



Law Companion Ruling compendium – LCR 2016/9

❶ Relying on this Compendium

This Compendium of comments summarises and provides responses to submissions received during public consultation on draft Law Companion Ruling LCR 2016/9DC *Superannuation reform: transfer balance cap*. It is intended to promote transparency and explain how stakeholder feedback was considered in finalising the document only.

It is not a publication that has been approved to allow you to rely on it for any purpose and is not intended to provide you with advice or guidance, nor does it set out the ATO's general administrative practice. Therefore, this Compendium does not provide protection from primary tax, penalties or interest for any taxpayer that purports to rely on any views expressed in it.

Consultation period: 25 March 2026 to 8 May 2026

We thank all submitters for their time and contributions.

Summary of issues raised and responses

Issue 1 – general transfer balance cap and personal transfer balance cap

Paragraph or section of draft product

Paragraph 17B

Issue raised

The draft Ruling inserts paragraph 17B, explaining the process for calculating the unused cap percentage for indexing an individual's transfer balance cap. This is functionally describing the operation of subsection 294-40(2) of the *Income Tax Assessment Act 1997*.

The information in paragraph 17B describes representing an individual's transfer balance as a percentage, calculated on a particular day. However, it does not state to calculate the transfer balance as a percentage of any other value, only to calculate a percentage. This makes the method difficult to follow unless the reader is already familiar with subsection 294-40(2) of the *Income Tax Assessment Act 1997*.

This can be rectified by altering subparagraph 17B(b)(iii) as follows:

expressing the highest transfer balance outlined in subparagraph (i), **as a percentage of your transfer balance cap** on the day identified in subparagraph (ii), (text removed '*as a percentage*'), rounded down to the nearest whole number, and ...

ATO response

In the final Ruling, paragraph 17B clarifies this with a reference to the percentage being in respect of the transfer balance cap.

Outcome

Clarified

Issue 2 – successor fund transfers

Paragraph or section of draft product

Paragraphs 55L to 55R

Issue 2.1

Issue raised

The last dot point of paragraph 55R of the draft Ruling states (emphasis added):

*if the new superannuation income stream in Mika Super is in retirement phase, a credit arises in the new member's transfer balance account, **equal to the value of the superannuation income interest that supports it.***

It was expected that the value of the credit for the new stream would equal the value of the debit for the old stream under subsection 294-25.03(2) of the *Income Tax Assessment (1997 Act) Regulations 2021*.

ATO response

It is noted that subsection 294-25.03(2) of the *Income Tax Assessment (1997 Act) Regulations 2021* applies in respect of capped defined benefit income streams only. In the final Ruling, footnote 44F clarifies the consequences for capped defined benefit income streams.

Example 3D of the final Ruling clarifies that the example refers to account-based pensions.

Outcome

Clarified

Issue 2.2

Issue raised

The draft Ruling directly addresses successor fund transfers in paragraphs 55L to 55R.

Given the transfer balance cap and Part 9 of the *Life Insurance Act 1995* (Part 9) transfers directly impact the industry, additional comments should be specifically included to address Part 9 transfers due to potential conflicting advice provided by the ATO in relation to those.

ATO response

Consideration of Part 9 transfers is outside the scope of this Addendum.

Outcome

No change

Date of publication: 15 July 2026

ATO references

NO:	1-18WZAZI2
BSL:	SEO

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