

SCD 98/1 - Superannuation contributions: when does a superannuation provider cease to be the holder of the contributions and when can it be said a pension or annuity has 'begun to be paid'?

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⚠ This document has changed over time. This is a consolidated version of the ruling which was published on *20 May 1998*

Superannuation Contributions Determinations do not have the force of law. Each decision made by the Australian Taxation Office is made on the merits of each individual case having regard to any relevant Determinations and Rulings.

Superannuation Contributions Determination

Superannuation contributions: when does a superannuation provider cease to be the holder of the contributions and when can it be said a pension or annuity has 'begun to be paid'?

1. The superannuation contributions tax ('surcharge') legislation imposes reporting obligations and assessment liabilities on the 'holder of surchargeable contributions' (see, for example, sections 10 and 43 of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*).
2. A provider is the holder of surchargeable contributions in a particular financial year when the provider holds any surchargeable contributions paid for or by the member, or the provider is an unfunded defined benefits provider for the member.
3. A provider is not liable to pay an assessed surcharge liability if it ceases to be the holder of surchargeable contributions before receiving a notice of assessment.

When does a provider cease to be the holder of the contributions?

4. A provider ceases to be the holder of the contributions once it has had instructions to pay or transfer the benefit and the benefit payment process has commenced in line with the provider's normal administrative practices. The new provider becomes the holder of the contributions at that time. In the case of any dispute about when the provider ceased to be the holder, the onus is on the transferring provider to satisfy the Commissioner the transfer occurred as reported.
5. Where the provider's normal administrative practice is to pay benefits over a period after a contract has terminated, or the contract specifies that payments as a result of the termination can only be made over a period, the Commissioner considers the benefit payment process does not commence until the relevant period has elapsed or all payments have been made, whichever is the later.

- *Death benefit*

6. A provider ceases to be the holder of the contributions when it has had instructions from the representatives of a deceased person to pay or transfer the benefit and the benefit payment process has commenced in line with the provider's normal administrative practices.

When can it be said a pension or annuity has 'begun to be paid'?

7. A pension or annuity is to be taken to have 'begun to be paid' at the beginning of the first day of the period to which the first payment of the pension or annuity relates.

8. This interpretation is consistent with the approach for working out the deductible amount, and the approach for reasonable benefit limits purposes under the *Income Tax Assessment Act 1936*.

- *'Deferred annuity'*

9. A provider who has entered into a contract to pay an annuity at a later time ('deferred annuity') does not cease to be the holder of the contributions until such time as the annuity has begun to be paid, which is the first day of the period to which the first payment of the annuity relates.

Commissioner of Taxation20 May 1998

FOI INDEX DETAIL: [Reference No.](#) I 1015647

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[Related Determinations:](#) SCD 98/2[Related Rulings:](#)[Subject Ref:](#) annuities and superannuation pensions; begun to be paid; commence to be paid; deferred annuities; superannuation; superannuation contributions; surchargeable contributions[Legislative Ref:](#) SCT(A&C)A 10; SCT(A&C)A 43[Case Ref:](#)[ATO Ref:](#) NAT 97/10242-2

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