

EXCESS MINIMUM PENSION PAYMENTS STRATEGY

FAQ

2025-26

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Q1. What is the Strategy?

The strategy involves ensuring that any payment from a superannuation fund for a member who is in retirement phase which is made after the minimum payment requirement has been satisfied is to be treated as:

- (a) if the member has an accumulation account – as a payment from the accumulation account; or
- (b) if the member has no accumulation account (either because they never had one or the accumulation account has been exhausted by previous withdrawals) or there are insufficient funds in the accumulation account – as a partial commutation of the pension (to the extent that the amount could not be paid from the accumulation account).

Q2. What is the benefit of the Strategy?

There are two benefits from applying this strategy: the first is the maximisation of super capital to which the earnings tax exemption applies; and the second is the generation of transfer balance debits.

The first benefit is that, to the extent that it is possible to do so, any amounts paid after the minimum payment requirement has been satisfied are taken from the accumulation account and not the pension account. This has the effect of maximising the amount of super capital which is benefiting from the pension earnings tax exemption.

The second benefit arises if there is no accumulation account or it is insufficient to pay the amount. To the extent that the amount could not be paid from the accumulation account, the balance of an amount paid after the minimum payment requirement has been satisfied will be treated as arising from a partial commutation of the pension. As the pension has been partially commuted, a transfer balance debit will be generated which will reduce the transfer balance account of the member. A reduction in the transfer balance account of the member allows the possibility that new or other super capital can be transferred to retirement phase and thereby enjoy the earnings tax exemption.

Q3. Why does the Strategy work?

The strategy works because additional payments (ie payments made after the minimum payment requirement has been satisfied) are taken from the accumulation account or, if the accumulation account has been exhausted, then as partial commutations of the pension.

Additionally, any additional payments which are taken from the pension account (after the minimum payment requirement has been satisfied) are treated as (partial) commutation payments. Commutation payments (whether from a full or partial commutation) are treated as transfer balance account debits.

Payments from an accumulation account and normal pension payments are not treated as transfer balance account debits.

Q4. What is an example of the Strategy?

The following is an example of the Strategy.

James commenced his pension on 1 July 2025 with an initial pension balance of \$2m.

As James has not previously commenced a pension, the ATO will create a transfer balance account to record the amount of super capital which has been transferred to retirement phase. The initial balance will be \$2m and his personal transfer balance cap will be \$2m. As James has completely used up his transfer balance cap space, his personal transfer balance cap will not be entitled to benefit from any subsequent indexation increase.

The minimum payment requirement for the pension for the 2025/26 financial year is \$100,000 (as James has an attained age of 66 and the drawdown rate is 5%).

James wishes to withdraw \$180,000 from his super during the 2025/26 financial year.

James has two options:

- (a) Option A - simply ensure pension payments of \$180,000 are made to him during the 2025/26 financial year; or
- (b) Option B - have only \$100,000 of pension payments made during the 2025/26 financial year (being the minimum statutory amount payable to the member in this financial year) and commute the pension to generate a commutation lump sum of \$80,000.

While both options provide James with the desired cash, they do not have the same impact on his transfer balance cap.

Option A – the super capital in retirement phase has been reduced by \$180,000 and cannot be replenished by other super capital as pension payments (even pension payments in excess of the minimum payment requirement) do not generate a transfer balance debit: consequently, no transfer balance cap space has been created.

Option B – the super capital in retirement phase has also been reduced by \$180,000 (\$100,000 by way of pension payments and \$80,000 by way of partial commutation of the pension). However, the \$80,000 partial commutation has generated a \$80,000 transfer balance debit. Consequently, James' transfer balance account will be \$1,920,000 (ie reduced by \$80,000) and James is now entitled to transfer up to \$80,000 from other super capital to the pension account.

The result of the two options can be summarised in the following table:

Option	Pension Account balance at 1 July 2025	Payments during 2025/26	Pension Account Balance at end of 2025/26	Personal Transfer Balance at 30 June 2026	Transfer Balance Cap Space at 30 June 2026
A	\$2,000,000	\$180,000 pension payments	\$1,820,000	\$2,000,000	Zero
B	\$2,000,000	\$100,000 pension payments \$80,000 commutation payment	\$1,820,000	\$1,920,000 (commutation payment generated a \$80,000 debit)	\$80,000

Q5. What is the benefit of the Strategy if there is no further super capital?

The Strategy is not a “magic pudding” which prevents the reduction in the pension account. However, it does generate transfer balance debits which create “transfer balance cap space” for the member.

Having transfer balance cap space is useful if there is the possibility of moving further capital into the super system. If there is no realistic possibility of moving further capital into the super system, using the Strategy provides theoretical benefits at best.

Q6. Can the Strategy be used if the Member has only a pension account?

Yes. In this case once sufficient payments from the pension account have been made so that the minimum payment requirement has been satisfied, any further payments are treated as arising from the partial commutation of the pension.

As there is no accumulation account, then the further payments cannot be treated as being paid from that account.

Q7. Can the Strategy be used if the Member has both pension and accumulation accounts?

Yes. In this case once sufficient payments from the pension account have been made so that the minimum payment requirement has been satisfied, any further payments are treated as arising from the accumulation account. Once the accumulation account has been exhausted, then the balance of the payments can be treated as partial commutations of the pension account.

Payments from the accumulation account do not generate transfer balance debits. However, having payments made from the accumulation account minimises the reduction in the pension account balance which would otherwise have occurred, thus preserving as much capital on the tax exempt side of the superannuation fund. To the extent, the further payments cannot be made from the accumulation account, they will be made from the

pension account as partial commutations, thereby generating transfer balance debits.

Q8. What is the minimum payment requirement?

Account-based pensions must pay a minimum pension amount in respect of each financial year (also known as 'minimum statutory amount'). The minimum amount will generally change from financial year to financial year as the pension account balance changes and the member's age increases.

The minimum amount is a percentage of the pension account balance as at 1 July each year. The percentage is determined by the member's then attained age at as 1 July. The percentage is prescribed by regulations.

Example

If the member's attained age is 74 and pension account balance is \$600,000 on 1 July 2025, then the minimum pension amount will be 5% of \$600,000; namely \$30,000. Consequently, one or more pension payments which total at least \$30,000 must be paid during the financial year – whether at the start or at the end of the financial year or during the course of the financial year.

The minimum pension amount will have to be re-calculated on 1 July 2026. If the pension account balance is now \$595,000 and the member's attained age is now age 75, the percentage will be 6%. For the 2025/26 financial year the minimum pension amount will be \$35,700 (ie 6% of \$595,000).

The minimum pension amount is adjusted (on a pro-rata basis) if the pension commences part way during a financial year.

Payments from the pension account as a result of a commutation (whether full or partial) do not count towards satisfying the minimum statutory amount.

Q9. Can this Strategy apply to transition to retirement pensions?

This strategy can apply to a transition to retirement pension once the pension is in retirement phase (for example, the member has reached age 65 or is retired for super purposes). Only once a transition to retirement pension is in retirement phase will the pension have a transfer balance account credit (equal to the pension account balance at the time the pension enters retirement phase) and can the pension be commuted (and so has the same attributes as an account-based pension).

Q10. Can this Strategy apply to beneficiary pensions?

A beneficiary pension is a pension which is payable to an individual by reason of the death of the deceased member. When a reversionary pension transfers to a reversionary beneficiary on the death of the member, the pension will become a beneficiary pension. If a death benefit is allocated as a pension (whether by the member pursuant to a binding death benefit or the trustee exercising an allocation power) then the pension will also be a beneficiary pension.

As beneficiary pensions are necessarily account-based pensions, the Strategy can apply to such pensions.

Q11. Can this Strategy apply to child beneficiary pensions?

A child beneficiary pension is a beneficiary pension where the recipient of the pension is the child of the deceased member and the recipient was either under age 18 (or under age 25 and financially dependent on the deceased) when the member died.

Due to the special rules relating to the transfer balance cap of child beneficiary pensions, the Strategy is not applicable to such pensions.

However, if the child beneficiary pension continues to be paid after the recipient attains age 25 (this can only occur if the pension recipient is disabled) then the normal rules relating to the transfer balance cap applies and the Strategy will then apply to the pension.

Q12. Can this Strategy apply to other types of pensions (lifetime pensions, market linked pensions?)

The Strategy cannot apply to the other types of pensions such as lifetime pensions or market linked pensions as these pensions are not commutable and therefore cannot be cashed out.

Q13. Can this Strategy continue to apply to payments made to a reversionary pension following the death of the member?

The terms and conditions applicable to the pension which was payable to the deceased member generally continue to apply to the pension upon the automatic transfer of the pension to a reversionary beneficiary (subject to the terms of the trust deed and the agreement between the member and the trustee in relation to the pension).

Accordingly, the documents implementing the Strategy could be prepared on the basis that the Strategy is to continue following the death of the member until the reversionary beneficiary notifies the trustee otherwise.

Similarly, the documents could also be prepared so that the Strategy terminates upon the death of the member. The reversionary beneficiary may decide to use the Strategy at a later time and could enter into the relevant agreement at that time.

Q14. Does a reversionary beneficiary need to consent to the Strategy?

Subject to the terms of the trust deed and the pension agreement, the consent of the reversionary beneficiary to the Strategy is not generally required but may be so obtained if desired.

Q15. Will the Strategy adversely affect the calculation of the exempt income of the fund?

A lump sum arising from the commutation of a pension is treated as a "superannuation income stream benefit" for taxation purposes where the pension was in retirement phase at the time of the commutation.

Consequently, partially commuting a retirement phase pension (such as an account-based pension, a beneficiary pension or a transition to retirement pension where the member has satisfied an unrestricted release condition) will not cause a previously segregated current pension asset to cease to be a segregated current pension asset or reduce the average value of current pension liabilities.

In short, the partial commutation of a pension in retirement phase will not adversely affect the determination of the exempt income of the fund.