



TD 2013/13W - Income tax: is a payment by a complying superannuation fund (first fund) to another complying superannuation fund of a superannuation lump sum arising from the full commutation of a superannuation income stream paid to a person as a beneficiary of a deceased member of the first fund, a 'roll-over superannuation benefit' for the purpose of section 306-10 of the Income Tax Assessment Act 1997 ?

 This cover sheet is provided for information only. It does not form part of *TD 2013/13W - Income tax: is a payment by a complying superannuation fund (first fund) to another complying superannuation fund of a superannuation lump sum arising from the full commutation of a superannuation income stream paid to a person as a beneficiary of a deceased member of the first fund, a 'roll-over superannuation benefit' for the purpose of section 306-10 of the Income Tax Assessment Act 1997 ?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *13 March 2019*



Notice of Withdrawal

Taxation Determination

Income tax: is a payment by a complying superannuation fund (first fund) to another complying superannuation fund of a superannuation lump sum arising from the full commutation of a superannuation income stream paid to a person as a beneficiary of a deceased member of the first fund, a 'roll-over superannuation benefit' for the purpose of section 306-10 of the *Income Tax Assessment Act 1997*?

Taxation Determination TD 2013/13 is withdrawn with effect from today.

1. TD 2013/13 states that a payment by a fund to another complying superannuation fund of a superannuation lump sum arising from the full commutation of a superannuation income stream paid to a person as a beneficiary of a deceased member of the first fund, is a 'roll-over superannuation benefit' for the purpose of section 306-10 of the *Income Tax Assessment Act 1997* (ITAA 1997) if the person was the spouse of the deceased member at the time of death, and certain other criteria were met.
2. Law changes were introduced through the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Act 2016* and *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017*.
3. The effect of these changes is that from 1 July 2017 the types of superannuation benefits that are roll-over superannuation benefits under section 306-10 of the ITAA 1997 have been expanded to include superannuation death benefits unless specified in the *Income Tax Assessment Regulations 1997*. The amended regulation also specifies that superannuation death benefits are generally prevented from being a superannuation roll-over benefit unless they are a benefit that is paid to a dependant beneficiary, which can include a spouse or child of the deceased. In addition to this general requirement, if the dependant is a child, they must be either under 18 years of age, a financially dependent child under 25 years of age or a child with a disability described by subsection 8(1) of the *Disability Services Act 1986*.
4. As a result of these law changes, TD 2013/13 is no longer current and is withdrawn.

TD 2013/13

5. Law Companion Ruling LCR 2017/3 *Superannuation reform: Superannuation death benefits and the transfer balance cap* provides the Commissioner's view on a similar issue under current legislative provisions.

Commissioner of Taxation

13 March 2019

ATO references

NO: 1-H0XRSZ2

ISSN: 2205-6211

© AUSTRALIAN TAXATION OFFICE FOR THE COMMONWEALTH OF AUSTRALIA

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).