

Ann Carroll

Pension Member

and

A. J. Carroll Pty Ltd (A.C.N. 005-154-398)

Trustee

**Pension Deed of Affirmation
and Confirmation
of
Carroll Superannuation Fund**

Smarter SMSF Pty Ltd

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Deed of Affirmation and Confirmation

THIS DEED OF AFFIRMATION AND CONFIRMATION is made the day of 20

PARTIES

1. Ann Carroll of 234 Doncaster Rd, Balwyn North VIC 3104 (the "**Pension Member**");
and
2. A. J. Carroll Pty Ltd (ACN 005-154-398) of 234 Doncaster Rd, Balwyn North VIC 3104 (the "**Trustee**").

RECITALS

- A. By a Deed dated 01/10/2002 the Fund was established as a Self-Managed Superannuation Fund pursuant to section 17A of the *Superannuation Industry (Supervision) Act 1993* that has continuously been known as Carroll Superannuation Fund.
- B. The Original Deed has subsequently been varied by Deed of Variation on
29/08/2010 05/12/2023
- C. On the Pension Member commenced Account Based Pension, known as ABP 1 from the Accumulation interest of the Pension Member held in the Fund pursuant to the governing rules of the Fund applying at its commencement.
- D. Despite the comprehensive and extensive efforts of the both the Pension Member and the Trustee(s) the Original Pension Agreement cannot be located.
- E. The parties hereto agree to enter into this Deed for the sole purpose of confirming and affirming both the existence and the terms of the Original Pension Agreement based upon the extrinsic evidence of such pension upon the upon the terms and conditions set out as follows.
- F. In furtherance of the purpose stated above, the parties agree that this Deed shall become a Special Rule of the Fund and a Paramount Document.

THIS DEED WITNESSES:

Interpretation

"ABP" means an Account Based Pension paid in accordance with the Superannuation Industry (Supervision) Act 1993 and SIS Regulations (1994)

"Adviser" means an Accountants, Financial Planner, Auditor or other service provider that may have been appointed to provide services to the Fund.

"Current Deed" means either the Original Deed or most recent Deed of Variation (if any) that constitutes the governing rules of the Fund as at the date of this deed.

"Deed of Variation" means the Deed or deeds varying or replacing the Original Deed made on the 01/10/2002.

"Fund" means the Self-Managed Superannuation Fund established pursuant to section 17A of the SISA know as Carroll Superannuation Fund.

"Original Deed" means the fully executed Deed establishing the Fund made on the 01/10/2002, and if not so varied or replaced, the Current Deed.

"Original Pension Agreement" means the Trustee resolutions, minutes or Agreement commencing the Pension Member's ABP from their superannuation interests held in the Fund.

"Paramount Document" means the requirements for a document, such as this Deed, becoming a Paramount Document of the Fund as prescribed under the Current Deed.

"Pension Payment Standards" means the operating standards, rules or conditions prescribed under the SISA and SIS Regulations for the payment of a minimum or maximum pension for an Account Based Pension, TRIS or TRIS in Retirement Phase.

"Replacement Pension Agreement" means the minutes and resolutions made by the Trustee, at the request of the Pension Member, to create a Replacement Pension Agreement that represents as close as possible the terms and conditions of the Original Pension Agreement and that is in the form attached to the Schedule hereto.

"Special Rule of the Fund" means the requirements for a rule of the Fund to become a Special Rule, as prescribed under the Current Deed.

"SISA" means the *Superannuation Industry (Supervision) Act 1993*, the regulations made thereunder and any amendments thereto.

"SISR" means the *Superannuation Industry (Supervision) Regulations 1994*.

"TBAR" means the requirement to lodge a Transfer Balance Account Report to the Australian Taxation Office within the prescribed timeframe for an event impacting the Member's Transfer Balance Cap.

"TRIS" means a Transition to Retirement Income Stream (including in Retirement Phase) paid in accordance with the Superannuation Industry (Supervision) Act 1993 and SIS Regulations (1994)

Acknowledgements

1. The parties acknowledge that: -
 - (a) they have made their best endeavours to locate the Original Pension Agreement, any part thereof or any copies made that was but is no longer in their possession or control, including but not limited to any documents held in the possession or former possession and control of the Fund's current and previously appointed Adviser;
 - (b) the Original Pension Agreement documents that constitute part of same or any copy thereof establishing the Account Based Pension cannot be located or found and are therefore lost or have been destroyed;
 - (c) Since the commencement of the Account Based Pension, other than pension payments made under the Pension Payment Standards and any commutations of the income stream, there has been no variation to the terms of the Original Pension Agreement.
 - (d) The extrinsic evidence supporting the Original Pension Agreement set out below, is in the possession or control of either the Trustee(s), Pension Member or the Fund's current Adviser(s) and is true and correct.

Extrinsic evidence supporting Original Pension Agreement

2. While the parties have made the best endeavours to locate the Original Pension Agreement, they have located and identified the following documents, facts and circumstances which gives rise to supporting the existence and terms of the Original Pension Agreement: -
 - (a) The payment of an income stream from the Pension Member's superannuation interests held in the Fund pursuant to the SISA which also meets the requirements of a superannuation income stream as defined within Taxation Ruling, TR 2013/5 – when a pension commences and ceases.
 - (b) The Pension Member's compliance having lodged a TBAR within the prescribed timeframe for the Account Based Pension.
 - (c) When necessary, the provision of an actuarial certificate in respect to the claiming of the fund's earning tax exemption for the Account Based Pension.
 - (d) The valuation of assets in the Fund to determine the Pension Member's pension obligations each financial year as required under the Pension Payment Standards.
 - (e) The financial reports of the Fund, including the Member's Statement, and Member Information within the SMSF Annual Return.

Confirmation of Original Pension Agreement

3. The Trustee confirms the Original Pension Agreement has not been varied in any way and the Replacement Pension Agreement attached to the Schedule hereto constitutes a true and accurate form of the Original Pension Agreement and contains substantially the same terms and conditions as the Original Pension Agreement.

Affirmation

4. The parties affirm that the Replacement Pension Agreement shall be construed as the substitute of the Original Pension Agreement effective from the later of the date hereof and when this Deed becomes a Special Rule of the Fund and a Paramount Document.
5. The parties further acknowledge, affirm and agree between themselves, their successors and assigns and as part of the governing rules of the Fund that the Replacement Pension Agreement shall represent and constitute the current terms and conditions of the Pension Member's Account Based Pension and Original Pension Agreement, including but not limited to the nomination of any reversionary or non-reversionary beneficiary, including level of reversion, in respect of either part or the whole of their Account Based Pension as set out in the Replacement Pension Agreement.
6. The Pension Member and the Trustee shall cause this Deed to become a Special Rule of the Fund and a Paramount Document and they acknowledge that the terms of this deed shall not become effective until the Trustee, in accordance with the governing rules of the Fund has done so.
7. The parties further affirm and acknowledge that this deed is made solely for administrative purposes in order to rectify the lost Original Pension Agreement and to replace the terms of the Original Pension Agreement with substantially the same terms and conditions as reflected in the Replacement Pension Agreement.

Continuity of Pension

8. The parties further acknowledge and agree that since the commencement of the Account Based Pension, known as ABP 1 and the Original Pension Agreement, there has been no cessation of the Account Based Pension and that the Replacement Pension Agreement shall, once affirmed as a Special Rule of the Fund and as a Paramount Document, be treated as if it was the Original Pension which has operated, without cessation, from the commencement of the Original Pension Agreement of the Pension Member.

No Variation

9. The parties agree that this Deed and the Replacement Pension Agreement attached to the schedule shall not be interpreted as a variation of the Original Pension Agreement.
10. This Deed and the Replacement Pension Agreement shall not be varied or altered other than by the consent of the parties hereto or otherwise in the manner permitted by the governing rules of the Fund.

Jurisdiction

11. The parties acknowledge that this deed shall be governed by the laws of the jurisdiction in which the Trustee is situated as defined by the address of the trustee as set out in this deed.

EXECUTED AS A DEED BY:

Signed Sealed and Delivered by the said)
Ann Carroll as the Pension Member in the)
presence of:)

.....
Witness

.....
Witness Full Name

Executed for and on behalf of A. J. Carroll Pty Ltd (ACN: 005-154-398), in its capacity as the Trustee of the Fund in accordance with section 127(1) of the *Corporations Act 2001 (Cth)*.

.....
Signature of Director/Secretary
Ann Carroll

.....
Signature of Director
Anthony Carroll

Schedule

(Replacement Pension Agreement)

**Member Notification to Affirm and Confirm of
Account Based Pension by way of
Replacement Pension Agreement**

To: The Director of A. J. Carroll Pty Ltd ATF
Carroll Superannuation Fund
Unit 13 241-243 Blackburn Rd Mount Waverley VIC 3149

Member Name: Ann Carroll

Request for Replacement Pension Agreement

I am currently in receipt of an Account Based Pension, known as ABP 1 from the Carroll Superannuation Fund. Having undertaken an extensive search for documentation pertaining to the payment of the superannuation income stream, I have been unable to find paperwork to support its existence. As a result, I hereby request the Trustee to affirm and confirm the details of this pension by way of a replacement pension agreement.

In affirming details of this Account Based Pension, I hereby request that the Trustees by way of Deed confirm that:

- I wish to nominate my Spouse, Anthony Carroll as my reversionary beneficiary to automatically continue to receive this pension in the event of my death.
- I do not wish specific assets to be segregated to support the payment of the Superannuation Income Stream.
- I hereby request this Replacement Pension Agreement for my Account Based Pension be a Paramount Document.

I agree to abide by and to be bound by the provisions of this Replacement Pension Agreement and the Fund's governing rules.

I declare that the information provided for this request is true and correct, and will inform the Trustee of any omissions or changes required.

Signed by the Member

Date

**Trustee Resolutions of A. J. Carroll Pty Ltd (A.C.N. 005-154-398)
as Trustee for Carroll Superannuation Fund**

Re: Affirmation and Confirmation of an Account Based Pension
(Retirement Phase (RP) Superannuation Income Stream)

Directors: Ann Carroll
Anthony Carroll

Receipt of Request for Replacement Pension Agreement

A request has been received from Ann Carroll ('Member') in respect to the preparation of a Replacement Pension Agreement for their existing Account Based Pension being paid from the Carroll Superannuation Fund.

Having undertaken an extensive search for documentation pertaining to the payment of this superannuation income stream, the Member has been unable to find paperwork to support its existence. As a result, the Member requests the Trustee to affirm and confirm the details of the pension, by way of Deed of Affirmation & Confirmation ("Deed") and with a Replacement Pension Agreement.

The following details form part of the Replacement Pension Agreement as confirmed by all parties to the Deed:

Original Commencement Date	
Original Purchase Price	\$Unknown
Tax-Free Proportion (%)	49.00%
Payment Frequency	At Trustee's Discretion
Reversionary Beneficiary	Yes, Anthony Carroll (Spouse)

The member has indicated that they do not wish to set aside specific assets to support the payment of the pension (i.e. pooled assets).

The Member has requested that the Replacement Pension Agreement for their Account Based Pension be a Paramount Document.

Powers to Pay Pension

The Directors of the Fund Trustee have the power to continue to pay and operate the Account Based Pension pursuant to Rule 25 of the Fund's Trust Deed. This Superannuation Income Stream will continue to operate in accordance with Superannuation Industry (Supervision) Regulation 1.06 ('SIS Regulations'), along with any additional terms and conditions adopted by the Trustee and agreed to by the Member.

The Directors note that the terms and conditions of this Superannuation Income Stream, including whether it is auto-reversionary and as a Paramount Document, are to become a Special Rule of the Fund in accordance with Clause 6 of the Deed of Affirmation & Confirmation.

Annual Payment Parameters

It is noted that the required pension amounts for the income year commencing 01/07/2023 has been calculated for the Account Based Pension in accordance with Clause 1 of Schedule 7 in the SIS Regulations.

Current Pension Balance: \$1,683,822.00

	%	Payment Amount (\$)
Minimum Pension	7%	\$117,870.00
Maximum Pension	100%	\$1,683,822.00

Transfer Balance Cap Reporting

Where the Superannuation Income Stream is in the Retirement Phase, the Fund is required to notify the Australian Taxation Office (ATO) of the commencement of the Account Based Pension within the prescribed timeframe to ensure that the amount is credited to the Member's Transfer Balance Account and assessed against the Member Transfer Balance Cap.

Member Notification

Notification will be provided to the Member to agree with all relevant details to affirm and confirm payment of the Account Based Pension by way of a signing the *Deed of Affirmation & Confirmation*, along with the *Trustee Notification of Replacement Pension Agreement* form.

Trustee Resolutions

It is resolved that upon receipt of the signed Deed of Affirmation & Confirmation and Member Acknowledgement by the Member, the Directors will attend to the following matters:

1. Advise the Member of the calculated minimum annual pension amount in accordance with Clause 1 of Schedule 7 of the SIS Regulations, which will include providing information relating to the value of the Member's Account Based Pension, details of the minimum pension payment for each financial year, and any other information considered relevant.
2. Ensure that at least one payment equal to the minimum annual pension amount is paid to the Member for the financial year.
3. Consider any request from the Member to receive an amount greater than the minimum pension. The Trustee may however refuse the request and cease paying the pension at any time.
4. Review the cashflow and liquidity of the fund's existing investment strategy to ensure that the Fund has the ability to meet the pension payment obligations.
5. Comply with any PAYG obligations in relation to the pension, ensuring that the relevant amount of withholding tax is remitted and reported on a timely basis (as required).
6. Ensure that no party to the pension will use the capital value of the pension as security for any borrowings.
7. Continue to pay the pension each financial year until such a time that the pension may cease, including where the capital of the pension is exhausted, by commuting the pension or as otherwise contained within the SIS Regulations.
8. Allow for the pension to be commuted, in whole or part in any of the situations as outlined within SIS Regulation 1.07D.

9. Ensure that the commencement value (or pre-existing value at 30 June 2017) of the Account Based Pension has been reported to the Australian Taxation Office as a credit to the Member's Transfer Balance Account within the prescribed timeframes; and
10. Attend to any other matters relevant to the above resolutions and operation of the Fund, including:
 - a. Update the books and records of the fund as a result of the conditions set and agreed to by the Member and Trustee for the continuation of the Account Based Pension.
 - b. Preparation and lodgement of any further notices to the Australian Taxation Office to enable payment of the income stream; and
 - c. Any tax adjustments in the SMSF Annual Return and financial statements.

A copy of these Trustee Resolutions is to be retained within the records of the Fund for the minimum prescribed period of time.

We hereby agree to and confirm the above Resolutions.

Ann Carroll
Director

Date

Anthony Carroll
Director

Date

Trustee Notification to the Member
Affirmation & Confirmation of the Account Based Pension
(Retirement Phase (RP) Superannuation Income Stream)

From: A. J. Carroll Pty Ltd ATF
Carroll Superannuation Fund

To: Ann Carroll
234 Doncaster Rd, Balwyn North VIC 3104

We acknowledge your request to affirm and confirm the details of your existing Account Based Pension by way of a Replacement Pension Agreement as a result of being able to find paperwork to support its existence.

In accordance with the Deed of Affirmation and Confirmation of the Account Based Pension, please confirm the following details:

Conditions of the Superannuation Income Stream

The Account Based Pension is a Retirement Phase Superannuation Income Stream and will continue to be paid to you in accordance with:

- Rule 25 of the Fund's Deed.
- SIS Regulation 1.06; and
- Any additional terms and conditions that have been agreed with you and adopted by the Trustee as outlined below.

Minimum & Maximum Pension Amounts

Your minimum and maximum annual payments for the current income year are:

	%	Payment Amount (\$)
Minimum Pension	7%	\$117,870.00
Maximum Pension	100%	\$1,683,822.00

Please note that the minimum pension amount above is a 50% temporary reduced minimum pension amount as announced by the Federal Government as part of their Economic Response to the Coronavirus.

You have indicated to receive at least the minimum pension to be paid on a At Trustee's Discretion basis. The trustees will retain discretion at this time regarding the pension amount to be paid for the income year.

By law, you are required to take at least one pension payment per year and this amount must be equal to or greater than the minimum amount for your age on 1 July each income year.

You have nominated your Spouse, Anthony Carroll as the reversionary beneficiary on this pension.

The payment of the Superannuation Income Stream will be supported through the existing pool of Fund assets (unsegregated).

This Replacement Pension Agreement has been created as a Paramount Document as defined by the governing rules of the Fund.

Pension Proportions

On a per payment basis, each pension withdrawal must be taken in proportion to the tax-free and taxable components at the commencement of the Account Based Pension.

We note that the tax-free proportion of your pension has been previously calculated as 49.00%.

Commutation

We note that your Account Based Pension can be commuted in part or in full in accordance with the SIS Regulations. Any commutation must be reported to the Australian Taxation Office within the prescribed timeframes to be applied as a debit from your Transfer Balance Account.

Security

You cannot use the capital of this pension as security for a borrowing.

Additional capital

No further contributions or rollovers can be added to the capital supporting the payment of this pension.

Income Tax Status

As you are currently under 60 years of age, this pension is assessable income and the taxable component must be included within your personal income tax return. You are entitled to a 15% tax offset on the taxable component of this pension payment. At the end of the income year, the Fund will issue you with a Payment Summary detailing the pension information to be included within your income tax return.

Notification of changes

If you wish to change any of the variables of your Account Based Pension within this Replacement Pension Agreement, please contact us in writing as soon as possible.

Signed on behalf of the Fund Trustee

Date

Member Acknowledgement	
I, Ann Carroll, agree to be bound by the Fund's Governing Rules, Income Tax and Superannuation Laws for the continuing payment of the Superannuation Income Stream under this Replacement Pension Agreement, as notified to me by the Trustees. I hereby confirm the accuracy and completeness of all the information set out in this letter:	
Signed by the Member:	

Carroll Superannuation Fund

SUPERANNUATION INCOME STREAMS PRODUCT DISCLOSURE STATEMENT

ISSUED TO:	Ann Carroll
ISSUED BY:	The Trustees of Carroll Superannuation Fund
DATE:	

MEMBER ACKNOWLEDGEMENT

I, Ann Carroll of 234 Doncaster Rd, Balwyn North VIC 3104, acknowledge that I have read the Product Disclosure Statement in relation to the commencement of a pension from my self-managed superannuation Fund.

Signed: _____ Date: ____/____/____

1. Introduction

The *Corporations Act 2001* (Cth) provides that where a person is provided with a financial product, they must receive a Product Disclosure Statement ('PDS'). The PDS must detail that person's rights and entitlements with respect to that financial product.

Under the Corporations Act, it is a financial product when a Member of a Fund commences a superannuation income stream. A PDS should be provided to the Member prior to the commencement of any pension.

A PDS is a statement that contains information required by the Corps Act to provide consumers with sufficient information to make informed decisions in relation to acquiring a financial product. For the purposes of this PDS the issuer is the trustee whose name and address may be found in the records of the Fund. This PDS must be read in conjunction with the trust deed of the Fund - where all rights and entitlements of Members, their dependants as well as duties and responsibilities of the trustees are to be found. Where a word is shown in this PDS in capital letters, it is a term that is defined within the Trust Deed.

2. Accessing Superannuation Benefits

A Member can only access superannuation benefits having met certain conditions, such as retirement. Please refer to 'Accessing Member Superannuation Benefits' (at 7 below) for the circumstances where a Member can officially access their superannuation benefits, (i.e. meeting a condition of release). Where a Member becomes entitled to receive a benefit payment from their Superannuation Interest, this can be paid as either an income stream, lump sum or any combination of the two.

Careful consideration needs to be given as to how a Member takes payments from their Fund as there may be various advantages or consequences of how benefits are accessed.

3. Paying an Income Stream

A Member or a tax dependant beneficiary of a Member may become entitled to be paid a Superannuation Income Stream - called a Pension – from the Fund.

When a pension is commenced within a Fund, the amount of assets set aside to Fund the pension for the purposes of Income Tax Law is identified as a separate Superannuation Interest. That is, the account balance used to commence the Pension will always be deemed to be separate of any other account balance (pension or accumulation) the Member may have within the Fund.

When commencing a Pension the components must be in proportion to the Tax-Free and Taxable Components that make up the Member's Superannuation Interest in the Fund at the time of commencement. The proportion of taxable and tax-free components established at the commencement of the pension will typically remain throughout the life of the pension (unless fully commuted).

This can be an important consideration for estate planning purposes where the pension has a significant level of tax-free component within the interest. For example, if a pension account was established with entirely tax-free component, it will **always** be tax-free (including Fund earnings generated on the pension account).

An Account Based Pension ("ABP") can be commenced with all or part of a Member's account balance in the Fund. The rules applicable to this type of pension are covered below, along with the variation to these rules for a Transition to Retirement Income Stream ("TRIS").

3.1 Account Based Pension

The rules of an Account Based Pension include the following:

- The minimum payment amount each year is based on a percentage determined by the Member's age per Table 1 below.
- A payment equal to or greater than the minimum must be paid at least annually.
- The account cannot be increased after the commencement date by the addition of contributions or rollovers to the underlying capital of the pension. Depending on your age, this does not preclude you from making further superannuation contributions into a separate Superannuation Interest (account) within the Fund.
- Is commutable subject to special rules applying for Transition to Retirement Income Streams (see below);
- Cannot be used as security for any borrowings (payment amounts or underlying capital).
- Can be transferred upon death of the Member to a tax dependant beneficiary in the form of a lump sum (either directly or via the estate), pension or combination of both. Where a tax dependant beneficiary does not exist, the death benefit must be cashed and paid as a lump sum as soon as practicable to the nominated beneficiaries or the estate of the Member.

3.2 Minimum Pension

Schedule 7 of the SIS Regulations outlines the minimum payment amount for a superannuation income stream. The percentage factor to be applied is based on the Member's age at the commencement of the pension or at 1 July each year (when the revised pension level is calculated for the following year based on the Member's account balance.)

Important Note:

As part of the Government's economic response to the Coronavirus, it has legislated a 50% temporary minimum pension reduction for all accounts-based income streams for the 2019-20, 2020-21, 2021-22 and 2022-23 financial years. This includes Account Based Pension, Allocated Pensions and Market Linked Pensions only.

The table below summaries these temporary reduced minimum pension changes.

Table 1

Member Age	% of account balance to be taken	50% temporary reduction
55 to 64	4%	2%
65 to 74	5%	2.5%
75 to 79	6%	3%
80 to 84	7%	3.5%
85 to 89	9%	4.5%
90 to 95	11%	5.5%
95 +	14%	7%

Where a pension is commenced after 1 July, the minimum payment amount is to be pro-rated based on the remaining number of days in the financial year. No minimum pension is required to be taken where a pension commences on or after 1 June.

Where a pension is paid as a Transition to Retirement Income Stream ("TRIS"), a maximum of 10% of the account balance applies each year until a condition of release with nil cashing restrictions has been satisfied by the pensioner. Note that no pro-rata amount applies to the maximum pension, regardless of the time of

year when the pension is commenced. In addition, a TRIS cannot be commuted to a lump sum, unless it is in the Retirement Phase, but can be rolled back to accumulation, subject to the Member having taken a pro-rata minimum pension amount prior to the pension ceasing.

From 1 July 2017, pension payments can only be made in cash, however an in-specie benefit payment (i.e. lump sum) can be paid to a member following the commutation (in part or full) of the income stream.

3.3 Reversionary Beneficiary

An important decision at the time of commencing a pension is whether the Member wishes for the pension to automatically continue to a tax dependant in the event of death. For a pension to automatically continue, a dependant beneficiary of the deceased Member must be automatically entitled, under the:

- governing rules of the Fund; or
- rules of the income stream

This decision to nominate a reversionary beneficiary is typically established at the time a pension is commenced. In limited circumstances, you may be able to appoint (or remove) a reversionary beneficiary after the pension has been established, subject to the rules of the Fund and the income stream.

3.3.1 Who can be a reversionary?

Only your spouse, your children aged under 18, your financial dependant (at the time of your death), or somebody in an interdependency relationship with you. Your children can only be nominated as a reversionary beneficiary if they:

- Are under 18 years of age.
- Are aged 18–25 and financially dependant on you immediately before your death; or
- Have a disability as outlined in the *Disability Services Act 1986* (Cth).

In the circumstances where a pension is payable to one or more of your children, they will be eligible to continue to receive the pension up to age 25 (unless the capital is exhausted, or the Fund's governing rules specify an earlier period). Upon reaching age 25 (unless they have a disability as outlined in the *Disability Services Act 1986* (Cth)) superannuation laws specify that any remaining balance must be paid as a tax-free lump sum.

3.4 Segregation

Another important decision of the Member when commencing a pension is to decide whether to:

- set aside specific assets to support the income stream; or
- leave the Fund assets pooled and proportionately receive a share of the Fund's income.

If it is decided to segregate specific assets, the assets must be dealt with solely to enable the Fund to discharge all or part of its pension liabilities. In order for an asset to be segregated, it typically cannot be invested, held or dealt with partly for more than one purpose. Assets which are segregated and have a market value exceeding the account balance supporting the pension at commencement will not be considered to be segregated.

Where a Fund does not specifically set aside assets, it will need to obtain an actuarial certificate to determine the percentage of exempt current pension income.

Changes from 1 July 2017 restrict a Member from applying segregation for income tax purposes where they are in receipt of a pension in the Retirement Phase, and they have a total superannuation balance that is greater than the General Transfer Balance Cap (\$1.7m from 1 July 2021) at the end of the prior income year – see further details below under ‘Super Reforms – Retirement Phase’.

4. Transfer Balance Cap and the Retirement Phase

The Superannuation Laws for the payment of Superannuation Income Streams (or Pensions) limit the amount of capital available that is eligible for tax exemption on Fund earnings.

From 1 July 2017, the Government introduced a General Transfer Balance Cap (“general cap”) on the total amount of Superannuation benefits that a Member can transfer into the ‘Retirement Phase’. It does not matter how many different super accounts you hold these balances in.

The amount of the general cap for 2022-23 is \$1.7 million (having started at \$1.6 million on 1 July 2017). The general cap indexes periodically in \$100,000 increments in line with CPI. The amount of indexation you will be entitled to will be calculated proportionally based on the amount of your available cap space. If, at any time, you meet or exceed your cap, you will not be entitled to future indexation (i.e. you will have used 100% of your cap).

You will be able to make multiple transfers into Retirement Phase if you have available cap space.

Where you have Superannuation Interests in the Retirement Phase, you will have a personal Transfer Balance Cap (“personal cap”), which cannot be shared with any other person. To determine your position with respect to the Transfer Balance Cap, you have a transfer balance account. This tracks the net amounts you have transferred to the Retirement Phase.

The transfer balance account works in a similar way to a bank account. Amounts you transfer to, or are otherwise entitled to receive, from the Retirement Phase give rise to a credit (increase) in your transfer balance account. Certain transfers out of the Retirement Phase give rise to a debit (decrease) in your transfer balance account.

The Transfer Balance Cap applies to everybody currently receiving a Pension or annuity, in addition to any new Income Stream or annuity that commence from 1 July 2017. Where a Retirement Phase Income Stream is commenced from 1 July 2017, you:

- will need to ensure that your Account Based Pensions, Transition to Retirement Income Streams (in the retirement phase) and annuities do not exceed your personal cap.
- may need to include income from any capped defined benefit Income Stream (NB. these are legacy pensions in a SMSF) in your income tax return if you are over 60 and may be required to pay more tax.
- will need to ensure that if you have a mix of Pension types, with a total value exceeding your personal cap that you reduce any Account Based Pensions to reduce the total value of all your Pensions below the Transfer Balance Cap.

Whilst there is a limit on the amount of assets you can transfer into a tax-free Retirement Phase account from 1 July 2017, this does not affect the amount of money that you can have in the Accumulation Phase of a Fund. Any amount of Superannuation you have in your Fund above the General Transfer Balance Cap can be retained in the Accumulation Phase and/or be taken as Lump Sum payments (out of Superannuation). Where retained within an accumulation account, a 15% tax rate will apply to the Fund earnings of this Superannuation Interest.

4.1 What counts towards your cap?

The cap limits the amount that you can transfer into Retirement Phase to start a Pension or annuity over the course of your lifetime. This is no matter how many accounts you hold or how many times you transfer money into Retirement Phase. The cap also includes the value of Pensions or annuities you may start to receive for some other reason, for example:

- your spouse has died, and you are receiving, or start to receive, a Pension from their Superannuation balance (e.g. as a reversionary beneficiary);
- your former spouse has been ordered to pay you a portion of their Superannuation Income Stream as part of a family court settlement.

The following table outlines events that can be debits and credits to your transfer balance account to be assessed against your cap:

Debits (-)	Credits (+)
Where you commute (in part or in full) a Superannuation Income Stream, you are generally entitled to a debit for the value of the Lump Sum from their transfer balance account.	Where you had a pre-existing Pension, the value of all Superannuation Interests that support Superannuation Income Streams in Retirement Phase on 30 June 2017.
Where you receive a structured settlement payment and then contribute the amount into Superannuation (e.g. personal injury payment);	The commencement value of new Superannuation Income Streams (including new Death Benefit Income Streams) in the Retirement Phase that start from 1 July 2017;
An event that results in your superannuation interest being reduced through fraud, dishonesty or bankruptcy.	The value of a reversionary Superannuation Income Streams that you automatically entitled to receive because of the death of a Member.
Where a payment split occurs as a result of divorce or relationship breakdown	Notional earnings that accrue on any Excess Transfer Balance amounts you have reported.
Where the superannuation income stream fails to comply with the pension standards under which it operates.	Certain payments made in respect of particular limited recourse borrowing arrangements established (or refinanced) after 1 July 2017.
Where you fail to comply with a commutation authority from the ATO to reduce an excess transfer balance that has arisen from one or more superannuation income streams	Other circumstances as provided for by the regulations.
Other circumstances as provided for by the regulations.	

Once the commencement of an Income Stream has been reported against your transfer balance account, the cap does not apply to any subsequent growth or losses of this Pension, nor Pension withdrawals. This means that:

- if you start a Pension with \$1.7 million and the value of that Pension grows to \$2.0 million, you will not exceed your cap and the tax exemption continues to apply to the Fund earnings it generates.

- if you start a Pension with \$1.7 million and the value of that Pension goes down over time as you use it to live on or you suffer losses, you can't 'top up' your Pension accounts. You will still be able to access other Superannuation amounts you may hold in the Accumulation Phase by taking these as a 'Lump Sum'.

4.2 Transition to Retirement Income Streams

Changes to the rules for payment of Transition to Retirement Income Streams (TRIS) means that such Pensions will not count towards your Transfer Balance Cap until a nil cashing restriction has been satisfied and written notice provided to the Trustee (unless you have reached age 65 – no written notice required).

Once a Pension has commenced as a TRIS, it will always remain as a TRIS until it ceases. Where you satisfy a nil cashing restriction (other than death), the TRIS becomes eligible to move to the Retirement Phase. The current value of the TRIS at the time of written notice by you to the Trustee or where you reach 65 years of age will be reported as a credit against your Transfer Balance Cap. Subject to the superannuation laws and the Fund's Deed, the restriction of the 10% maximum for the TRIS, along with the cashing restriction (i.e. access to the capital) will no longer apply once the income stream moves to the Retirement Phase.

Please note that special rules apply to Pensions paid to children in the event of a parent's death. Furthermore, concessions exist with the Transfer Balance Cap to subtract the value of any structured settlement contributions (i.e. from a personal injury payment) made into Superannuation.

If you have a transfer balance account that is more than your personal cap you will need to:

- remove any amount plus the Excess Transfer Balance earnings, from Retirement Phase; and
- pay Excess Transfer Balance Tax on the earnings (15% for first time breach, 30% thereafter)

The ATO will issue a determination for any such breach of your personal cap to remove the excess amount, or alternatively where you identify the breach, you may request the Trustees to reduce this excessive amount.

4.3 Event-based reporting obligations

From 1 July 2017, all Superannuation Income Streams in the Retirement Phase have new reporting requirements associated with the Transfer Balance Cap. The new reporting requirements are event-based and must be completed using the ATO approved form, the Transfer Balance Account Report (TBAR). Details of the various debit and credit events are listed above at section 4.1.

Specific concessions have been provided for SMSFs to comply with the events-based reporting requirements.

From 1 July 2018, the event-based reporting requirements for a SMSF will be subject to a \$1 million threshold, based upon a Fund Member's Total Superannuation Balance (TSB) where:

SMSFs with members that have a TSB < \$1 million
The fund can choose to report events that impact their members' transfer balances by no later than the time that the SMSF lodges its SMSF Annual Return.
SMSFs with members that have a TSB ≥ \$1 million
To report events impacting their members' transfer balances within 28 days after the end of the quarter in which the event occurs.

4.3.1 Example

Jack and Jill are members and trustees of the Up the Hill SMSF. Jack has a total superannuation balance (TSB) of \$1.2 million and is receiving an account-based pension. His wife Jill has a TSB of \$500,000 and is also in receipt of a pension (in the retirement phase).

The SMSF must report any events for both Jack and Jill that impact their transfer balances 28 days after the end of each quarter. This is due to the fund having at least one member with a total superannuation balance that is greater than \$1 million.

From 1 July 2023, the Australian Taxation Office has announced that it will be moving all SMSFs to quarterly reporting for transfer balance account events.

There are many important considerations to understand with the Superannuation measures that took effect on 1 July 2017. You are encouraged to seek specialist advice from a suitable qualified professional to ensure that you understand all of these relevant issues and opportunities with the payment of benefits from your SMSF.

5. Taxation of Member Benefits

Benefits paid to a Member will be taxed depending on their age. For a person over 60 years of age, any amount taken as a lump sum or pension is non-assessable, non-exempt income (that is, tax-free). For a person under 60 years of age, benefits will continue to be taxed in the hands of the recipient.

5.1 Pension

Under the Income Tax Assessment Act 1997 ("ITAA 1997") a pensioner that is less than 60 years of age will be required to include the taxable component of their pension as assessable income in their personal income tax return each year. An individual who is above their preservation age will be entitled to a 15% tax offset to help reduce any income tax in respect to the pension. It is the responsibility of the Fund to calculate and withhold any pay-as-you-go (PAYG) withholding tax from the pension throughout the year based on the information provided by the Member in the TFN declaration.

Where you may be in receipt of a legacy pension (e.g. market linked pension or complying pension), these income streams from 1 July 2017 are classified as capped defined benefit income streams (unless commuted and repurchased post 1 July 2017). Subject to the calculated value of this income stream against your personal cap, additional taxation rules may apply to any pension payments received. You should seek professional advice about the impact of these capped defined benefit income streams as part of the new superannuation measures.

5.2 Lump Sum

Where a Member is entitled to and takes a lump sum benefit, different tax rates apply based upon their age. Where the Member is less than preservation age, the maximum tax rate on the benefit is 20% plus the Medicare levy (2%). Where the Member is beyond preservation age but less than 60 years of age, any amount of taxable component taken as a lump sum benefit by the Member up to the low-rate cap is tax-free (see Schedule 1). Any taxed element amount over this is taxed at a maximum rate of 15% (plus the Medicare levy). Any lump sum amount taken from the Fund must be taken in proportion to the taxable and tax-free components of the Member's Superannuation Interest at the time of the withdrawal (including where the lump sum is taken from a pension that is fully commuted).

Any lump sum amount elected to be taken from the Fund as part of a partial commutation of an income stream must be taken in proportion to the taxable and tax-free components of the Member's Superannuation Interest at the commencement of the pension. This lump sum amount arising from the commutation does not form part of the Member's minimum pension obligations for the financial year (per Schedule 7 of the SIS Regulations).

Any lump sum payment can be made in cash or as an in-specie transfer (e.g. off-market transfer of listed shares).

6. When does a pension cease?

There are a range of circumstances where a pension may cease. This is determined by reference to the particular Fund's governing rules, the requirements of the SIS Regulations, and the facts surrounding the Member (or dependant beneficiary) the pension is being paid to.

The Commissioner of Taxation has stated in Taxation Ruling, TR 2013/5 that a pension may cease in the following circumstances:

When all pension capital is exhausted:

A pension ceases when the capital supporting the income stream has been reduced to zero and the Member no longer has a right to have any other amounts applied to that pension (e.g. via a contribution or a rollover amount).

When the superannuation pension rules have not been complied with:

If a superannuation Fund fails to meet the pension rules for an income year (e.g. failure to pay the minimum pension amount), the pension will have been taken to have ceased at the start of that income year, with all amounts taken to be treated as lump sums. In addition, the Fund would be denied any tax deduction to exempt current pension income – that is, a tax exemption on income received from assets supporting the pension.

There are limited circumstances where the Commissioner may be able to use his Powers of General Administration (GPA) to allow for a pension to continue in the event that the pension rules have not been complied with.

When the pension is commuted:

A pension will also cease where a Member (or dependant beneficiary) elects to exchange all of his or her pension entitlements for a lump sum. A pension does not cease when a Member (or dependent beneficiary) elects to exchange part of his or her pension entitlements for a lump sum.

A commutation may arise through the ATO issuing a commutation authority where you have an excess transfer balance and are required to reduce one or more income streams to comply with the transfer balance cap.

When a Member dies:

If a Member who is in receipt of a pension dies, and there is no automatic entitlement to continue to pay the pension to a tax dependant beneficiary, the pension will cease at the time of death. Refer to section 4, 'Transfer Balance Cap and the Retirement Phase' for further information about the impact of a death benefit income stream (reversionary or non-reversionary against your transfer balance cap).

Importantly, tax laws will allow for a Fund's tax exemption to continue beyond the death of a Member until such a time that the death benefit has been paid to the estate or beneficiaries. There are a range of estate planning strategies around the structuring of income streams that a Member should consider seeking specialist SMSF advice.

By operation of the payment standards in the SIS Regulations:

A superannuation pension may cease due to the specific requirements of the payment standards in the SIS Regulations. An example of this would be the requirement that a pension is cashed as a lump sum if it is being paid to a financially dependant child of a deceased Member. In such a situation, the pension

ceases at the time specified in the Fund's governing rules or on the day the child attains age 25, whichever occurs first.

7. Accessing Member Superannuation Benefits

At any time, upon satisfying a condition of release under the Superannuation Laws, a Member may seek to be paid a Superannuation Benefit from one or more of the Superannuation Interests held by the Trustee of the Fund on their behalf. However, it is not a compulsory requirement of the Fund for a Member, upon satisfaction of a condition of release, to automatically commence their Superannuation Benefit.

A Member is entitled to maintain their Superannuation Interests for the benefit of their Dependants or Legal Estate in their event of their death. A Member of the Fund can also Rollover or transfer their Transfer Superannuation Interest to an Eligible Entity. This Eligible Entity may include, but is not limited to, a complying Superannuation Fund or another Complying SMSF.

There are several circumstances where a Member of the Fund can officially access their Superannuation Benefits from their Superannuation Interests. These circumstances include, but are not limited to the following:

- Temporary Incapacity and Permanent Incapacity.
- Terminal Illness.
- Retirement or at aged 65.
- Under Severe Financial Hardship or on Compassionate Grounds.
- When a Member reaches Preservation Age and can commence a Transition to Retirement Income Stream.

On the death of a Member of the Fund, numerous Superannuation Laws apply to the payment of Death Benefit Superannuation Lump Sums and Death Benefit Superannuation Income Streams. The Trustee shall pay due regard to any Member's death benefit instructions (including a SMSF Will) in making any Death Benefit payments. Benefits that may be paid at the time of the death of a Member include, but are not limited to:

- a Superannuation Lump Sum may be paid on the death of a Member to a Dependant, the deceased Member's Legal Estate, charity, or public benevolent institution; and
- Superannuation Income Stream may be paid to a Dependant for taxation purposes which includes all those persons who are Dependants but in the case of a Child, only a Child who is aged less than 18 unless they were financially dependent upon the deceased Member. Where an Income Stream is paid to a Child in accordance with the Superannuation Laws, it must be commuted no later than the 25th birthday of the Child.

Subject to the Superannuation Laws and the Fund retaining its Complying SMSF status, a Dependant includes a Child of the Member, a person in an Inter-Dependant Relationship with the Member, any financial dependant of the Member irrespective of age and anyone who in the opinion of the Trustee is a Dependant of the Member.

The Member may request the Trustee to Allot, Rollover or transfer a Superannuation Interest for the benefit of a Spouse as part of the Contributions Splitting laws. Similarly, a Member can request the Trustee to Allot, Rollover or transfer a Superannuation Interest for the benefit of an ex-Spouse or Spouse pursuant to a Family Law Payment Splitting Notice. With respect to any Family Law Payment Splitting Notice, subject to the Superannuation Laws and the Fund retaining its Complying SMSF status, it shall be at the Trustee's total unfettered discretion as to how any Superannuation Interest or Superannuation Benefits are to be paid and to which Eligible Entity payment will be made.

SCHEDULE 1

As of 1 July 2022

Item 1 - Preservation Age

Your preservation age depends on your date of birth as shown in the following table:

Date of Birth	Preservation Age
Before July 1960	55
July 1960 — June 1961	56
July 1961 — June 1962	57
July 1962 — June 1963	58
July 1963 — June 1964	59
After June 1964	60

Item 2 – General Transfer Balance Cap

The transfer balance cap applies from 1 July 2017. It is a limit on the total amount of superannuation that can be transferred into the retirement phase. All your account balances will be included when working out this amount. It does not matter how many accounts you hold these balances in. You can continue to make multiple transfers into the retirement phase as long as you remain below the cap.

Year	General Transfer Balance Cap
2022-23	\$1,700,000

Item 3 – Tax Treatment of Benefits

Lump Sum Member Benefits			
Age	Tax Free Component	Taxable Component	
		Element Taxed	Element Untaxed
Under preservation age	Non-assessable non-exempt income	20%	30% up to \$1,650,000 45% above \$1,650,000
Preservation age and under 60 years		0% up to \$230,000 (<i>low-rate cap</i>) 15% above \$230,000	15% up to \$230,000 30% from \$230,000–\$1,650,000 45% above \$1,650,000
60 and over	Non-assessable non-exempt (NANE) income		15% up to \$1,650,000 45% above \$1,650,000

Income Stream Member Benefits		
Age of recipient	Element taxed	Element untaxed
Age 60 years or more	Non-assessable, non-exempt income (that is, tax-free)	Taxed at marginal rates, with a 10% tax offset
At or above preservation age and under 60 years	Taxed at marginal tax rates Tax offset of 15% is available	Taxed at marginal rates, with no tax offset
Under preservation age	Taxed at marginal tax rates, with no tax offset Tax offset of 15% is available if a disability super benefit	Taxed at marginal rates, with no tax offset

All amounts above may also be subject to the Medicare Levy.

Important information regarding SMSF legacy pensions treated as Capped Defined Benefit Income Streams (CDBIS):

Certain legacy pensions such as Market Linked Pensions and Defined Benefit Pensions that are treated as capped defined benefit income streams are subject to additional tax after the first \$106,250 of pension paid to the Fund Member. The level of tax will depend upon whether the amount includes an Element taxed or Element untaxed.

Item 4 – Minimum Pension percentages

Age of Pension Member	Percentage factor	50% temporary minimum reduction
Under 65	4%	2%
65 to 74	5%	2.5%
75 to 79	6%	3%
80 to 84	7%	3.5%
85 to 89	9%	4.5%
90 to 94	11%	5.5%
Aged 95 or older	14%	7%

The 50% temporary minimum pension reduction applies for the 2019-20, 2020-21, 2021-22 and 2022-23 financial years.