# *TD 97/D2 - Income tax: what is the method for calculating the capital value of an allocated pension for the purposes of the reasonable benefit limits?*



This document has been finalised by TD 97/21.

**Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.**

# Draft Taxation Determination

## Income tax: what is the method for calculating the capital value of an allocated pension for the purposes of the reasonable benefit limits?

1. Under subsection 140ZO(2) of the *Income Tax Assessment Act 1936* (ITAA), the Commissioner must determine in writing a method for calculating the **capital value** of a superannuation pension that is not payable for life. An allocated pension paid from a superannuation fund comes within this subsection as it is not payable for life.

2. The formula used to determine the capital value of an allocated pension is:

**Capital value of the allocated pension = PP - (UC + CC + IC)**

where:

**PP** is the purchase price of the allocated pension and is calculated as the amount in the person's account on the commencement day of the allocated pension. The commencement day is defined in section 140C as the first day of the period to which the first payment of the pension relates.

**UC** is the amount of undeducted contributions as defined in subsection 27A(1).

**CC** is the concessional component as defined in subsection 27A(1).

**IC** is the amount of the post-June 1994 invalidity component as defined in subsection 27A(1).

3. This value is used to determine whether the allocated pension paid to a person is within the person's reasonable benefit limits (RBLs). Generally, allocated pensions are **rebatable superannuation pensions** (as defined in section 159SJ) and in terms of paragraph 140ZK(a), the RBL amount of a rebatable superannuation pension is the **capital value** of the pension.

4. The compulsory characteristics of an allocated pension (including the calculation of the maximum and minimum amounts payable) are set out in subregulation 1.06(4) and Schedule 1A of the Superannuation Industry (Supervision) Regulations 1993 (SISR). In addition, as an allocated pension will not satisfy all of the requirements of the pension and annuity standards in regulation 53J of the Income Tax Regulations and subregulations 1.05(2) and 1.06(2) of SISR, it will be subject to the recipient's lump sum RBL.

***Example***

*Harry has an eligible termination payment (ETP) of $200,000 which includes undeducted contributions of $50,000, concessional component of $10,000 and a post-June 1994 invalidity component of $5,000.*

*Harry purchases an allocated pension with his ETP. The capital value of the pension is:*

*Capital Value = $200,000 - ($50,000 + $10,000 + $5,000)*

*= $135,000*

*As Harry's allocated pension is a rebatable superannuation pension, the RBL amount of his pension is the capital value. Therefore, $135,000 will be used to determine whether the payment is in excess of Harry's lump sum RBL.*

**Commissioner of Taxation**
16 April 1997

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: allocated pension; capital value of allocated pension; reasonable benefit limits; rebatable superannuation pensions

Legislative Ref: ITAA 27A(1); ITAA 140C; ITAA 140ZK(a); ITAA 140ZO(2); ITAA 159SJ; ITR 53J; SISR 1.05(2); SISR 1.06(2); SISR 1.06(4); SISR Schedule 1A

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