DGL ACCOUNTANTS

What is the Transfer Balance Cap

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From 1 July 2017, a transfer balance cap of $1.6 million (indexed in $100,000 increments in line with CPI) on the total amount of accumulated superannuation a pensioner can apply to a pension in retirement phase.

The earnings on assets supporting the trustee's liability to pay a pension to a pensioner are tax free (ie, exempt from income tax — see heading 9.6). This proposed measure effectively caps the size of the income tax exemption by capping the amount of capital that can fund a pension.

There will, however, be no restrictions placed on the subsequent earnings derived on pension assets that have been tested against the member's transfer balance cap. Therefore, the tax free status of the earnings derived from assets supporting a pension will not be limited.

Amounts in excess of the transfer balance cap can be maintained in accumulation mode. Therefore, pensioners who have superannuation benefits more than $1.6 million can retain their superannuation benefits in accumulation mode. Generally, earnings on superannuation benefits in accumulation mode are taxed at a concessional rate of 15%, with capital gains on assets held for more than 12 months in respect of which the one-third CGT discount applies taxed at 10%.

Pensioners who are in receipt of a pension on 1 July 2017 will have a personal transfer balance cap of $1.6 million.

Pensioners already in the retirement phase with balances above $1.6 million will be required to reduce their pension account balance to $1.6 million by 1 July 2017.

There will be no penalty tax payable, however, if the pensioner's transfer balance account does not exceed $1.7 million for a pension that was payable prior to 1 July 2017 provided the pensioner's transfer balance account is reduced to $1.6 million by 31 December 2017. A pensioner who exceeds their transfer balance cap will be denied any further indexation of their unused cap in the future.

A member who commences a pension after 30 June 2017 obtains a transfer balance cap when they first become entitled to receive a pension from the retirement phase (eg, when they retire from gainful employment after attaining age 60 or attain age 65). Any remaining unused amount of a pensioner's transfer balance cap will be subject to proportionate indexation unless they have exceeded their transfer balance cap. Broadly, this means that the remaining proportion of the pensioner's transfer balance cap only will be indexed. Thus, if a pensioner has $1.6 million in retirement phase as at 1 July 2017, the pensioner will not receive the benefit of indexation unless they subsequently commute all or part of their pension.

The balance cap remaining for a pensioner seeking to commence more than one pension will be determined by apportionment.

A tax on amounts that are transferred in excess of the $1.6 million cap (including earnings on these excess transferred amounts) will be applied. Excess amounts will need to be transferred to accumulation mode or withdrawn, and taxed on the notional earnings on any amount in excess of $1.6 million transfer balance cap. Notional earnings accrue at the general interest change rate (approximately 9% p.a. calculated daily on any excess amount).

Pensioners who exceed their personal transfer balance cap will be required to commute their pension (in part or in full) back to accumulation mode to the extent they have an excess amount to avoid paying an excess transfer balance tax. This tax will apply to notional earnings on amounts that exceed the pensioner's transfer balance cap. Notional earnings will be taxed at 15% for FY2018 and 30% for second and subsequent breaches after 1 July 2018.

Transitional CGT relief broadly enables the cost base of assets to be reset to market value where assets are required to be transferred from retirement phase to accumulation mode to comply with the transfer balance cap measures prior 1 July 2017. An election can be made on an asset by asset basis and must be completed in an approved form prior to the lodgement of the fund's FY2017 income tax return.

The transfer balance cap provisions are complex and expert advice should be obtained. In particular, if the pensioner is receiving multiple pensions or defined benefit pensions, the pensioner should obtain advice before taking any action in relation to their superannuation benefits.