ', or otherwise acquire an interest,'.

**3. Paragraph 9**

(a) After subparagraph 9(f), insert new subparagraph 9(fa):

(fa) The transfer of an interest in the Group Policy by an Investor that is a trustee of a complying superannuation fund to its member who has satisfied a condition of release with a nil cashing restriction under Schedule 1 to the *Superannuation Industry (Supervision) Regulations 1994* (SISR) is

- (i) a superannuation benefit as defined in section 307-5 of the ITAA 1997
- (ii) a superannuation lump sum as defined in section 307-65 of the ITAA 1997, and
- (iii) not assessable income or exempt income pursuant to section 301-10 of the ITAA 1997 where the member is 60 years old or over.

(b) After subparagraph 9(i), insert new subparagraphs 9(ia) and 9(ib):

- (ia) Any capital gain or capital loss made by an Investor that is a trustee of a complying superannuation fund resulting from the transfer of its interest in the Group Policy to either another trustee of a complying superannuation fund or to its member is disregarded under section 118-300 of the ITAA 1997.
- (ib) Any capital gain made by a member of a complying superannuation fund resulting from the transfer to them of an interest in the Group Policy by an

Investor that is the trustee of that fund is disregarded under section 118-305 of the ITAA 1997.

#### **4. Paragraph 10**

Omit subparagraph 10(c); substitute:

- (c) An Investor that is the trustee of a complying superannuation fund and transfers its interest in the Group Policy
- (i) is permitted by the terms of its trust deed to pay a superannuation benefit that is a superannuation lump sum in-specie, and
  - (ii) has the means and capacity to attribute an accurate value to the benefit.

#### **5. Paragraph 11**

Omit the first dot point; substitute:

- application for a product ruling as constituted by information and documentation received on 1 September 2023, 19 October 2023, 16 November 2023 and 15 May 2024

#### **6. Paragraph 16**

At the end of the paragraph, insert:

Interests in the Group Policy acquired by an Investor other than an individual may be transferred to another Investor by written notice to Allianz and the Policy Owner, and in such cases must be held by the new Investor in respect of the same Life or Lives Insured.

#### **7. Appendix – Explanation**

At the end of the Table of Contents, insert:

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|--|----|
| Transfer of interest in Group Policy by trustee of a complying superannuation fund   | 78 |
| <i>Capital gain or capital loss from transfer disregarded</i>                        | 78 |
| <i>Section 301-10 of the ITAA 1997 – assessability of benefit received by member</i> | 82 |

#### **8. Paragraph 45**

Omit '*Superannuation Industry (Supervision) Regulations 1994*'; substitute 'SISR'.

#### **9. Paragraph 46**

Omit '*Superannuation Industry (Supervision) Regulations 1994*'; substitute 'SISR'.

**10. Paragraph 69**

Omit the paragraph; substitute:

Where the Investor is the entity to whom or to which annuities under the master annuity instrument in the Group Policy Deed are first issued, that Investor is regarded as an original owner of an annuity instrument. Pursuant to table item 3 of subsection 118-300(1) of the ITAA 1997, any capital gain or capital loss such an Investor (other than an Investor that is also the trustee of a complying superannuation entity) makes under section 104-25 of the ITAA 1997 from the receipt of annuity payments by Allianz is therefore disregarded.

**11. Paragraph 73**

Omit the paragraph; substitute:

A nominated beneficiary (or beneficiaries) or deceased estate of an individual Investor that elects the Spouse Insured Option, and a member of a complying superannuation fund to whom an interest in the Group Policy is transferred by an Investor that is the trustee of that fund, acquire an interest in an annuity for no consideration. Pursuant to table item 4 of subsection 118-300(1) of the ITAA 1997, any capital gain or capital loss such entities make under section 104-25 of the ITAA 1997 from the receipt of annuity payments by Allianz is therefore disregarded.

**12. Paragraph 74**

Omit the paragraph; substitute:

Where the Investor is regarded as an original owner of an annuity instrument, pursuant to table item 3 of subsection 118-300(1) of the ITAA 1997 any such Investor that is not the trustee of a complying superannuation entity will disregard any capital gain or capital loss they make under section 104-25 of the ITAA 1997 from the receipt of the Withdrawal Value from Allianz upon Partial Withdrawal or Full Withdrawal, and any such Investor that is neither the trustee of a complying superannuation entity or an individual will disregard any capital gain or capital loss they make under section 104-25 of the ITAA 1997 from the receipt of a death benefit from Allianz upon the death of their nominated Life Insured (or Surviving Spouse, where applicable).

**13. Paragraph 76**

Omit the word 'acquires'; substitute ', and a member of a complying superannuation fund to whom an interest in the Group Policy is transferred by an Investor that is the trustee of that fund, acquire'.

**14. Paragraph 77**

After the paragraph, insert new paragraphs 78 to 84 (including headings):

**Transfer of interest in Group Policy by trustee of a complying superannuation fund*****Capital gain or capital loss from transfer disregarded***

78. The rights and entitlements of the Investor under the Group Policy Deed, broadly referred to as their interest in the Group Policy, is a CGT asset under subsection 108-5(1) of the ITAA 1997. Generally, the transfer of a CGT asset involving a change of beneficial ownership gives rise to CGT event A1 (section 104-10 of the ITAA 1997).

79. Pursuant to table item 5 of subsection 118-300(1) of the ITAA 1997, an Investor that is the trustee of a complying superannuation fund will disregard any capital gain or capital loss it makes under section 104-10 of the ITAA 1997 from the transfer of its interest in the Group Policy to either another trustee of a complying superannuation fund (in which the nominated Life Insured or Lives Insured are also members) or to its member.

80. Section 118-305 of the ITAA 1997 provides that a capital gain or capital loss is disregarded if it is made from a CGT event happening in relation to a right to, or to any part of, an allowance, annuity or capital amount payable out of a superannuation fund, or in relation to a right to, or to any part of, an asset of such a fund.

81. Where an Investor that is the trustee of a complying superannuation fund transfers its interest in the Group Policy to its member and the transfer constitutes a payment of a superannuation benefit (as discussed in paragraphs 82 to 84 of this Ruling), the discharge or satisfaction of the member's right to receive that payment gives rise to CGT event C2 (paragraph 104-25(1)(b) of the ITAA 1997). Pursuant to subsection 118-305(1) of the ITAA 1997, any capital gain or capital loss the member of the fund makes from the receipt of the superannuation benefit is disregarded.

**Section 301-10 of the ITAA 1997 – assessability of benefit received by member**

82. A 'superannuation benefit' is defined in subsection 307-5(1) of the ITAA 1997 to include a payment to a fund member from a superannuation fund because they are a fund member. A superannuation benefit can be a superannuation lump sum, defined in section 307-65 of the ITAA 1997 as a superannuation benefit that is not a superannuation income stream benefit, and a superannuation income stream benefit is defined in section 307-70 of the ITAA 1997 as a superannuation benefit specified in the ITAR (1997 Act) 2021 that is paid from a superannuation income stream.

83. Where an Investor that is a trustee of a complying superannuation fund transfers its interest in the Group Policy to its member, the transfer will not be paid from a superannuation income stream and therefore will not be a superannuation income stream benefit. As such, it will be a payment (in-specie) of a superannuation lump sum under section 307-65 of the ITAA 1997.

84. Section 301-10 of the ITAA 1997 provides that a superannuation benefit received by an individual 60 years or over is not assessable income and is not

exempt income, and subregulation 6.18(3) of the SISR requires complying superannuation fund members to have satisfied a condition of release with a nil cashing restriction to be eligible to receive lump sum superannuation benefits. It follows that the transfer of an interest in the Group Policy by an Investor that is a trustee of a complying superannuation fund to its member who has satisfied a condition of release with a nil cashing restriction (under Schedule 1 of the SISR), will not be assessable income or exempt income where the member is 60 years or over at the time of the transfer.

This Addendum applies both before and after its date of issue.

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**Commissioner of Taxation**

16 October 2024

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ATO references

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