
TREASURY LAWS AMENDMENT (MEASURES FOR A LATER SITTING)
BILL 2018 – MISCELLANEOUS AMENDMENTS – TRANSITION TO
RETIREMENT INCOME STREAMS

EXPOSURE DRAFT EXPLANATORY MATERIALS

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Glossary

The following abbreviations and acronyms are used throughout this explanatory memorandum.

<i>Abbreviation</i>	<i>Definition</i>
ITAA 1997	<i>Income Tax Assessment Act 1997</i>
SIS Regs 1994	<i>Superannuation Industry (Supervision) Regulations 1994</i>

Chapter 1

Reversionary transition to retirement income streams

Outline of chapter

- 1.1 The amendments in this Bill ensure that reversionary transition to retirement income streams can be paid to dependant beneficiaries, irrespective of whether they satisfy a condition of release.
- 1.2 All legislative references in this Chapter are to the ITAA 1997 unless otherwise stated.

Context of amendments

- 1.3 Certain superannuation income streams can be paid to an individual who has reached preservation age but has not yet retired.
- 1.4 While these superannuation income streams are often collectively referred to as ‘transition to retirement income streams’ (TRISs), a TRIS is technically a particular type of such an income stream (other types include non-commutable allocated annuities and non-commutable allocated pensions and transition to retirement pensions). For simplicity, all such superannuation income streams are referred to in this Chapter as ‘TRISs’.
- 1.5 Once a TRIS commences, it retains its character as a TRIS even after the recipient satisfies a general condition of release.
- 1.6 On the death of a recipient, a TRIS can only revert to a dependant beneficiary who satisfies a condition of release. This is because a member’s superannuation interests can only be paid as a superannuation income stream if the income stream is in the retirement phase and paid to a dependant beneficiary (see regulation 6.21 of the SIS Regs for the rules about compulsory cashing of benefits on death).
- 1.7 While most superannuation income streams are in the retirement phase when superannuation income stream benefits are paid from the interest, a TRIS also requires that the person that receives the payment, including a reversionary beneficiary, satisfies a condition of release (see subsection 307-80(3) for the rules about when a TRIS is in the retirement phase).
- 1.8 However, even where a reversionary TRIS currently cannot be paid for that reason, a deceased member’s superannuation interests can

still be paid to a dependant beneficiary as a new income stream without them satisfying a condition of release in their own right. This can occur when an existing income stream (including a TRIS) ceases on death and the underlying interests are paid out as a new income stream.

1.9 The inability for a TRIS to automatically revert in this situation has resulted in administrative difficulties for funds and potentially requires recently bereaved dependant beneficiaries to engage with their superannuation quickly.

Detailed explanation of new law

1.10 The amendments modify the rules that determine when a TRIS is in the retirement phase to ensure that a reversionary TRIS can always be paid to a reversionary beneficiary. [*Schedule 1, item 1, subsection 307-80(3)*]

1.11 The change will allow the original TRIS to be paid to the dependant beneficiary rather than having to be commuted and a new income stream started from the deceased member's underlying superannuation interests. This approach is consistent with the treatment of other superannuation income streams, which do not require the reversionary beneficiary to satisfy a condition of release.

1.12 A reversionary beneficiary is a beneficiary who receives a benefit from a superannuation income stream that continues to be paid after the death of the primary beneficiary (that is, the income stream does not cease on death). The term 'reversionary beneficiary' takes on its ordinary meaning, consistent with the approach in other provisions (such as the transfer balance cap 'credit' rules in item 1 in the table to subsection 294-25(1)).

1.13 Although covered explicitly by the amendments, a reversionary TRIS can only be paid to a reversionary beneficiary who is also a dependant beneficiary of the deceased. This additional requirement arises because of the compulsory cashing rules in regulation 6.21 of the SIS Regs, which restricts the payment of a deceased member's superannuation interests through a pension or an annuity to dependant beneficiaries.

1.14 This change applies in the same way as any provision that refers to the retirement phase definition applies. [*Schedule 1, item 2*]

1.15 In practice, the amendment largely applies from 1 July 2017, being the time from which the retirement phase definition generally became relevant. The retrospective application of the amendment is appropriate as it is wholly beneficial to superannuation providers and

reversionary beneficiaries, who will have a greater range of options in dealing with the superannuation interests of deceased members.