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82644

Access to super for members with a terminal medical condition

Information for super funds about making tax-free lump sum payments to members with a terminal medical condition.

18 April 2018

You can release super benefits to a member if they have a terminal medical condition. A terminal medical condition exists if:

- two registered medical practitioners have certified, jointly or separately, that the member suffers from an illness, or has incurred an injury, that is likely to result in the member's death within 24 months of the date of certification
- at least one of the registered medical practitioners is a specialist practicing in an area related to the member's illness or injury
- the certification period has not ended for each of the certificates.

The certification period is 24 months from the date of certification.

If they satisfy this condition of release, any benefits that have accrued up to that point become unrestricted non-preserved. Any additional benefits accrued by the member during the certification period also become unrestricted non-preserved benefits.

These can be accessed as a tax-free super lump sum payment during the certification period. Any balances remaining after the certification period ends can be accessed at any time, but may not be tax-free.

Any benefits that accrue after the certification period are not covered by this condition of release. Members should talk to you about what new certification may be required.

How payments are taxed

A payment must be made as a super lump sum payment. These payments are non-assessable non-exempt income (that is, tax-free), if the member has the required medical certification stating that a terminal medical condition existed either:

- at the time of the payment
- within 90 days of receiving the payment.

Tax-free payments

Lump sum payments to a member with a terminal medical condition will be tax-free if paid from a **complying super plan** or an annuity provider (as long as the certification requirements are met).

A complying super plan is either a:

- complying super fund
- public sector super scheme that is either
 - a regulated super fund
 - an exempt public sector super scheme
- complying approved deposit fund
- retirement saving account (RSA).

Other credit balances

When a member applies for early release of super benefits due to having a terminal medical condition, you should also check for any ATO-held super and arrange for these amounts to be transferred. ATO-held super may come from:

- super co-contributions
- super guarantee
- super holding account special account
- unclaimed super money.

Alternatively, the member can lodge a request with us for certain eligible amounts to be paid directly to them.

See also:

- Application for payment of ATO-held superannuation money

Making a tax-free super payment

If the early release of benefits is approved, you should make a super lump sum payment upon receipt of the required medical certification.

You do not withhold any amounts from these payments.

You do not need to provide the member with a payment summary, as these amounts are non-assessable non-exempt income.

You do not need to report the payment to us

You are not required to report these payments to us, as these amounts are non-assessable non-exempt income.

If your member requests a rollover of their benefits during the certification period, different reporting requirements may apply.

Certification requirements

Members must give you their medical documentation, certifying their terminal medical condition as outlined above, before you can make a tax-free super lump sum payment.

Making a payment under another condition of release

If you have paid a super lump sum to a member under another condition of release and you have withheld an amount, but the member now provides medical certification that confirms they have a terminal medical condition, they may be eligible to receive a refund of the amount withheld.

They should provide you with the required medical certification stating that at the time of the payment, or within 90 days of receiving the payment, they had a terminal medical condition.

To refund the amount withheld, you need to:

- provide the member with a tax-free payment of the amount that was withheld from the original super lump sum
- adjust the amount withheld downwards in your next activity statement payment period by the amount repaid.

If the member is applying after 21 July of the financial year following the payment, advise them to apply directly to us for a refund. They will

need to provide a copy of their payment summary (if you provided one to them), and evidence of their medical certification.

A request for a refund can be sent to us by

- faxing it to **1300 669 846**
- mailing it to:

Australian Taxation Office
PO Box 3100
PENRITH NSW 2740

Rolling over between super funds

Benefits accessed by members under this condition of release can be taken as tax-free lump sums.

Although members may roll them over between super funds in accordance with Superannuation Industry (Supervision) Regulations 1994, these amounts are not 'roll-over superannuation benefits' for the purposes of income tax legislation.

The practical tax consequences are that the:

- member is deemed to have been paid a tax-free lump sum
- paying fund is treated as having paid a benefit to the member for income tax purposes
- receiving fund is treated as having received a personal contribution from the member
- member's personal contribution is counted towards their concessional or non-concessional contributions cap, depending on whether and to what extent they have claimed a deduction (if eligible) for their contribution.

When the certification period expires

Once the certification period expires, any benefits held by a member (including amounts accrued during the certification period) are no longer subject to the 'terminal medical condition' condition of release and may be rolled over as normal.

Benefits accrued during the certification period retain their unrestricted non-preserved status.

If a member provides you with new medical certification that meets this condition of release, the rollover restrictions will apply again.

19921

Starting and stopping a super income stream (pension)

Information about issues APRA-regulated fund trustees need to consider when a super income stream starts or stops.

20 June 2019

This information may help advise trustees of APRA-regulated superannuation funds with what to consider when a super income stream starts or stops.

This applies only to taxed, complying super funds that started a super income stream in the form of an account-based pension, including a transition to retirement income stream (TRIS), on or after 1 July 2007.

Super income stream

A super income stream includes an income stream that is a pension, according to the *Superannuation Industry (Supervision) Regulations* (SIS Regulations).

An income stream cannot be a pension in accordance with the SIS Regulations unless it meets two fundamental requirements. Those requirements are:

- payment occurs at least annually
- for an account-based pension, a minimum amount is paid to the member each year.

We use the term:

- 'pension' when referring to the operation of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) or SIS Regulations
- 'super income stream' when referring to the operation of income tax laws.

A super income stream exists when all of the following apply:

- a member is entitled to a series of payments that relate to each other
- the payments are periodic, whether paid annually or more frequently
- the payments are made over an identifiable period of time
- the minimum payment standards of the SIS Regulations have been met.

A liability to make a single payment for one year is not a series of payments and will not meet the requirement of being a super income stream. While there must be continuing liability, a super income stream may stop after only one payment.

See also:

- Taxation Ruling TR 2013/5 *Income tax: when a superannuation income stream commences and ceases*

Paying a super income stream

Once an account-based pension starts, there is an ongoing requirement for trustees to meet the minimum pension standards in the SIS Regulations.


If any of the requirements of the SIS Regulations are not met in an income year, both of the following apply:

- a super income stream stops for income tax purposes
- you are taken to have not been paying an income stream at any time during the income year.

Reporting obligations

Funds have an obligation to report when an income stream starts to be in the retirement phase for transfer balance cap purposes. Funds also

have an obligation to report other retirement phase events after an income stream has started, most commonly commutations of retirement phase income streams, for transfer balance cap purposes. Funds have a broader obligation to report when an income stream stops and an account is closed.

Once funds have completed on-boarding to the [Member account transaction service](#)  (MATS) they are required to report retirement phase events such as starting an income stream via MATS. Prior to MATS on-boarding, funds report retirement phase events via the Transfer balance account report (TBAR).

Note: Retirement phase events with an effective date before 1 July 2018 and reporting a response to a Commissioner's commutation authority should be reported through the TBAR.

See also:

- Transfer balance cap reporting protocol
- CRT Alert 081/2018 *MATS Transitional reporting – Retirement phase event reporting during transition*
- Transfer balance cap – Commissioner's commutation authority

Tax implications for a fund paying a super income stream to a member

Once a complying super fund starts to pay a super income stream, you may be entitled to exempt a portion of the income earned from the fund's assets until such time as the pension stops. This is referred to as exempt current pension income (ECPI).

ECPI does not include assessable contributions or non-arm's length income.

From 1 July 2017, funds are unable to claim ECPI for the earnings from assets supporting a Transition to Retirement Income Stream (TRIS) that is not in the retirement phase. These earnings will now be taxed at 15%.

A TRIS is in the retirement phase when the person receiving the TRIS reaches 65 years old or notifies their fund that they have met a specified nil cashing restriction condition of release, such as retirement, permanent incapacity or terminal illness.

A TRIS will also be in retirement phase if it starts to be paid to a reversionary beneficiary after the member's death, irrespective of whether the reversionary beneficiary has reached 65 years old or they have personally met a nil cashing restriction condition of release.

From 1 July 2017, ECPI will be extended to certain retirement phase products such as deferred lifetime annuities which are not currently paying a benefit.

See also:

- Exempt current pension income
- Transition to retirement income streams
- Fund income tax return instructions

If you don't meet the minimum pension requirements under the SIS Regulations

If a fund doesn't meet the minimum pension payment requirements for an account-based pension in an income year, the super income stream will be taken to have stopped at the start of that income year for income tax purposes.

From the start of the income year, the account is no longer supporting a super income stream and any payments made during the income year will be super lump sums for both income tax and SIS Regulations purposes.

This is the case even if the member remains entitled to receive a payment from the fund for the pension under the governing rules or under general trust law concepts.

This means the fund will not be entitled to treat income or capital gains as ECPI for the income year.

Note: From 1 July 2017, individuals will no longer be able to elect to treat super income stream benefits as a lump sum for tax purposes.

If you don't meet the minimum pension requirements in one income year but do in the subsequent year

If the relevant rules are again complied with in the following income year, this results in a new pension starting. You will need to revalue

assets at market value and recalculate the minimum pension payment required at the start of that income year.

Exercising our general power of administration to allow an APRA-regulated fund to continue claiming ECPI, even though the SIS Regulations' minimum pension standards have not been met

If the total payments in an income year to a member are less than the minimum payment amount for a super income stream, we may exercise our general power of administration (GPA) to allow the fund to continue to claim ECPI if all of the following conditions are met.

- You didn't pay the minimum pension amount in that income year because of either
 - an honest mistake you made resulting in a small underpayment of the minimum payment amount for a super income stream
 - matters outside your control.
- The entitlement to the ECPI exemption would have continued but for you not paying the minimum payment amount.
- When you became aware that the minimum payment amount was not met for an income year, you make a catch-up payment as soon as possible in the following (current) income year; or treat a payment (intended prior year payment) made in the current income year, as being made in that prior income year.
- Had you made the catch-up payment in the prior income year, the minimum pension standards would have been met.
- You treat the catch-up payment, for all other purposes, as if it were made in the prior income year.

If all of the above mentioned conditions are met:

- the super income stream is taken to have continued and a new pension is not started in the following income year – the proportioning rule does not need to be applied again to determine the tax-free and taxable components
- you can continue to claim an income tax exemption for earnings on assets supporting that pension, notwithstanding the fund not meeting its obligations under super law

- any payments made to the member during that income year are treated as super income stream benefit payments (ie pension payments) and not super lump sums.

If the circumstances of the underpayment do not meet all of the conditions set out above, the exercise of the GPA would not be relevant.

Defining a 'small' underpayment

We consider a small underpayment to be one that does not exceed one-twelfth of the minimum pension payment in the relevant income year.

Defining 'as soon as practicable'?

Generally, if an underpayment is due to an honest trustee error, we consider 'as soon as practicable' to be within 28 days of you becoming aware of the underpayment.

If the underpayment is due to matters outside your control, 'as soon as practicable' is considered to be within 28 days of you being in a position to be aware of the underpayment.

When you can self-assess your entitlement to the GPA concession

We allow you to self-assess and apply the GPA concession if all of the following apply:

- not meeting the minimum pension requirements was an honest mistake or was outside your control
- the underpayment is only small – does not exceed one-twelfth of the minimum annual pension payment
- all of the other GPA conditions have been met.

In all other cases, you must write to us and outline why you did not meet the minimum pension requirements for us to consider the exercise of our general power of administration.

Example 1

You didn't meet the minimum pension requirements for the year ending 30 June due to a transposition error which resulted in a small underpayment

In considering whether the GPA concession would apply, the trustee would need to assess if all of the following apply:

- payments were made during the income year and not meeting the minimum pension payment requirements by 30 June was due to an honest administrative error
- the amount of the underpayment was small
- a catch-up payment was made as soon as practicable, in the following income year.

Based on meeting all of the above conditions, we will allow the trustee to self-assess and apply the GPA concession. Despite the fund not meeting its obligations under super law:

- the super income stream does not stop and a new pension is not started in the following income year
- the trustee continues to claim an income tax exemption for earnings on assets supporting that pension.

Example 2

You incorrectly calculated the minimum pension requirement

The trustee makes an honest administrative error when calculating the minimum pension payment in the relevant income year. The trustee used the incorrect minimum pension percentage factor to calculate the July 2017 pension payment. The member turned 65 years old on 28 June 2017 so the percentage factor increased to 5%, however, the trustee used 4% as this was the percentage they had used in the previous year and there was a delay in updating their computer system.

The trustee needs to assess if all the following apply:

- payments were made during the income year, and not meeting the minimum pension payment requirements by 30 June 2017 was due to an honest administrative error
- the amount of the underpayment was small

- a catch-up payment was made as soon as practicable, in the following income year (2017–18).

Based on meeting all of the above conditions, we will allow the trustee to self-assess their entitlement to the GPA concession to treat the fund as having continuously paid a super income stream.

If you don't meet the conditions to self-assess

If the circumstances of the underpayment do not meet all of the conditions set out above, the super income stream will be taken to have stopped for income tax purposes from the start of the income year. Therefore, the fund will not be entitled to claim ECPI in that income year.

Also, payments to a member made from the fund for that income year are not super income stream benefits and instead should be treated as super lump sums received by the member, for income tax purposes for that income year.

For the following income year, a new super income stream will be taken to have started if the relevant rules are again complied with.

If you think we should further consider your case, you need to outline the relevant circumstances to us in writing.

To ensure a fair and reasonable outcome is achieved in each case, our decision will be made in accordance with the statements and principles set out in the **Taxpayers' charter**, **compliance model** and the good decision-making model, which requires that the decision be legal, ethical, overt, sensible, timely and in accordance with the principles of natural justice.

Example 3

Minimum pension payment requirements are not met due to factors outside the trustee's control

If trustees are unable to make a payment before 30 June for reasons beyond their control – such as an error or failure on the part of a financial institution – we would consider all the following

in determining whether to exercise the GPA to allow the pension to continue if the:

- trustee would have been entitled to the ECPI exemption but for not paying the minimum payment amount
- catch-up amount was made as soon as possible
- circumstances that prevented the trustee from completing the pension payment were out of their control.

Recording the underpayment of the pension as an 'accrual'

You cannot record the underpayment of the pension as an 'accrual' in the accounting records of the fund. For you to meet the minimum pension payment standards you must meet the payment requirements both in form and effect. It is not enough for the rules of the pension to state a payment will be made in each income year if the payment for a particular income year is not actually made.

If you don't make the minimum pension payment in an income year, the pension will be taken to have stopped at the start of that income year for income tax purposes, unless we have exercised the GPA.

This applies even if the member remains entitled to receive a payment from the super fund for the purported income stream under the governing rules or under general trust law concepts and you record the underpayment as an 'accrual' to recognise that liability.

47661

Cross-agency process for innovative retirement income stream products

How to get information or feedback when developing retirement income stream products.

5 December 2022

Product providers can request information from government agencies that regulate retirement income stream products.

Background

Since 1 July 2017, pension and annuity standards in the *Superannuation Industry (Supervision) Regulations 1994* set out required features and terms of innovative retirement income stream (RIS) products.

Products that meet these standards will meet the definition of a superannuation income stream for the purposes of the *Income Tax Assessment Act 1997*. They will qualify for tax exemptions on asset earnings when they are in the retirement phase.

These pension and annuity standards remove regulatory barriers to the creation of innovative RIS described in Treasury's 2016 *Review of retirement income streams*.

The review also recommended developing a coordinated administrative process to streamline the way product providers interact with multiple government agencies. This cross-agency process is the government's response to that recommendation.

The government intends these changes to facilitate:

- product providers bringing new innovative income streams to market
- greater choice and flexibility for retirees to
 - manage the risk of outliving their retirement savings
 - enhance their standard of living in retirement.

An innovative retirement income stream product is a product designed to meet regulation 1.06A of the *Superannuation Industry (Supervision) Regulations 1994*.

The cross-agency process can also be used to consider products that don't satisfy the requirements of an innovative retirement income product in regulation 1.06A, if they:

- satisfy the pension and annuity standards in regulation 1.05 or 1.06 of the *Superannuation Industry (Supervision) Regulations 1994*

- are innovative in nature.

Intention of the cross-agency process

The cross-agency process allows product providers to raise topics or issues arising from innovative retirement income stream products with the government agencies that regulate these products and the entities that provide them.

The cross-agency process will:

- facilitate engagement by providing a single-entry point to the relevant government agencies
- allow product providers to
 - test concepts
 - seek information and high-level guidance on topics or issues
 - provide their view on how the product meets the requirements of the relevant legislation
- complement existing processes within the individual agencies.

Note: Review of the cross-agency process will occur regularly. It may be refined and enhanced as it receives requests and is presented with new products.

Agency roles within the cross-agency process

The cross-agency process involves the following government agencies:

- [Australian Taxation Office \(ATO\)](#)
- [Australian Prudential Regulation Authority \(APRA\)](#)
- [Australian Securities & Investments Commission \(ASIC\)](#)
- [Department of Social Services \(DSS\)](#) and Services Australia

The following section outlines their roles and responsibilities within superannuation (super) and life insurance.

Australian Taxation Office

The ATO takes lead responsibility as the coordinator for the cross-agency process.

We administer a range of tax, product distribution, disclosure and reporting obligations that can apply to:


- product providers
- super funds and their members
- life insurance companies and their policy holders.

A number of these obligations may be relevant when developing innovative income stream products.

We can help with:

- general information about those obligations
- identifying options on how the tax law applies to specific products and their features, for example, a private ruling or a product ruling.
- applications for a private or product ruling that need to be made outside the cross-agency process. The **ATO advice products – rulings** provides information on how to apply for a ruling.


Australian Prudential Regulation Authority

[Australian Prudential Regulation Authority](#)  (APRA) does not approve or authorise retirement income stream products. APRA's approach recognises that the board and management of registerable superannuation entity (RSE) licensees and life companies are primarily responsible for the sound and prudent management of their operations.

APRA seeks to promote prudential practice by helping product providers interpret, understand and comply with prudential requirements and guidelines. It ensures they have appropriate frameworks in place to manage risks arising from their retirement income stream products.

APRA's engagement with product providers will form part of its ongoing supervision of regulated entities. Product providers should benefit from the focused nature of the engagement and the simultaneous engagement with other relevant agencies.


Australian Securities & Investments Commission

[Australian Securities & Investments Commission](#)  (ASIC) does not formally approve super or other products or provide legal advice. However, as with APRA, it can provide input to regulated entities on issues of concern.



ASIC can help product providers with:

- consumer disclosure documents –to deliver high quality information about the product and comply with the specific disclosure requirements of the *Corporations Act 2001*
- licensing requirements – Australian Financial Services (AFS) licensing authorisations, including financial product advice
- conduct requirements – what is expected from participants in the financial services sector, including design and distribution obligations under the *Corporations Act 2001* as well as other aspects of their relationship with consumers.

In some instances, ASIC can provide relief from certain provisions of the *Corporations Act 2001* or *Superannuation Industry (Supervision) Act 1993* as they apply to a person, where they may result in atypical or unforeseen circumstances or unintended consequences. This might be of relevance to new and innovative product providers.

For more detail about how to apply to ASIC for relief, see [ASIC Regulatory Guide 51 Applications for relief](#)  – on the ASIC website.

Department of Social Services & Services Australia

[Department of Social Services](#)  (DSS) can advise on policy relating to asset and income testing arrangements for retirement income products under Social Security law. [Services Australia](#)  is responsible for administering social security means testing and associated reporting and assessment arrangements.

Role of product providers in the cross-agency process

Product providers using the cross-agency process should include as much information as possible. This includes assessing how the product meets the requirements outlined in the *Superannuation Industry (Supervision) Regulations 1994*.

Product providers using the cross-agency process must:

- consider any issues on how the law or regulatory framework might apply to the product and provide a preliminary view or position on these issues
- provide all information needed as part of the request form to all agencies
- respond to requests for further information within the requested timeframe
- advise of any changes to the names or contact details of representatives
- actively engage with all agencies throughout the process
- be open and transparent and engage with full and accurate disclosure.

It is the responsibility of the product provider to ensure that all requests are complete and considered.

This includes identifying:

- relevant legislative or other regulatory requirements
- how they apply to the proposed retirement income product
- any issues that need to be clarified by any of the agencies.

Product providers who have an incomplete request won't be able to continue with the cross-agency process until they provide the relevant information.

Constraints and limitations of the process

This cross-agency process streamlines the request process and discussions but does not replace existing processes within each agency.

The type of information and guidance provided by each agency will differ depending on their regulatory responsibilities and powers, and:

- should not be seen as providing formal endorsement or a recommendation for a given product
- must not be used in any marketing or promotional material, unless explicitly provided for that purpose by the agency within the course of its regulatory or administrative authority.

Participation by a product provider in the cross-agency process does not substitute the provider from getting legal and other technical advice. Providers need to understand and manage the key risks arising during the development of an innovative retirement income stream product.

Through the cross-agency process we will aim, where relevant, to provide a consistent position on topics or issues raised.

Note: Maintaining the confidence and confidentiality of product providers is important. This may mean that at times an individual agency may be limited in the information it can share with other agencies.

Using the cross-agency process

What to expect

Participation in the cross-agency process and the information and guidance provided by each government agency may assist product providers in deciding whether to:


- proceed with the development of the product
- alter the characteristics of the product to better comply with the law, or
- discontinue development of the proposed product.

Submitting a request

A product provider can submit a 'concept exploration' or 'product review' request. The *Cross-agency process request form* can be submitted at any time during the product development process.

How to get the form

Double clicking the form won't open it. To complete the form, you need to save it to your computer.

- To download, right click [Cross-agency process request form \(PDF, 1.3MB\)](#) 
- Select **Save target as** (or a similar option depending on your internet browser) to save it to your computer.

- Open your saved form and enable JavaScript if prompted before filling in the form.
- Once you've completed your form, save it using the **Save form** button at the end of the form.

We will give priority to products that satisfy the requirements of an innovative retirement income product in regulation 1.06A of the *Superannuation Industry (Supervision) Regulations 1994* when considering requests.

Send your completed form via a single email including ALL the following email addresses:

- retirementincomestreams@ato.gov.au
- retirementincomestreams@apra.gov.au
- retirementincomestreams@asic.gov.au
- retirementincomestreams@dss.gov.au

If you need help completing the form, email retirementincomestreams@ato.gov.au

When to use the cross-agency process

The cross-agency process is voluntary. It can be used by product providers at any time during the development of their innovative retirement income stream product.

There are 2 key engagement types to assist product providers in determining the most relevant point to use the cross-agency process.

- [Concept exploration](#) – this provides the opportunity to test the concepts of the proposed product to seek information and guidance on the relevant legislation, and the preliminary view provided in the request.
- [Product review](#) – this provides the opportunity to present a product at a more mature development stage to seek information and guidance on the relevant legislation and the preliminary view provided in the request.

Concept exploration process

Step 1 – Initial contact

Product providers should complete the [cross-agency process request form](#).

Select **Concept exploration** and provide the following details:

- type of product
- high-level overview of the product
- design details of the product
- worked examples showing how the product operates
- any legal, actuarial or accounting advice obtained by the applicant
- statement demonstrating an understanding of how the product meets the regulatory requirements for innovative retirement income stream products
- any technical advice obtained of relevance to the request
- list of topics or issues you want the agencies to consider, including your preliminary view and reasoning for this view.

Step 2 – Receive confirmation of request

The cross-agency co-ordinator will email you within 2 business days acknowledging receipt of the request and will provide you with a reference number.

This reference number must be used in any future correspondence.

Step 3 – Outcome

Each agency will consider the information provided in the cross-agency request form, along with any additional supporting information and documents.

You will be provided with a non-binding written summary from the agencies with:

- responses to the topics raised in the request
- next steps or external referral processes you may need to consider and the details of any relevant contacts to help in this process.

Product review process

Step 1 – Initial contact

To raise issues at a more mature development stage should complete the [cross-agency process request form](#).

Select **Product review** and provide the following details:

- type of product
- statement demonstrating an understanding of how the product meets the regulatory requirements
- draft term sheet or product specification that specifies the
 - product features
 - intended income tax treatment
 - *Superannuation Industry (Supervision) Act 1993* treatment/compliance
 - accounting treatment
- for products with a guarantee of any type, a schedule of payments covering the guaranteed periods
 - for any indexed payments, provide the estimated rate of indexation (for example, lifetime annuity indexed by CPI where CPI is assumed to be 2.5% per annum)
- worked examples showing how the product operates
- any legal, actuarial or accounting advice obtained by the applicant
- list of topics or issues you want the agencies to consider, including your preliminary view and reasoning for this view
- intended target market, distribution or advice model for the product and information on how this satisfies the *Corporations Act 2001*.

Additional supporting information:

- draft product disclosure statement
- draft trust deed amendments for super fund offering the product

- draft information brochures or guides that are given to people taking out the products
- any life insurance policy where
 - a life insurance company offers the product
 - the super fund offering the policy has taken out a life insurance policy in relation to the product.

Step 2 – Receive confirmation of request

The cross-agency coordinator will contact you by email within 2 business days to provide a reference number for the request.

This reference number must be used in any future correspondence.

Note: We will consider applications that do not meet the minimum standards outlined above for a concept exploration only.

Step 3 – Outcome

Each agency will consider the information provided in the cross-agency process request form, along with any additional supporting information and documents.

You will be provided with a non-binding written summary from the agencies with:

- responses to the topics raised in the request and during the meeting
- next steps or external referral processes to consider including details of any relevant contacts to help in this process.

52696

Division 293 tax – deferred debt obligations for funds

Funds have additional obligations when Division 293 tax is assessed on a member's defined benefit contributions.

Deferred debt

When Division 293 tax is assessed on a super fund member's defined benefit contributions, the debt is deferred.

We send the super fund a 'Notice of debt account creation', advising of fund members who have a deferred debt account created based on the member's defined benefit contributions that have been reported to us.

The 'Notice of debt account creation' is a paper correspondence.

Funds are expected to keep this notice until a member's end benefit becomes payable.

End benefit becomes payable

Super funds with defined benefit members are required, by law, to advise us when a member's end benefit becomes payable. This allows us to finalise the deferred debt account and provide the member with a Debt account discharge liability notice.

Super funds must contact us within 14 days from the **earlier** of either when the fund receives a request to pay the end benefit, **or** when the super benefit becomes payable. The following information is to be provided in the **approved form**:

- the date the member made the request
- the date on which the benefit became payable
- the date on which the benefit will be paid
- the end benefit cap amount, which only needs to be provided if a deferred debt account still exists.

Division 293 deferred debt account status requests

Super funds can contact us to ask if a member's Division 293 deferred debt account is in debt by:

- using the Provision of Details (POD) service, an optional component that super funds may have chosen to build into their Member Account Attribute Service (MAAS)
- lodging a request using the Super Enquiry Service.

For Super Enquiry Service account status requests, the following information must be provided:

- fund name
- fund ABN
- first and last name of the person making the request (must be an authorised contact for the fund)
- position held by the person making the request
- business hours phone number
- member account number
- first and last name of the member
- member's date of birth
- member's address
- one of the following declarations
 - if the request is sent via unencrypted email – 'I declare that the information in this email is true and correct. I understand that the ATO does not control the path of inbound emails, so the privacy of information sent by unencrypted email cannot be guaranteed. I am aware of this risk if I choose to communicate with the ATO via email.'
 - if the request is sent via Data Transfer Facility – 'I declare that the information given in this request is true and correct.'

Once the request has been received, we will aim to respond within 5 business days to advise if the member's Division 293 deferred debt account is in debt or not in debt.

End benefit cap

A member's end benefit cap amount needs to be calculated by the super fund if:

- the fund is advised by the Commissioner that the member's deferred debt account is in debt
- the fund did not contact the Commissioner to ask if the member's Division 293 deferred debt account is in debt.

The end benefit cap is 15% of the employer-financed component of any part of the value of the super interest that accrued after 1 July 2012. The value of the super interest is to be worked out at the end of the financial year before the financial year in which the end benefit becomes payable. A fund may need actuarial guidance on how to calculate the end benefit cap.

If a member's Division 293 deferred debt account is not in debt, the fund will not be required to calculate an end benefit cap for that member. The fund is still required to send an End benefit notice to us and select 'Not Applicable' at Question 15, next to 'What is the end benefit cap amount?'

If a fund discovers a material change or omission in the information provided to us as part of the end benefit process, the fund must advise us within 7 days of discovery of the change/omission.

To do this, re-lodge the End benefit notice – superannuation provider Division 293 tax form (NAT 74728).

36567

KiwiSaver scheme payment statement and instructions for APRA-regulated funds

How to authorise payment of the super balance to a KiwiSaver fund.

5 November 2020

The Trans-Tasman superannuation portability arrangement helps Australian and New Zealand citizens – who emigrate between the two

countries and intend to stay indefinitely or permanently – to take their retirement savings with them when they move across the Tasman.

See also:

- Conditions of release

Using this statement

If you are a complying Australian super fund (other than a defined benefit fund, unfunded public sector scheme or self-managed superannuation fund), complete the **KiwiSaver scheme payment statement** (NAT 74638) when you pay a member's superannuation benefits to a KiwiSaver scheme in New Zealand.

You don't have to use this form; you can use a similar paper form that collects the same information.

A completed statement provides information about the member's super interest to be transferred from a complying Australian Prudential Regulation Authority (APRA) regulated super fund to a KiwiSaver scheme under the TransTasman portability arrangement.

You must pay the full super interest held by the member (other than defined benefit amounts).

Defined benefits

Australian sourced retirement savings from an Australian untaxed source, or a defined benefit interest in an Australian defined benefit scheme, cannot be transferred to a New Zealand KiwiSaver scheme.

Completing the statement

The Australian super fund must complete all sections in this statement.

Section A: Receiving KiwiSaver scheme details

You can't make payment to a KiwiSaver scheme without this information.

3a KiwiSaver registration number

KiwiSaver registration numbers can be confirmed by checking the New Zealand Financial Markets Authority website at [KiwiSaver scheme](#)

[provider](#) .

Section B: Member details

Provide the member details for the super interest you are paying to the KiwiSaver scheme:

Section C: Payment transaction details

Record amounts in Australian dollars.

10 Source component

Australian sourced amount

You need to include the Australian-sourced amounts at labels A and B.

You must identify any restricted non-preserved amount and unrestricted non-preserved amount held by the member on this statement.

If the member later returns to Australia, any returning non-preserved Australian amounts that are not identified here will be treated as preserved benefits.

Returning New Zealand sourced amount

Where applicable, you will need to include any returning New Zealand sourced amount at label **C**.

The sum of components **A + B + C** must be equal to the total payment at label **11**. The amount of the total payment must be equal to the amount being paid to the KiwiSaver scheme.

Section D: Australian superannuation fund

As the payer of a super interest to a KiwiSaver scheme provide your fund details.

Section E: Declaration

Complete the declaration that applies to you. Print your full name, and sign and date the declaration.

Record keeping

You are required to keep a copy of this statement in your records for five years.

You must send a copy of the completed statement to the member.
Your member should:

- keep their copy of this completed statement indefinitely for their records
- provide copies of their super records, including this statement, to their chosen APRA regulated fund in the event they decide to return to Australia in the future and bring their super savings with them.

Where to send the completed statement

Do not send the completed statement to us. You must:

- send this statement to the receiving KiwiSaver scheme in section A within 7 days of paying the benefit amount
- provide a copy of this statement to the member identified in section B within 30 days of paying the benefits to their KiwiSaver scheme
- keep a copy in your records for five years.

If you do not send the statement to the KiwiSaver scheme or to your member within the required number of days, we may charge you an administrative penalty. Penalties range from one to 25 penalty units depending on the size of your fund and how long the statement is overdue.

See also:

- Penalties for penalty amounts

35369

PAYG Withholding variation for income stream beneficiaries who turn 60 during the financial year

The rules for calculating varied PAYG withholding amount for income stream beneficiaries.

10 July 2018

Rules for calculating varied withholding amount

Step 1

Calculate the amount of assessable income the payee will receive before their 60th birthday.

Assessable income before 60th birthday = (taxable component of the payment x number of payments before 60th birthday) where:

- the taxable component of a superannuation income stream benefit is the amount of the income stream minus the tax free component of the benefit
- the number of payments before 60th birthday is the number of payments expected to be made to the payee between 1 July and their 60th birthday.

Step 2

Turn the Assessable income before 60th birthday (Step 1) into an average payment per pay period, as if spread over whole year.

Assessable income before 60th birthday / total number of payments in the year

Total number of payments made for the year:

- 52, for payments made weekly
- 26, for payments made fortnightly
- 12, for payments made monthly.

The result is the payee's adjusted average payment.

Step 3

Convert the Adjusted average payment calculated in Step 2 to its weekly equivalent. Where the payments are made weekly, ignore any

cents and add 99 cents.

If the payments are made fortnightly or monthly, calculate the weekly equivalent using the following:

- fortnightly payments - divide the sum of the fortnightly payment by 2, ignore any cents in the result and then add 99 cents
- monthly payments - multiply the monthly payment by 3 and then divide by 13, ignore any cents in the result and then add 99 cents.

Step 4

Calculate the withholding amount on the figure calculated in Step 3, using the appropriate formula from Statement of formulas for calculating amounts to be withheld (NAT 1004) or using the tables in Weekly tax table (NAT 1005).

If the payments are made fortnightly or monthly, calculate the withholding amounts using the following:

- fortnightly payments – determine the weekly withholding, multiply this amount by 2
- monthly payments – determine the weekly withholding, multiply this amount by 13, divide the product by 3.

Round the result to the nearest dollar.

Step 5

Adjust the amount calculated in Step 4 for the number of payments made before the payee's 60th birthday.

Adjusted withholding amount	= withholding amount (Step 4) x	total number of payments in year divided by number of payments before 60th birthday
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Round the result to the nearest dollar.

Step 6

Calculate the superannuation tax offset applicable to the payment.

Taxable component of the payment x 15% = Superannuation tax offset

Round the result to the nearest dollar.

Step 7

Calculate the Notional amount to be withheld per payment.

Notional amount	Adjusted withholding amount (Step 5) – Superannuation
to be withheld	= tax offset (Step 6)

Round the result to the nearest dollar.

Note: If the Superannuation tax offset is greater than the Adjusted withholding amount, the Notional amount to be withheld is nil.

Step 8

Using the appropriate formula below, calculate the Medicare levy adjustment applicable to the payment.

If the payee's Assessable income before 60th birthday (Step 1) is:

- less than \$21,655 – the payee's Medicare levy adjustment is nil
- greater than \$21,655 but less than \$27,068 – the payee's Medicare levy adjustment is equal to:

$(\text{Assessable income before 60th birthday} - \$21,655) \times 0.10 / \text{number of payments before 60th birthday}$.

- greater than \$27,067 – the payee's Medicare levy adjustment is equal to:

$(\text{Assessable income before 60th birthday} \times 0.02) / \text{number of payments before 60th birthday}$.

Round the result to the nearest dollar.

Step 9

To calculate the varied withholding amount, compare the Notional amount to be withheld (Step 7) to the Medicare levy adjustment (Step 8).

If the Notional amount to be withheld is more than the Medicare levy adjustment, withhold the Notional amount to be withheld (Step 7).

If the Notional amount to be withheld is less than the Medicare levy adjustment or zero, withhold the Medicare levy adjustment (Step 8).

Example calculations:

Schedule 1 - Statement of formulas for calculating amounts to be withheld 2017/18, Scale 2 is used in these examples.

Example 1

Sally is 59 years old and receives a fortnightly superannuation income stream of \$2,140 during the 2017-18 financial year.

The tax free component of Sally's fortnightly superannuation income stream is \$440. The taxable component of the superannuation income stream is \$1,700, and is comprised wholly of a taxed element.

Sally will turn 60 on 8 January 2018. Her super fund will make 14 payments before she turns 60 and 12 payments after.

As the taxable component of Sally's pension is comprised wholly of a taxed element she will not have to pay any tax on this after she turns 60. Sally's withholding should be varied. Sally has claimed the tax-free threshold and is not entitled to leave loading.

Calculate the varied withholding amount

Step 1

Calculate Sally's Assessable income before 60th birthday.

Assessable income before 60th birthday: $\$1,700 \times 14 = \$23,800$

Step 2

Convert the amount calculated at Step 1 into an adjusted average payment.

Adjusted average payment: $\$23,800 / 26 = \915.38

Step 3

Calculate Sally's adjusted weekly payment amount.

Sally's adjusted weekly
amount

$$\$915.38 / 2$$

$$= \$457.99 \text{ (ignoring cents, adding 0.99)}$$

Step 4

Calculate the withholding on the amount calculated at Step 3.

Weekly withholding

$$= \$457.99 \times 0.2900 - 109.1077$$

$$= \$23.7094$$

$$= \$24 \text{ per week (rounded to the nearest dollar)}$$

Fortnightly
withholding

$$\$48 \text{ per fortnight}$$

Step 5

Calculate Sally's Adjusted withholding amount based on the amount calculated at Step 4.

Adjusted withholding
amount

$$= \$48 \times 26 / 14$$

$$= \$89.1428$$

$$= \$89 \text{ per fortnight (rounded to the nearest dollar)}$$

$$= \$89 \text{ per fortnight (rounded to the nearest dollar)}$$

Step 6

Calculate the per payment Superannuation tax offset Sally is entitled to. This is calculated using the taxable component of her payment.

Superannuation tax offset: $\$1,700 \times 15\% = \255 (rounded to the nearest dollar)

Step 7

Calculate the Notional amount to be withheld.

As Sally's Superannuation tax offset (\$255 – Step 6) is greater than her Adjusted withholding amount (\$89 – Step 5) her Notional amount to be withheld is \$0.

Step 8

Calculate Sally's Medicare levy adjustment.

As Sally's assessable income before her 60th birthday of \$23,800 (Step 1) is greater than \$21,655, her Medicare levy adjustment is:

- $\$23,800 - \$21,655 = \$2,145$
- $\$2,145 \times 0.100 / 14 = \15 (rounded to the nearest dollar)

Step 9

Calculate Sally's varied withholding amount.

As Sally's Medicare levy adjustment (\$15 – Step 8) is greater than her Notional amount to be withheld (\$0 – Step 7), her varied withholding amount is \$15.

56212

Re-contribution of COVID-19 early release super amounts

Individuals can now re-contribute amounts they withdrew under the COVID-19 early release of super program.

14 March 2022

Individuals can now re-contribute amounts they withdrew under the COVID-19 early release of super program without them counting towards their non-concessional contributions cap. These contributions can be made between 1 July 2021 and 30 June 2030.

COVID-19 re-contribution amounts are **not** a new type of contribution. They are a personal contribution that we will exclude from an individual's non-concessional contribution cap.

Individuals can make COVID-19 re-contribution amounts to any fund of their choice where the fund rules allow.

What you need to do

Individuals can use the **approved form** to make a COVID-19 re-contribution. You can choose to design your own *Notice of re-contribution of COVID-19 early release amounts* approved form for your members, as outlined in the **CRT Alert 008/2021**. Once you receive a completed approved form from your member you need to:

- Check the COVID-19 re-contribution amount, an amount cannot be accepted where it exceeds \$20,000. You may wish to confirm with your member if the correct figure has been provided.
- Provide us with the information from the approved forms you have received – you are not required to provide nil lodgement reports.

There is no change for you when accepting and reporting personal contribution amounts that a member is treating as a COVID-19 re-contribution.

Information to record and send to us

We require you to:


- Capture the following information from the Notice of re-contribution of COVID-19 early release amounts approved form.
- Create a comma separated value (CSV) file containing all reported member data per the exact specifications included in the [Re-contribution of COVID-19 early release of superannuation amount guide](#)  (the Guide). A sample template is available at section 2.2 of the Guide.

Table: Information to record and send to us

Field	Data type	Length	Mandatory	Valida
Member's TFN	Integer	9	Y	TFN algorithm
Family Name	String	38	Y	-
First Given Name	String	38	Y	-

Other Given Names	String	38	N	-
Contributor's Date of Birth	String	8	Y	DDMM
Member account number	String	16		-
APRA funds			Y	
SMSF			N	
Unique Superannuation Identifier (USI)	String	14		-
APRA Funds (if known)			Y	
SMSF			N	
Date of Contribution	String	8	N	DDMM
Contribution Amount	Decimal	5, 2	Y	0.01 to 20000
Declaration Signed	String	3	Y	Response must = Validated fails if declaration is not signed
Date of Declaration	String	8	Y	DDMM
Date Declaration Received	String	8	Y	DDMM

How to report this information to us

To report Covid-19 re-contribution amounts received from your members, we have developed the functionality for you to use the bulk data exchange facility via online services for business and online services for agents.

To report member COVID-19 re-contribution information to us you will need to undertake the following steps:

1. Log on to **online services for businesses** or **online services for agents** and navigate to the 'File transfer' screen, selecting 'Lodge' to open the submission form.
 - a. If using online services for business the 'File transfer' screen is available via the 'Lodgments' menu.
 - b. If using online services for agents the 'File transfer' screen is available via the 'Reports and forms' menu.
2. Input the details requested within the form and click 'submit', ensuring the following actions are completed
 - a. select 'lodge'
 - b. attach your CSV file
 - c. select to receive a validation report and include an email address
 - d. tick to sign the declaration.
3. Check your validation report to ensure that your form has been successfully submitted. If a validation error has occurred, follow the instructions within the validation report to correct the error and resubmit your form using the process above.

SMSFs without access to online services for business and who are not represented by a tax agent can report over the phone by calling our Superannuation Enquiries line on **13 10 20**.

When to report this information to us

APRA Funds should report this information to us on a monthly basis and report the contribution as a personal contribution through MATS.

SMSFs need to report this information to us at or before the time of lodging their SMSF Annual Return for the financial year in which the member made the COVID-19 re-contribution. This information must be reported separately through the process outlined above.

Frequently asked questions

Accepting COVID-19 re-contributions

Can your member make a COVID-19 re-contribution without the approved form?

No. Individuals choosing to make a COVID-19 re-contribution must notify you in the approved form, either before or at the time of making the contribution. Individuals can use the **approved form** or you can choose to design your own *Notice of re-contribution of COVID-19 early release amounts* for your members

Are you required to hold a valid TFN in order to accept a COVID-19 re-contribution?

Yes. Regulation 7.04 of the Superannuation Industry Supervision Regulations 1994 (SISR) provides that a fund cannot accept any member contributions if the member's TFN has not been provided.

Does a member have to make a COVID-19 re-contribution to the same fund from which they accessed funds through the COVID-19 early release measure?

Members can make COVID-19 re-contributions to any fund of their choice, where the fund rules allow.

Can a member make multiple COVID-19 re-contributions?

Yes, multiple contributions can be made. COVID-19 re-contribution amounts can be made between 1 July 2021 and 30 June 2030.

Are there any restrictions on who can make a COVID-19 re-contribution?

Yes, the general acceptance rules under regulation 7.04 of the SISR applies to COVID-19 re-contributions.

Does the work test apply for COVID-19 re-contributions received this financial year?

COVID-19 re-contributions are personal contributions. The current rules regarding the acceptance of contributions as contained in the SISR apply to this contribution, including the application of the work test or work test exemption.

Are you required to match the amount of the personal contribution against the amount on the approved form or is reporting the information on the approved form received the only requirement?

We will perform the match of the amount on the form compared to the personal contributions reported to us. There is no need for you to match the amounts.

Are members of defined benefit funds eligible to make these contributions into their defined benefit interest (if the fund rules permit)?

The law does not specify the type of super funds to which the COVID-19 re-contribution can be made. The current rules regarding the acceptance of contributions as contained in the SISR apply to the COVID-19 re-contribution. Similarly, the acceptance of the COVID-19 re-contribution is also subject to the acceptance rules of the fund.

What is required of you if the declaration has not been completed by the member?

The law requires the member to declare that the contribution is to be treated as a COVID-19 re-contribution at the time or before the contribution is made. If that declaration, including the date of declaration, has not been made then the contribution cannot be treated as a COVID-19 re-contribution. You are not able to accept the amount as a COVID-19 re-contribution and then later accept a COVID-19 re-contribution form that relates to that earlier contribution. The alternatives available to you are:

- contact the member and have them make the declaration and then accept the contribution after the declaration has been made and report as normal, or
- accept the contribution and don't report the information on the approved form because that contribution cannot be treated by us as a COVID-19 re-contribution without the declaration. The fund will report the contribution as a personal contribution.

Administering COVID-19 re-contributions

Do you have an obligation to monitor COVID-19 re-contributions across a single financial year, or from year to year?

No, but you must not accept a single approved form declaring more than \$20,000 as a COVID-19 re-contribution.

What is the process if we determine a member who has claimed a re-contribution of early release of super is ineligible?

COVID-19 re-contribution amounts are reported as personal contributions. If the member is found to be ineligible it may result in that member exceeding their non-concessional contributions cap.

Is a re-contribution of early release of super a preserved tax-free amount?

The COVID-19 re-contribution will be preserved until the member meets a condition of release as set out in Schedule 1 of the SISR and the amount will form part of the tax-free component of the superannuation interest under section 307-210 of the *Income Tax Assessment Act 1997* (ITAA 97).

Is the amount excluded from a member's non-concessional contributions cap calculated on an annual or rolling basis?

COVID-19 re-contribution amounts are excluded from the non-concessional contributions cap on an annual basis based on the actual COVID-19 re-contribution amount(s) made during the financial year.

If you report a COVID-19 re-contribution form to us, but the contribution never arrives how will this be treated?

There is no change to the process for funds. You would report the COVID-19 re-contribution to us, we will see from the reporting that there is no related personal contribution, and no amounts would be treated as a COVID-19 re-contribution.

What happens if the COVID-19 re-contribution declared on the form is more than the personal contribution received?

There is no change to the process for you. You would report the COVID-19 re-contribution to us and accept the personal contribution, subject to your acceptance rules, and report it to us. We will see the difference and only treat the amount of the actual contribution as being excluded from the non-concessional contributions cap calculation. We will then treat the portion of the next personal contribution(s) in that financial year if any, as a COVID -19 re-

contribution up to the amount on the COVID-19 re-contribution form or the approved early release amount whichever is the lesser.

What happens if the COVID-19 re-contribution declared on the form is less than the personal contribution received?

There is no change to the process for you. You would report the COVID-19 re-contribution to us and accept the personal contribution, subject to your acceptance rules, and report it to us. We will see the difference and only treat the amount of the personal contribution up to the amount included on the member's form as being excluded from the non-concessional contributions cap calculations (provided that this amount does not exceed the approved COVID-19 early release amount). Any amount of the personal contribution exceeding that, as detailed in the member form, will count as a personal contribution and count towards the non-concessional contributions cap calculation.

Can multiple personal contributions be covered by one approved form be treated as COVID-19 re-contributions?

One approved form may cover multiple contributions in a financial year, as long as the form is provided to the super fund on or before the time when the contributions are made.

Example: multiple COVID-19 re-contribution amounts

Sam lodges the COVID-19 re-contribution form with their fund on 23 August 2025 declaring an amount of \$20,000 to be a COVID-19 re-contribution on:

- 30 August 2025 Sam makes a contribution of \$5,000
- 15 December 2025 Sam makes a contribution of \$10,000
- 3 May 2026 Sam makes a contribution of \$5,000

As Sam has lodged the approved form on or before the contributions were made each of those contributions will be treated as a COVID-19 re-contribution.

Alternatively, Sam may lodge three approved forms on or before each of the above dates for the amounts contributed on those dates. That would also result in the amounts being treated as COVID-19 re-contributions.

If a member submits an approved form to one fund without a personal contribution then makes a personal contribution to another fund, will the contribution be considered a COVID-19 re-contribution?

We wouldn't accept the contribution to another fund as being a COVID-19 re-contribution as the declaration needs to include the name of the fund and the fund ABN. If the member account number and the USI are known these should be included, SMSFs should leave this information blank. The intent of the provision through the operation of paragraphs 292-103(1)(a) and (2)(b) of the ITAA 97 is that the approved form must be given to the same fund that the contribution will be made to. If the contribution is made to a different fund, then the declaration has not been made in respect of the receiving fund at or before the time a valid declaration has been made for that fund and account.

What considerations are there in relation to the date of contribution provided on the approved form matching the date the payment is received as this may not align due to the nature of digital payments?

The law requires the member to declare that the contribution is to be treated as a COVID-19 re-contribution at the time or before the contribution is made. We will perform the match of the amount on the form compared to the personal contributions reported to us. There is no need for you to match the amounts or dates.

Additional scenarios

Can you update the Notice of intent to claim or vary a deduction for personal super contributions form and the COVID-19 re-contribution form to have the member declare that their intent to claim is not also a re-contribution?

Individuals declare on the COVID-19 re-contribution form that they withdrew amounts under COVID early release, will not contribute more than they withdrew and will not claim a personal super deduction for a COVID-19 re-contribution. Funds will not be required to check that COVID-19 re-contribution amounts are not claimed as a personal super deduction. There will be no changes made to the *Notice of intent to claim or vary a deduction for personal super contributions* form.

How is a COVID-19 re-contribution reported as part of a rollover?

This would be reported in the same manner as other personal contributions.

Does a COVID-19 re-contribution meet the personal contribution eligibility requirement for a co-contribution?

As long as the member meets all of the eligibility criteria in section 6 of the *Superannuation (Government Co-contributions for Low Income Earners) Act 2003*, a COVID-19 re-contribution would be an eligible personal superannuation contribution that attracts co-contributions.

Will making a COVID-19 re-contribution impact the selection of a stapled fund?

The Regulations for the stapled fund measure contain the hierarchy rules. In accordance with those Regulations a fund will firstly be a stapled fund in the case where the Commissioner has previously identified the fund as a stapled fund. Then if a stapled fund has not been previously identified the stapled fund will be the one which has received the most recent contributions for the benefit of the employee. As such a COVID-19 re-contribution may cause a fund to be one which has received the most recent contribution.

How will making a COVID-19 re-contribution impact unclaimed and lost member criteria?

A member will no longer be a lost member or meet the definition of an unclaimed super account where a contribution has been made.

Does a COVID-19 re-contribution need to be supported as part of the suite of SuperStream transactions?

No, there is no change required.

If a member provides an approved form notifying of a COVID-19 re-contribution to their fund and a successor fund transfer (SFT) occurs, what are the SFT requirements for the fund and/or member in regard to reporting the COVID-19 re-contribution?

The successor fund reporting protocol states that before closing member accounts, the transferring fund will need to ensure the reporting of member account transactions and contributions is up to date and accurate at the time of the transfer.

It is a requirement of section 292-103 of the ITAA 1997 that the approved form and contribution is given to the same complying super fund.

Example: Does not meet the COVID-19 re-contribution requirements

Meah lodges the COVID-19 re-contribution form with Fund A on 10 August 2023 declaring an amount of \$20,000 to be a COVID-19 re-contribution.

On 30 September 2023, Fund A undergoes a SFT with Fund B.

Meah makes a personal contribution to Fund B on 7 March 2024 for \$20,000.

Because Fund A reported the details of the approved form to the ATO while Fund B reported the personal contributions amount, this does not meet the requirements to be a COVID-19 re-contribution.

To ensure that the amount is treated as a COVID-19 re-contribution, Meah would have needed to provide the approved form to Fund B prior to making the contribution.

Example: Meets the COVID-19 re-contribution requirements

Connor lodges the COVID-19 re-contribution form with Fund A on 5 December 2021 declaring an amount of \$5,000 to be a COVID-19 re-contribution.

Connor makes a personal contribution of \$5,000 to Fund A on 3 January 2022.

Fund A reports both the details from the approved form and the personal contribution amount to the ATO.

Fund A undergoes a SFT with Fund B on 20 April 2022.

This meets the requirements to be a COVID-19 re-contribution, as Fund A has been given the approved form and the personal contribution amount, which has been reported to the ATO, prior to undergoing a SFT.

66719

Stapled super fund details for APRA Funds

Information for Super Funds on the Single Default Account (stapled super fund) changes.

10 December 2021

From 1 November 2021, if an employer has new employees start and the employees do not choose a super fund, employers may have an extra step to take to comply with choice of fund rules. The employer may now have to request their new employees 'stapled super fund' details from us.

A stapled super fund is an existing super account which is linked, or 'stapled', to an individual employee so that it follows them as they change jobs.

The change aims to stop new super accounts from being opened every time an employee starts a new job.

How will a stapled super fund be selected?

The stapled super fund selection will be based on information we hold about the employee's super fund membership, as reported to us by funds.

If an employee holds an existing eligible super account, this will be notified to the employer as the stapled super fund account for contributions.

To be eligible to be selected as a stapled super fund for an employee, a fund must be an open retirement savings account (RSA), complying superannuation fund or complying superannuation scheme in the same financial year as the stapled super fund request is made. The employee must be a member of the fund/scheme, or holder of that RSA, when the request is made.

Where an employee has multiple existing eligible super accounts, we will apply 'tiebreaker' rules as outlined in the regulations to select the

stapled super fund. These rules consider, as applicable:

- whether we have previously identified an account as a stapled super fund
- how recently contributions have been made to each of the accounts
- the account balances
- how recently each of the accounts were created.

If a member is concerned how the tiebreaker rules will be applied, they should be encouraged to use a super standard choice form to nominate their preferred fund.

Defined Benefit Accounts

Any fund, including a defined benefit fund, can be provided to an employer by the ATO as a stapled super fund. However, some defined benefit accounts may not be able to accept contributions from all employers. If an employer advises us that a stapled super fund notified by us cannot accept contributions, we will provide an alternate stapled super fund if the employee has another stapled super fund.

Successor Fund Transfers

A successor fund meets certain conditions and confers certain rights on the member. A superannuation interest may be transferred from an employee's super fund account, default fund or stapled super fund to a successor fund without the consent of the member. Contributions by the employer to the successor fund for the benefit of the employee will satisfy the choice of fund requirements and the employer will not need to give the employee a standard choice form or request a stapled super fund.

If the employer requests a stapled super fund, the account details returned by the us will follow the tiebreaker rules outlined above.


Encouraging choice of super fund

The new stapled super fund step only applies from 1 November 2021 when a new employee does not choose their own super fund.

You can support your members to choose their own super fund by:

- helping them to understand the super standard choice form
- reminding them of the benefits of choosing their own super fund and keeping track of their super
- directing them to **Super for individuals** to understand how they can find their super fund details to complete their super standard choice form.

You should offer members the newest copy of the **Superannuation standard choice form** to elect their choice of super fund.

You can't provide recommendations or advice about super to your members, unless you are licensed by the Australian Securities & Investments Commission (ASIC) to provide financial advice. Visit [ASIC Communicating with employees about choice of superannuation fund: What you can and cannot do](#)  for more information on how you can communicate about superannuation choices without breaking the law.

For more information see [offering employees a choice of super fund](#).

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Our commitment to you

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

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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