



Notice of Withdrawal

Taxation Determination

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

Taxation Determination TD 2013/13 is withdrawn with effect from today.

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 As a result of these law changes, TD 2013/13 is no longer current and is withdrawn.

TD 2013/13

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

Commissioner of Taxation

13 March 2019

ATO references

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