New transfer balance cap for retirement phase accounts

Towards a sustainable superannuation system

In the 2016–17 Budget, the government announced a number of changes designed to improve the sustainability, flexibility and integrity of Australia's superannuation system. One of the changes was the introduction of a new transfer balance cap for retirement phase accounts, such as account-based income streams and excluding transition-to-retirement income streams.

This is general information and examples. It may omit details that could be significant in your personal circumstances.

This information is for people who:

- **are retired and have $1.6 million or more in their retirement phase super accounts**
- **are making plans for how they will use their accumulated super when they retire.**

What is the transfer balance cap?

From 1 July 2017, there is a limit on how much of your super you can transfer from your accumulation super account(s) to tax-free 'retirement phase' account(s) to receive your pension income.

This limit is known as the 'transfer balance cap'. The cap relates to the amount you transfer and hold in retirement phase accounts. There is no limit on the amount of money you can have in your accumulation super account(s).

The transfer balance cap will start at $1.6 million, and will be indexed in line with the consumer price index (CPI), rounded down to the nearest $100,000.

The amount of indexation you will be entitled to will be calculated proportionally based on your available cap space. Only the amount of remaining cap space is indexed.

You will have your own personal transfer balance cap to keep track of any indexation you are entitled to. If you use all of your cap or go over it, you will not be entitled to indexation. You will be able to make multiple transfers into retirement phase accounts, as long as you have available cap space.

Any retirement phase income streams commenced before 1 July 2017 will be counted towards the transfer balance cap on 1 July 2017. New pension accounts (commenced from 1 July 2017) will be counted towards the transfer balance cap when they commence.

If your pension account(s) grow over time (through investment earnings) to more than $1.6 million, you won't exceed your cap. If your pension account(s) go down over time, you can't 'top it up' if you have already used your cap.

If you exceed your transfer balance cap, you may have to remove the excess from one or more retirement phase income streams, and pay tax on notional earnings related to that excess.

Different tax rules will apply if you receive certain defined benefit income streams known as 'capped defined benefit income stream', as you usually can't transfer or remove excess amounts from these income streams. For more information refer to our Guidance Note titled 'New Transfer Balance Cap – Defined Benefits'.

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What counts towards your cap?

If you have more than one super pension account in the retirement phase, the cap applies to the combined amount in all of those pension accounts.

The value of other pensions or annuities must also be counted towards your cap – for example:

- a super pension you are receiving, or start to receive, from a deceased spouse's super account
- pension income you are receiving from a former spouse's super pension as part of a family court settlement.

Transition-to-retirement income streams will not count towards your transfer balance cap. From 1 July 2017, a fund will no longer receive a tax exemption for earnings on assets supporting these income streams.

To find out how much of the cap is still available to you, subtract the value of any personal injury structured settlement contributions you've made to super from the amounts that count towards your cap.

Special transfer balance cap rules also apply to child death benefit beneficiaries.

Table 1: What you need to do before 30 June 2017

Situation	Action
If you are already (before 1 July 2017) receiving income from a super income stream	Check with your super fund(s) whether the total value of your retirement phase interest(s) is likely to be more than $1.6 million on 1 July 2017. If it is over, you can: - transfer the excess back into an accumulation account, or - withdraw the excess from super. If, on 1 July 2017, you are over your $1.6 million cap by less than $100,000 and you remove this excess by 31 December 2017, you won't have to pay excess transfer balance tax or account for notional earnings on the excess.
If you receive a capped defined benefit super income stream	You will need to contact your super fund(s) to determine the value of your pension. If your income exceeds the defined benefit income cap ($100,000 per year in 2017–18), you may have to pay tax on the payments you receive. Your fund may withhold amounts from your payments (PAYG withholding). If you are receiving a combination of capped defined benefit income streams and account-based income streams, you may need to transfer part or all of the account-based income stream to stay under the transfer balance cap.

Transitional CGT relief

If you have to move assets out of your retirement phase account back into your accumulation account to be under the cap before 1 July 2017, capital gains tax (CGT) relief may be available to your super fund to reset the cost base of these assets. CGT relief is available if your fund holds the assets throughout the period from 9 November 2016 to 30 June 2017. For further information refer to our Guidance Note titled 'Transitional CGT relief to comply with the new transfer balance cap or change to the treatment of transition-to-retirement income streams'.

Table 2: What you need to do from 1 July 2017

Situation	Action
If you retire and commence a new income stream from your super	Your transfer balance account begins on the day you transfer super assets into a new retirement phase account to start a pension. You should not transfer more than $1.6 million.
If you are already (prior to 1 July 2017) receiving an income stream from your super	Your transfer balance account begins on 1 July 2017 and you need to ensure you start under the cap and don't subsequently exceed the cap by transferring too much more in. If, on 1 July 2017, you are over your $1.6 million cap by less than $100,000 and you remove this excess by 31 December 2017, then you will not have to pay excess transfer balance tax or account for notional earnings on the excess.
If you are receiving certain capped defined benefit income streams	If your income exceeds the defined benefit income cap ($100,000 per year in 2017–18), you will need to lodge a tax return if you are over 60, and may have to pay tax on the payments you receive. Your fund may withhold amounts from your payments (PAYG withholding).
When you are receiving an income stream from your super	Keep track of your transfer balance account to make sure you do not exceed the cap. You need to manage your transfers into retirement phase. For example: - If you have available cap space, then you can transfer more (for example, by commencing a new pension) - if you have no cap space, you cannot transfer more into retirement phase.

Table 3: Examples

Main points	Example
- 60 years old - About to retire - Accumulated super balance is $1.5 million	Ben plans to retire during 2017–18. The new transfer balance cap will not affect Ben, as the value of super interests that he will transfer to support his new income stream will be within the cap. If Ben starts an account-based pension valued at $1.5 million, he will still have $100,000 available cap space. Even if the value of Ben's pension grew due to investment earnings, the amount of available cap space ($100,000) would not change.
- 65 years old - Retired - $2 million in retirement phase account	Agnes is retired and has $2 million in her account-based pension account (being a retirement phase account). Before 1 July 2017, she decides to transfer the $400,000 that is in excess of the $1.6 million cap into her accumulation account to ensure she is under her cap. Her fund transfers $400,000 in shares to support her accumulation account. The fund can elect to apply CGT relief to the transfer to reset the cost base of the shares. CGT relief is available if the fund held the shares throughout the period from 9 November 2016 to 30 June 2017.
- 62 years old - About to retire - Accumulated super balance is $2 million	Sue retires on 1 November 2017 and will receive an account-based pension. Her accumulated super balance is $2 million. Sue can transfer $1.6 million into a retirement phase account to support her pension income stream without exceeding her transfer balance cap. She can keep the remaining $400,000 in an accumulation account. Alternatively, Sue may choose to remove the excess $400,000 amount from super and receive it as a cash lump sum. While Sue will not have the ability to make additional contributions into her retirement income account, her balance will be allowed to fluctuate due to earnings growth or draw-down of pension payments.

For more information

- **ato.gov.au/superchanges**
- Law Companion Guidelines are also available on a range of topics at **ato.gov.au/law**

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