


LCG 2016/8A2 - Addendum - Superannuation reform: transfer balance cap and transition-to-retirement reforms: transitional CGT relief for superannuation funds

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Addendum

Law Companion Guideline

Superannuation reform: transfer balance cap and transition to retirement reforms: transitional CGT relief for superannuation funds

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Law Companion Guideline LCG 2016/8 to reflect amendments to the law made by the *Treasury Laws Amendment (2017 Measures No. 2) Act 2017*.

LCG 2016/8 is amended as follows:

1. Title

Omit 'Superannuation reform: transfer balance cap and transition to retirement reforms: transitional CGT relief for superannuation funds'; substitute 'Superannuation reform: transitional CGT relief for complying superannuation funds and pooled superannuation trusts'.

2. Preamble

In the second paragraph after '(the Act)'; insert 'and the amendments made by the *Treasury Laws Amendment (2017 Measures No. 2) Act 2017*'.

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4. Paragraph 1

Omit paragraph; substitute (excluding footnote A1):

1. This Guideline provides guidance on the transitional CGT relief^{A1} available for trustees of complying superannuation funds and pooled superannuation trusts because of the transfer balance cap and transition-to-retirement reforms commencing on 1 July 2017 (the **CGT relief provisions**).

5. Paragraph 3A

(a) Omit paragraph; substitute:

3A. The treatment of a transition-to-retirement income stream (TRIS), and similar superannuation income streams, has also been reformed. From 1 July 2017, these superannuation income streams will not be in the retirement phase unless a superannuation income stream benefit is currently payable from it and the recipient:

- is 65 years old or older, or
- has met a relevant condition of release with a nil cashing restriction (retirement, terminal medical condition, permanent incapacity) and they have notified the superannuation provider for the TRIS of that fact.²

From 1 July 2017, a fund will lose the income tax exemption for assets supporting TRISs and similar superannuation income streams that are not in the retirement

phase from this time. A reference to a TRIS in this Guideline is to a TRIS that is not in the retirement phase unless otherwise stated.

- (b) Omit footnote 2; substitute:

²Sections 294-100 to 294-120 of the *Income Tax (Transitional Provisions) Act 1997* (IT(TP)A 1997)

6. Paragraph 4

Omit last sentence; substitute (including footnote 3A):

Alternatively, the values used to calculate the proportion of exempt income that a complying superannuation fund or pooled superannuation trusts may be adjusted.^{3A}

7. Paragraph 5

Omit the first sentence; substitute:

The CGT relief provisions preserve the income tax exemption for capital gains accrued, but not yet realised, by complying superannuation funds and pooled superannuation trusts on CGT assets held throughout the pre-commencement period (see paragraph 7 of this Guideline).

8. Paragraph 5A

Omit paragraph; substitute (including footnote 3B):

5A. The effect of the exempt current pension income provisions is preserved for the entire value of superannuation income stream interests until:

- (i) immediately before the time a CGT asset ceased being a segregated current pension asset of a complying superannuation fund either:
 - (a) during the pre-commencement period, or
 - (b) at the start of 1 July 2017 because the asset supported a TRIS, or
- (ii) 30 June 2017- for complying superannuation funds that continued using the proportionate method in the pre-commencement period, or for pooled superannuation trusts.^{3B}

9. Paragraph 6

Omit first sentence; substitute (including footnote 3C):

The relevant law is contained in sections 294-100 to 294-130 of the IT(TP)A 1997.^{3C}

^{3A}Section 295-390 of the ITAA 1997.

^{3B}Sections 295-390 and 295-400 of the ITAA 1997.

^{3C}The relevant law was introduced by the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Act 2016*. It was subsequently amended by the *Treasury Laws Amendment (2017 Measures No. 2) Act 2017* (amending Act).

10. Paragraph 7

Omit 'fund'; substitute 'trustee'.

11. Footnote 4

After last sentence; insert 'The amending Act made no change to the definition of the pre-commencement period.'

12. Paragraph 10

Omit (i) and (ii), excluding footnotes 9 and 10; substitute:

- (i) for complying superannuation funds – the choice to reset the cost base of a CGT asset to its market value when the asset ceases being a segregated current pension asset either during the pre-commencement period, or at the start of 1 July 2017 because it supports a TRIS. To qualify, the fund must have held the asset throughout that period⁹, and
- (ii) for complying superannuation funds or pooled superannuation trusts – the choice to reset the cost base for an unsegregated CGT asset to its market value on 30 June 2017, where the trustee holds the asset throughout the pre-commencement period.¹⁰

13. Footnote 10

After 'Paragraphs 294-115(1)(e)'; insert 'and 294-125(3)(a)'.

14. Paragraph 11

Omit second last sentence; substitute 'Capital gains are partly disregarded for unsegregated assets held by complying superannuation funds (under the proportionate method), and pooled superannuation trusts, and may be deferred.'

15. Footnote 12

In second sentence, after 'year'; insert '(or pursuant to section 295-400 in the case of pooled superannuation trusts)'.

16. Paragraph 12

Omit all occurrences of 'fund's' in paragraph.

17. Paragraph 13

Omit paragraph; substitute:

13. CGT relief is not automatic. The trustee of a complying superannuation fund or pooled superannuation trust must choose for CGT relief to apply for a CGT asset in the approved form. The approved form for this purpose is the *Capital Gains Tax (CGT) Schedule 2017*.

18. Paragraph 14

After 'fund's'; insert 'or trust's'.

19. Footnote 15

Omit footnote; substitute:

¹⁵ Subsections 294-110(2), 294-115(2), 294-120(2), 294-125(2) and 294-130(2) of the IT(TP)A 1997.

20. Paragraph 14A

Omit paragraph (excluding footnote 15A); substitute:

14A. The trustee of a complying superannuation fund or pooled superannuation trust is 'required to lodge' their fund's or trust's 2016-17 income tax return on or before 31 October 2017 (being the date specified in the relevant notice published annually by the Commissioner).^{15A} However, the Commissioner may exercise his discretionary power to defer their lodgment day (for example, under the Tax Agent Lodgment Program, or because of exceptional and unforeseen circumstances).^{15B} In this case, the trustee would be required to make a choice to apply CGT relief on or before the deferred lodgement date.

21. Footnote 15A

Omit footnote; substitute:

^{15A} The relevant notice for the 2016–17 income year was made by way of legislative instrument on 11 May 2017 (refer to <https://www.legislation.gov.au/Details/F2017L00529>).

22. Footnote 15B

Omit footnote; substitute:

^{15B} The Commissioner may defer lodgement times under section 388-55 of Schedule 1 to the *Taxation Administration Act 1953* (TAA 1953). Refer to <https://www.legislation.gov.au/Details/F2017L00529>, and Law Administration Practice Statement PS LA 2011/15 *Lodgment obligations, due dates and deferrals*, for further guidance. Note that late lodgment of a fund's or trust's 2015-16 income tax return may affect eligibility for a lodgment deferral for the 2016-17 income tax return under the Tax Agent Lodgment Program. For SMSFs, the lodgment day for the 2015-16 income tax return was deferred to 30 June 2017 (refer to <https://www.ato.gov.au/Media-centre/Media-releases/ATO-extends-due-date-for-2015-16-SMSF-returns/>)

23. Footnote 17

Omit first sentence; substitute 'The choice is made 'in respect of the asset' under paragraphs 294-110(1)(e), 294-115(1)(e), 294-120(1)(c) and 294-125(1)(d) and 294-130(1)(c) of the IT(TP)A 1997.

24. Paragraph 17

Omit 'fund'; substitute 'trustee'.

25. Paragraph 18

(a) Before the first sentence; insert (including footnotes 18A and 18B) 'Complying superannuation funds calculate their exempt current pension income using the segregated method^{18A} or proportionate method.^{18B}

(b) After paragraph; insert (including footnotes 20AA and 20AB):

18A. Pooled superannuation trusts calculate their exempt current pension income using a different proportionate method or an alternative exemption method.^{20AA} Hence, separate rules apply to determine the CGT assets of a pooled superannuation trust that are eligible for CGT relief.^{20AB}

18B. These issues are discussed below.

26. Paragraph 19

In the first sentence, after 'A'; insert 'complying superannuation'.

27. Paragraph 21

Omit paragraph (excluding footnote 22), substitute:

CGT relief is available for such an asset provided:²²

- the CGT asset was a segregated current pension asset at the start of the pre-commencement period
- the CGT asset stopped being a segregated current pension asset of the fund at either:
 - (i) a time during the pre-commencement period, or
 - (ii) the start of 1 July 2017 because the asset was supporting a TRIS (either of these times is a 'cessation time')

^{18A} Sections 295-385 and 295-395 of the ITAA 1997.

^{18B} Section 295-390 of the ITAA 1997.

^{20AA} The proportionate method for pooled superannuation trusts is in subsections 295-400(1) and 295-400(2) of the ITAA 1997. The alternative exemption method for such trusts is in subsections 295-400(3) and 295-400(4) of the ITAA 1997.

^{20AB} Sections 294-125 and 294-130 of the IT(TP)A 1997.

- the fund held the asset throughout the pre-commencement period (disregarding the deemed sale and repurchase of the asset by the fund because CGT relief applies)
- the fund is a complying superannuation fund from the start of the pre-commencement period until the cessation time, and
- the trustee chooses for CGT relief to apply to the asset (in the manner discussed in paragraphs 13 to 16 of this Guideline).

28. Paragraph 22A

- (a) Omit paragraph; substitute (including footnotes 22A, 22B, 22C and 22D):

In relation to TRISs, the transitional arrangements are intended to provide CGT relief by enabling complying superannuation funds to reset the cost base of CGT assets to their market value where those assets are re-allocated or re-apportioned from the current pension phase to the accumulation phase in order to comply with the new law. There are two main ways that CGT relief may be available for segregated current pension assets supporting a TRIS:

- Members of funds using the segregated method may receive TRISs during the 2016-17 income year that continue past 1 July 2017 and the TRISs will not be in the retirement phase from that date. That is, the value of the interest supporting the TRISs will not be transferred to the accumulation phase before 1 July 2017. The cessation time is extended to the start of 1 July 2017 for CGT assets supporting such TRISs, which reflects that CGT relief is intended to apply to this situation.^{22A} To determine if segregated current pension assets support TRISs during the pre-commencement period, an approach that applies the CGT relief to the proportion of the segregated current pension asset pool supporting TRIS interests is acceptable.^{22B}
- A member may discontinue all or part of their TRIS during the pre-commencement period by commuting value from the interest supporting the TRIS to an accumulation phase interest. CGT relief may be available for assets that cease to be segregated current pension assets during the pre-commencement period as a result of such a commutation.

- (b) After the last dot point; insert paragraph:

^{22A} Subparagraph 294-110(1)(b)(ii) of the IT(TP)A 1997. All of the other conditions in paragraph 21 would also need to be satisfied for CGT relief to be available.

^{22B} Refer to the EM associated with the amending Act, at paragraph 1.141.

22B. A member of a fund may decide to discontinue their TRIS, transfer the entire value supporting the TRIS back to the accumulation phase in order to add assets to increase the value of the original TRIS, and commence another TRIS within the pre-commencement period with a higher value. It is noted that capital cannot be added to an existing pension interest^{22C} so therefore, commutation of the original TRIS back to accumulation phase is required in order to facilitate the overall increase in capital of supporting a TRIS. In such a case, CGT relief will only be available to assets that were segregated current pension assets supporting the original TRIS, and relief will only apply when the original TRIS is discontinued (provided all of the other conditions in paragraph 21 of this Guideline are satisfied). Despite the new TRIS continuing past 1 July 2017, the additional assets that support the increase to the capital supporting the TRIS are not eligible for CGT relief because those assets were not segregated current pension assets at the start of the pre-commencement period.^{22D}

29. Paragraph 24

After the paragraph; insert (including footnote 23B):

24AA. A pooled superannuation trust is not entitled to CGT relief under the conditions for complying superannuation funds with segregated current pension assets in section 294-110 of the IT(TP)A 1997.^{23B} Instead, a pooled superannuation trust must meet the conditions in section 294-125 to qualify for CGT relief.

30. Footnote 27

Omit 'Subsection'; substitute 'Paragraph'.

31. Footnote 28

Omit footnote; substitute 'The cessation time under subparagraph 294-110(1)(b)(i) of the IT(TP)A 1997.'

32. Footnote 30

Omit footnote; substitute 'As at the date of this revised Guideline, there were no regulations made, pursuant to subsection 295-390(7) of the ITAA 1997, removing the requirement to obtain an actuarial certificate in certain circumstances under the proportionate method. The *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017* (registered on 27 March 2017) did not proceed with a previously proposed regulation which would have had this effect.'

33. Paragraph 38

After 'If a' in the first sentence; insert 'complying superannuation'.

^{22C} Subparagraph 1.06(1)(a)(i) of the *Superannuation Industry (Supervision) Regulations 1994*.

^{22D} Paragraph 294-110(1)(a).

^{23B} This is because the condition in paragraph 294-110(1)(d) of the IT(TP)A 1997 is not satisfied.

34. Paragraph 41

Insert paragraph:

41AA. A member of a fund that uses the proportionate method, and continues to use the proportionate method post 1 July 2017, may discontinue their TRIS, transfer the value supporting it back to the accumulation phase in order to add assets to the original TRIS, and commence another TRIS with a larger value within the pre-commencement period. CGT relief may be available for all of the fund's assets provided the other conditions in paragraph 38 of this Guideline are satisfied. CGT relief will only apply once, immediately before 1 July 2017, and will not separately apply when the original TRIS is discontinued.

35. Paragraph 41F

After the paragraph (including footnotes 32B, 32C and 32D); insert:

Pooled superannuation trusts

41G. A pooled superannuation trust may choose CGT relief for a CGT asset if all of the following conditions are satisfied:^{32B}

- the trust is a pooled superannuation trust throughout the pre-commencement period, and held the asset throughout that period
- for the 2016-17 income year, *either* of the following exceeds zero for the trust:
 - (i) the exempt income proportion under the proportionate method for such trusts,^{32C} being:

(the average number of units in the trust during the income year that are segregated current pension assets of unitholders that are complying superannuation funds)

(average number of units in the trust during the income year)
 - (ii) the exempt income percentage under the alternative exemption method, if chosen

the percentage of the trust's assessable income that would have been exempt income under the segregated or proportionate methods,^{32D} if it had been derived instead by the trust's unitholder's in proportion to their holdings
- the trustee chooses for CGT relief to apply to the asset (in the manner discussed in paragraphs 13 to 16 of this Guideline).

^{32B} Subsections 294-125(1) and 294-125(2) of the IT(TP)A 1997.

^{32C} Subsection 295-400(1) of the ITAA 1997

^{32D} Refer to sections 295-385 or 295-390 of the ITAA 1997 respectively

36. Paragraph 42

After 'funds'; insert 'and pooled superannuation trusts'.

37. Paragraph 49

After the last sentence; insert footnote 37AA:

^{37AA} For the avoidance of doubt, the actions contemplated in paragraphs 22B and 41AA, where a TRIS is discontinued in order to add to the assets already supporting the TRIS and a new TRIS commenced within the pre-commencement period do not of themselves exhibit contrivance of the kind that might attract the application of Part IVA.

38. Paragraph 51

Omit paragraph; substitute:

51. If CGT relief is chosen, there is a deemed sale by a trustee of the relevant CGT asset for market value consideration. The sale occurs (except for pooled superannuation trusts):

- (i) immediately before the cessation time (refer to paragraph 21 of this Guideline) for an asset that ceased being a segregated current pension asset either:
 - (a) in the pre-commencement period, or^{37B}
 - (b) at the start of 1 July 2017 because it supports a TRIS. This means that for CGT assets supporting TRISs continuing past 1 July 2017, the deemed sale occurs at the end of, but still on, 30 June 2017,^{37C} or
- (ii) 'immediately before' 1 July 2017, for funds continuing to use the proportionate method in the pre-commencement period. The deemed sale time in this circumstance is at the end of, but still on, 30 June 2017.³⁸ (Note that the circumstances described in paragraphs 22B and 41AA of this Guideline may alter this general case.)

51A. For pooled superannuation trusts, the deemed disposal time is immediately before 1 July 2017, which is at the end of, but still on, 30 June 2017.^{38A}

39. Footnote 38

Omit footnote; substitute:

³⁸ Paragraphs 294-115(3)(a) and 294-125(3)(a) of the IT(TP)A 1997. The effect is that any deemed capital gain or loss arises in the 2016-17 income year, unless deferred in the case of a capital gain. Also refer to paragraph 3.345 of the EM to the Bill.

^{37B} Subparagraph 294-110(1)(b)(i) and paragraph 294-110(3)(a) of the IT(TP)A 1997.

^{37C} Subparagraph 294-110(1)(b)(ii) and paragraph 294-110(3)(a) of the IT(TP)A 1997. The very end of 30 June 2017 is 'immediately before' the cessation time that occurs at the start of 1 July 2017 for CGT assets supporting continuing TRISs. The effect is that any exempt, deemed capital gain or loss arises in the 2016-17 income year. Refer to paragraph 1.143 of the EM associated with the amending Act.

^{38A} Paragraph 294-125(3)(a) of the IT(TP)A 1997.

40. Paragraph 54

Omit all occurrences of 'fund'; substitute 'trustee'.

41. Paragraph 55

Omit paragraph; substitute (including footnote 40B):

55. The trustee is deemed to have purchased the asset again for market value consideration. The time of the repurchase is:

- (i) at the cessation time, for an asset that ceased being a segregated current pension asset either:
 - (a) in the pre-commencement period^{40A}, or
 - (b) at the start of 1 July 2017 because it supports a TRIS.

This means that for CGT assets supporting TRISs continuing past 1 July 2017, the deemed repurchase occurs on 1 July 2017,^{40B} or

- (ii) 'just after' the deemed sale time, where the fund uses the proportionate method in the pre-commencement period, or for pooled superannuation trusts. The deemed repurchase time in this circumstance is still on 30 June 2017.

42. Footnote 40A

Omit footnote; substitute:

^{40A} Subparagraph 294-110(1)(b)(i) and subparagraph 294-110(3)(b)(i) of the IT(TP)A 1997.

43. Paragraph 56

Omit the last two sentences; substitute 'The deemed repurchase will involve a change in ownership of the relevant CGT asset from the other entity back to the complying superannuation fund or pooled superannuation trust at the repurchase time. The repurchase is also treated as being 'for' market value 'consideration', so the trustee is taken to have provided value to the other entity in connection with the repurchase.

44. Footnote 41A

Omit footnote; substitute:

^{41A} Paragraphs 294-110(3)(b), 294-115(3)(b) and 294-125(3)(b) of the IT(TP)A 1997.

^{40B} Subparagraph 294-110(1)(b)(ii) and paragraph 294-110(3)(b) of the IT(TP)A 1997. Refer to paragraph 1.144 of the EM associated with the amending Act.

45. Paragraph 58

- (a) Omit first sentence; substitute 'The deemed repurchase results in the complying superannuation fund or pooled superannuation trust becoming the owner of the asset 'again' at the repurchase time, for the purposes of the CGT regime.'
- (b) In the second sentence, after 'fund'; insert 'or trust'.

46. Paragraph 59

Omit 'fund's'; substitute 'trustee's'.

47. Paragraph 60

- (a) Omit 'funds'; substitute 'trustees'.
- (b) Omit 'fund'; substitute 'trustee'.

48. Paragraph 61

Omit 'fund'; substitute 'trustee'.

49. Paragraph 63

Omit paragraph; substitute:

63. A deemed capital loss may be utilised in the 2016-17 year by complying superannuation funds (that continue using the proportionate method in the pre-commencement period) or pooled superannuation trusts, if a trustee also has capital gains available, otherwise it is carried forward to a future income year.⁴⁷

50. Paragraph 66

- (a) Omit 'fund's'; substitute 'trustee's'
- (b) Omit 'fund'; substitute 'trustee'.

51. Paragraph 67

Omit paragraph; substitute:

67. The options available to complying superannuation funds when considering CGT relief depend on whether a CGT asset stops being a segregated current pension asset at the cessation time (refer to paragraph 21 of this Guideline), or the fund continues using the proportionate method in the pre-commencement period.'

52. Footnote 50A

Omit 'Subparagraphs'; substitute 'Paragraphs'.

53. Paragraph 68

After paragraph; insert:

68A. The options available to pooled superannuation trusts when considering CGT relief are the same as those applying to complying superannuation funds that continue using the proportionate method in the pre-commencement period. However, the capital gains arising, if CGT relief is chosen, may differ for each entity. This is because complying superannuation funds that continue using the proportionate method, and pooled superannuation trusts, may have different *relevant exempt proportions* for an income year.

68B. For the purposes of paragraphs 38 to 41G of this Guideline, the '**relevant exempt proportion**' for an income year is:

- (i) for a complying superannuation fund – its exempt proportion under subsection 295-390(3) of the ITAA 1997 for the year (that is, the average value of the fund's current pension liabilities, divided by the average value of its superannuation liabilities, for the year), or
- (ii) for a pooled superannuation trust – the exempt proportion under subsection 295-400(1) of the ITAA 1997, or the exempt percentage (if chosen) under subsection 295-400(4) of the ITAA 1997, for the year (refer to paragraph 41 G of this Guideline for an outline of how to calculate these amounts).

54. Paragraph 69

Omit heading; substitute '*Asset stops being a segregated current pension asset of a complying superannuation fund at the cessation time*'.

55. Paragraph 70

Omit all occurrences of 'fund' from paragraph; substitute 'trustee' (including heading).

56. Paragraph 71

Omit paragraph; substitute:

71 This results in a deemed sale of the CGT asset for its market value immediately before the time the asset stopped being a segregated current pension asset either:

- (i) In the pre-commencement period, or
- (ii) At the start of 1 July 2107 because the asset supports a TRIS.

Either of these times is a '**cessation time**'. CGT event A1 happens as a result of the deemed sale at the time of the sale.

57. Paragraph 73

After 'time'; insert '(refer to paragraph 21 of this Guideline)'.

58. Paragraph 75

Omit 'during the pre commencement period'; substitute 'at the cessation time'.

59. Paragraph 76

Omit third sentence; substitute 'But, if there is a net capital gain remaining at Step 5, that amount is reduced by the fund's *relevant exempt proportion* under subsection 295-390(3) of the ITAA 1997⁵³ for the CGT event year (refer to paragraph 68B of this Guideline), to determine the assessable amount for that year'.

60. Paragraph 77

In heading, omit '*fund*'; substitute '*trustee*'.

61. Paragraph 80

Omit paragraph; substitute:

80. If the fund starts having to use the proportionate method in the pre-commencement period, the only difference from paragraph 79 of this Guideline is that the Step 5 amount is reduced by the fund's *relevant exempt proportion* for the CGT event year, to determine the assessable amount for that year. Any net capital loss is not proportioned at Step 5 before it is carried forward.

62. Paragraph 81

(a) Omit heading; substitute:

Complying superannuation fund continues using the proportionate method in the pre-commencement period, or pooled superannuation trust

(b) Omit paragraph; substitute:

81. A complying superannuation fund that continues using the proportionate method throughout the pre-commencement period, or a pooled superannuation trust has three options available when choosing to apply CGT relief. To qualify, the trustee must satisfy the conditions in paragraphs 38 or 41G of this Guideline, as applicable.

63. Paragraph 82

Omit 'fund'; substitute 'trustee' (including heading).

64. Paragraph 83

Omit fourth sentence; substitute 'If there is a net capital gain remaining at Step 5, that amount is reduced by the *relevant exempt proportion* for the 2016-17 income year (refer to paragraph 68B of this Guideline), to determine the assessable amount.'

65. Paragraph 84

Omit 'fund'; substitute 'trustee'.

66. Paragraph 86

(a) Omit second sentence; substitute 'Any net capital gain remaining at Step 5 is reduced by the *relevant exempt proportion* for the CGT event year (refer to paragraph 68B of this Guideline), to determine the assessable amount for that year.'

(b) After paragraph; insert:

86A. A pooled superannuation trust may have a *relevant exempt proportion* for the 2016–17 income year (refer to paragraph 68B of this Guideline) of 100% (for example, because all of the units owned by complying superannuation funds in the trust are segregated current pension assets of the funds at all times). In this case, the trustee of the pooled superannuation trust may choose option one for any deemed capital gains arising because CGT relief is chosen. The effect of making this choice for the 2016-17 income year is that no amount is included in the trust's assessable income in respect of the deemed capital gain for that year. In addition, the trustee would not be required to make another choice to disregard and defer the deemed capital gain under section 294-130 of the IT(TP)A 1997, noting that such an additional choice would be redundant given that the deferred capital gain would be nil.

67. Paragraph 87

Omit 'fund'; substitute 'trustee' (including heading).

68. Paragraph 91

(a) Omit 'fund'; substitute 'trustee'.

(b) After paragraph; insert:

91A. A trustee of a pooled superannuation trust with a *relevant exempt proportion* for the 2016–17 income year (refer to paragraph 68B of this Guideline) of 100% should choose option one, and not option two, for any deemed capital gains under the CGT relief provisions (refer to paragraph 86A of this Guideline).

69. Footnote 56

Omit footnote; substitute:

⁵⁶ Refer to subsections 294-120(4), 294-120(7), 294-130(4) and 294-130(7) of the IT(TP)A 1997.

70. Paragraphs 92 to 96

Omit 'fund'; substitute 'trustee'.

71. Paragraph 97

Omit paragraph; substitute:

97 The trustee reduces the net capital gain remaining at Step 5 of the method statement, for the *relevant exempt proportion* for the 2016-17 income year

72. Paragraph 98

Omit 'funds's'; substitute 'trustee's'.

73. Footnote 57

Omit footnote; substitute:

⁵⁷ Subsections 294-120(5) and 294-130(5) of the IT(TP)A 1997.

74. Paragraph 99

After '2017'; insert a dash.

75. Paragraph 100 and 101

Omit all occurrences of 'fund'; substitute 'trustee'.

76. Paragraph 102

Omit paragraph; substitute (including footnote 58A):

102 The trustee should add the deferred capital gain on assets from the 2016-17 year at Step 1 for the realisation year, but that amount is not a discount capital gain when applying the method statement for the realisation year.⁵⁸ The amount of capital gains included at Step 1 of the method statement is reduced by capital losses made in the realisation year, and then carried forward capital losses from previous years under Step 2.^{58A}

77. Paragraph 103

Omit paragraph; substitute:

^{58A} Method statement at subsection 102-5(1) of the ITAA 1997.

103 The trustee reduces the net capital gain remaining at Step 5 of the method statement, for the *relevant exempt proportion* for the realisation year (refer to paragraph 68B of this Guideline). However, the trustee cannot reduce the Step 5 net capital gain to the extent that a net capital gain is increased, or is created, because the deferred capital gain was recognised for the year.⁵⁹

78. Paragraph 104

Omit 'fund'; substitute 'trustee' (including heading).

79. Paragraph 106

Omit second sentence; substitute 'Any net capital gain remaining at Step 5 will be reduced by the *relevant exempt proportion* for the event year (refer to paragraph 68B of this Guideline) to determine the assessable amount for that year.'

This Addendum applies on and from 20 December 2017.

Commissioner of Taxation

20 December 2017

ATO references

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