SMSFs: Minimum pension payment requirements - frequently asked questions

- https://www.ato.gov.au/Super/Self-managed-super-funds/In-detail/SMSF-resources/SMSF-technical/SMSFs--Minimum-pension-payment-requirements---frequently-asked-questions/
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SMSF minimum pension payment requirement and exception FAQs

FAQs on what happens if you don't meet the SMSF minimum pension payment requirement and when to apply the exception.

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Who must satisfy the minimum pension payment requirement?

As the trustee of a self-managed super fund (SMSF), if a member starts an account-based pension, you must ensure it meets the minimum pension standards in the super laws. This includes meeting the minimum pension payment requirement. Generally, this means you are required to pay a minimum amount at least once a year.

This requirement also applies to complying super funds that started a super income stream as an allocated pension on or before 19 September 2007.

Find out more about temporarily reducing super minimum payment amounts.

What happens if I do not meet the minimum payment requirement?

If you fail to meet the minimum pension payment requirements under the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations) for an income year:

- the super income stream will cease for income tax purposes (except where we allow an exception)
- we will treat you as not having paid a super income stream from the start of that income year.

Payments you made during the year will be considered super lump sums for both tax and SIS Regulations purposes. This is the case even if you are entitled to receive a pension payment from the fund under its governing rules or general trust law.

If the income stream is in the retirement phase, the fund cannot treat income or capital gains as exempt current pension income (ECPI) for the year.

From 1 July 2017, earnings from assets supporting a transition to retirement income stream (TRIS) are not eligible for ECPI if the income stream is not in the retirement phase. They will be taxed at 15%. This applies to all TRIS regardless of the start date.

Find out more about the relevant tax law TR 2013/5 *Income tax: when a superannuation income stream commences and ceases.*

What happens if I do not meet the minimum payment requirement one year but meet it the next?

If you meet the minimum pension standards, including the minimum payment requirement, the following income year, a new pension commences. You must revalue the assets at market value and recalculate the minimum pension payment required at the start of the new pension.

Find out more about the relevant tax law TR 2013/5 *Income tax: when a superannuation income stream commences and ceases.*

Can the Commissioner allow an income stream to continue even if it does not meet the minimum pension standards?

In limited circumstances we may allow a super income stream to continue if the total payments for an income year are less than the minimum payment for the income stream. The exception generally only applies if all these conditions are met:

- You did not pay the minimum pension amount in that income year because
  - an honest mistake resulted in a small underpayment, or
  - there were matters outside of your control.
- If the income stream was in the retirement phase, the ECPI exemption would have continued if you had made the minimum payment.
- When you became aware the minimum payment was not made, you
  - made a catch-up payment as soon as practicable in the current income year, or
  - treated a payment made in the current income year as being made in that prior income year.
- If you had made the catch-up payment in the prior income year, the minimum pension standards would have been met.
- You treat the catch-up payment, for all other purposes, as if it were made in the prior income year.

You can self-assess whether the conditions are met, provided you have not applied the exception before for an income year.

If all conditions above are met:

- The super income stream is taken to have continued and a new pension is not commenced in the current income year. The proportioning rule does not need to be applied again to determine the tax free and taxable components.
- If the income stream was in the retirement phase, you can continue to claim a tax exemption for earnings on assets supporting that pension.
- Payments made during the prior income year are treated as super income stream benefit payments (pension payments) and not super lump sums.

If all conditions above are not met, the super income stream will be treated as having ceased at the start of the income year for income tax purposes.

From 1 July 2017, ECPI has been extended to deferred lifetime annuities. Although you can purchase an annuity today, the income stream starts several years later when you satisfy a condition of release. You must meet certain conditions for the annuity to be in retirement phase and claim ECPI.

Find out more about LCG 2016/9 *Superannuation reform: transfer balance cap*.

Does the exception apply to a TRIS?

The exception applies to all account-based income streams, including a transition to retirement income stream (TRIS).

From 1 July 2017, earnings from assets supporting a TRIS are not eligible for ECPI if the income stream is not in retirement phase. They will be taxed at 15%. This applies to all TRIS regardless of the start date.

This means the ECPI component of the exception is not relevant for a non-retirement phase TRIS. However, there are other consequences for not meeting the minimum pension standards you should consider.

A TRIS is an account-based income stream if it has all of these characteristics:

- It requires a minimum annual payment.
- The account balance cannot be added to by a contribution or roll-over.
- If the member dies, it cannot be paid to a non-dependant beneficiary.

The exception may apply where you did not pay the annual minimum pension amount, but the TRIS meets all the other minimum pension standards to be an account-based pension.

The exception does not apply to a TRIS if you have paid more than the maximum limit of 10% of the account balance.

Find out more about SMSF TRIS.

Does the exception apply to allocated pensions that commenced before 19 September 2007?

The exception applies to allocated pensions that commenced before 19 September 2007 if they continue to be paid under the previous pension payment standards.

You can also consider applying the exception if you made a choice after 1 July 2007 to commence paying the allocated pension under the new minimum pension standards (or account-based pension standards). The fund rules must allow the choice to operate under the new minimum pension standards. A new pension is not required.

Find out more about pension standards for SMSFs.

How does the exception apply to an SMSF paying multiple pensions?

Where an SMSF pays more than one pension to one or more members, the minimum pension payment requirements must be met for each pension.

If you did not meet the minimum pension payments for one or more pensions, you must consider the exception conditions for each pension.

Example: trustee did not meet minimum pension payment for one member's pension in an income year, but did for another

The fund has 2 members who both receive a pension:

- Member A gets Pension 1 and receives income greater than the minimum required.
- Member B gets Pension 2 and receives less than the minimum required.

Both pensions are in the retirement phase.

The trustee must ensure each pension meets the minimum payment requirements. The requirement is met for Pension 1 but not for Pension 2.

If all conditions are met, the exception can be applied for Pension 2. The fund will be treated as if it continuously paid Pension 2 despite the underpayment.

If the conditions are not met, Pension 2 will cease for income tax purposes and we will treat it as not having been paid from the start of the income year. The fund cannot claim ECPI in relation to income from the assets supporting Pension 2.

Example: one member receives 2 pensions and trustee does not meet the minimum payment for one pension, but does for the other

Member A is currently in receipt of 2 pensions from the fund. They have withdrawn well over the minimum required from Pension 1 but failed to meet the minimum pension required from Pension 2.

The trustee must ensure each pension meets the minimum payment requirements. It is irrelevant that the combined income received by Member A from the 2 pensions is more than the combined minimum payments required.

Subject to satisfying all conditions and despite the underpayment, the trustee may be able to apply the concession to treat the fund as having continuously paid Pension 2.

What is a small underpayment?

A small underpayment is one that does not exceed one-twelfth of the minimum pension payment in the income year.

For super income streams that commence part-way through the year, a small underpayment is one-twelfth of the minimum annual pension payment amount and not the pro-rated amount.

If the underpayment exceeds one-twelfth, you need to write to us and explain why you could not make the minimum payment. Each case is considered on its own merits.

What does 'as soon as practicable' mean?

Generally, if the underpayment is due to an honest error, we consider 'as soon as practicable' is within 28 days after you become aware of the underpayment.

If the underpayment is due to matters outside your control, 'as soon as practicable' is within 28 days after you are in a position to be aware of the underpayment.

When can I apply the exception?

You can self-assess your eligibility for the exception, and apply the exception yourself, if all of the following apply:

- you have failed to meet the minimum pension requirements due to an honest mistake or matters beyond your control
- the underpayment is only small (it does not exceed one-twelfth of the minimum annual payment)
- all the other conditions are met
- you have not previously applied the exception for another income year.

Example: trustee did not meet minimum pension requirements for year ending 30 June due to a transposition error and this resulted in a small underpayment

The trustee can apply for the exception if all of the following are true:

- They made payments during the year and failing to meet the minimum payment requirements was an honest administrative error.
- The underpayment was small (it does not exceed one-twelfth of the minimum annual pension payment).
- They made a catch-up payment as soon as practicable, in the following income year.

If they meet all of the above conditions, they can apply the exception. This means:

- the super income stream does not cease
- a new pension is not started in the following year
- if the pension was in the retirement phase, they can continue claiming an income tax exemption for earnings on assets supporting that pension.

Example: trustee failed to meet minimum pension requirements for year ending 30 June due to jury duty case running longer than advised in the summons

The trustee can self-assess and apply the exception if all of the following true:

- They made payments during the year and failing to meet the minimum payment requirements was due to a circumstance outside of their control.
- The underpayment was small (it does not exceed one-twelfth of the minimum annual pension payment).
- They made a catch-up payment as soon as practicable, in the following income year.
- They have not previously been granted the exception for failing to meet the minimum requirements.

If they meet all of the above conditions, they can self-assess the entitlement to the exception to treat the SMSF as having continuously paid a super income stream.

Example: trustee incorrectly calculates minimum pension requirement

The trustee uses the incorrect minimum pension payment concession (50% instead of 25%) to calculate the July 2011 pension payment. This was the percentage used in the previous year and there was a delay in updating their computer system. This was an honest administrative error.

They need to assess if all the following apply:

- Payments were made during the year and failing to meet the minimum payment requirements by 30 June 2012 was due to an honest administrative error.
- The underpayment was small (it does not exceed one-twelfth of the minimum annual pension payment).
- They made a catch-up payment as soon as practicable, in the following income year.

If they meet all of the above conditions, they can self-assess the entitlement to the exception to treat the SMSF as having continuously paid a super income stream.

Example: trustee travels overseas on short notice to attend to a business-related crisis and does not make June pension payment until next income year

The trustee can apply for the exception if all of the following are true:

- They made an honest mistake.
- The underpayment is small (it does not exceed one-twelfth of the minimum annual pension payment).
- They always met minimum pension payment requirements in the past.
- They made a catch-up payment as soon as practicable.

If they satisfy all of the above conditions, they can apply the exception to treat the SMSF as having continuously paid a super income stream.

In all other cases, you will need to write to us and ask us if we will apply the exception.

What happens if I do not meet the minimum payment requirement for multiple years?

If you have applied the exception in the past (by self-assessing that these conditions are met), you cannot apply it again. You will need to write to us and ask us if we will make an exception.

For us to consider the circumstances of your case, explain to us in writing why you did not meet the requirements. We will determine if the exception can be applied.

When will I need to request that the Commissioner apply the exception?

You can request in writing that we apply the exception if you:

- haven't met all the above conditions to self-assess and apply the exception
- have previously, through self-assessment or at the Commissioner's discretion, applied the exception.

You need to write to us, provide evidence and explain why you did not meet the minimum pension payment requirements. Each case is considered on its merits.

Include the following information with your request:

- details for all pensions paid by the fund during the relevant income year the underpayment was made including the

    - recipient member
    - type of pension – for example, account-based, allocated or market-linked
    - minimum pension amount and minimum percentage factor
    - actual amount paid and shortfall amount, if relevant
- date each shortfall was identified
- how each shortfall was identified
- detailed reasoning regarding why the shortfall occurred
- evidence showing
    - the catch-up payments paid from the fund's account to the members
    - receipt of each catch-up payment by the members
    - the fund had sufficient liquidity on 30 June to have otherwise met the minimum pension amounts required
- if the fund previously failed to meet its minimum pension requirements, provide details of the underpayment and whether the trustees self-assessed or applied for the Commissioner's discretion
- outline the mechanisms put in place by the trustees to ensure minimum pension requirements will be satisfied in future income years
- the amount of tax in contention – this is the difference between the tax position if the Commissioner
    - does not consider the fund to have satisfied its minimum pension requirements, and
    - considers the fund to have satisfied its minimum pension requirements.

To make a request, write to us at:

Australian Taxation Office
PO Box 3100
PENRITH NSW 2740

To ensure a fair and reasonable outcome in each case, we make decisions in accordance with the [Taxpayers' charter](), [compliance model]() and the good decision-making model. The good decision-making model requires decisions to be legal, ethical, overt, sensible, timely and in accordance with the principles of natural justice.

Example: trustee is overseas and does not make annual pension payment until following income year

We would consider that this is not a small underpayment as it exceeds one-twelfth of the minimum annual payment.

This is not a case where we would ordinarily apply the exception. The trustee needs to provide details demonstrating that matters outside of their control affected their ability to meet the requirements.

We will then consider whether the other conditions for the exception can apply. Each case is considered on its own merits.

Example: minimum payment requirements were not met due to factors outside trustee's control

Both members of a 2 member SMSF are injured in a car accident just before the final pension payment for the relevant year. They were both incapacitated and spent extended periods in hospital recovering.

They were unable to make the payment before 30 June. The payment is made in August of the following income year.

In this case, we would consider all the following to determine whether to allow the exception:

- The pension would have continued if the minimum amount had been paid.
- The catch-up amount was made as soon as practicable and the trustee treats it as if it were made in the prior income year.
- The circumstances were out of the trustee's control.

Example: cheque is dishonoured

A trustee wrote a cheque for the pension payment but it was dishonoured.

We cannot apply the exception because this action was not beyond the trustee's control. In an SMSF, trustees are responsible for running the fund. They are expected to ensure there are sufficient funds in the bank account so the cheque payment would be honoured.

The minimum pension requirement would not be satisfied in the relevant year. The super income stream will be taken to have ceased at the start of that income year for income tax purposes.

Example: insufficient liquid funds on 30 June

A trustee wrote a cheque for the minimum annual pension payment on 30 June and issued it to the member on the same day. As of 30 June, the SMSF does not have sufficient available funds to make the payment to the member but will have the funds when a term deposit, held by the SMSF, matures on 31 July. The member presents the cheque on 1 August. The cheque is subsequently honoured.

The lack of available funds on 30 June indicates that the trustee does not intend to immediately transfer funds from the SMSF to the member when the cheque is issued. In this case, the pension payment is not made on 30 June but rather 1 August of the following income year.

The minimum pension requirement would not be satisfied in the relevant year. The trustee would need to demonstrate that matters outside of their control affected their ability to meet the minimum pension requirements. Only then can we consider whether other exception conditions can apply.

Example: electronic funds transfer on 30 June falls on a weekend

A trustee arranged for an electronic transfer for the minimum annual pension payment on 30 June, which was on a weekend.

Payment using an electronic funds transfer is made when it is received by the member. Where it is processed overnight or later, the Commissioner’s view is that it is made on or after 1 July in the following income year.

The minimum pension requirement would not be satisfied. The trustee needs to demonstrate that matters outside of their control affected their ability to meet the requirements. Only then can we consider whether the other conditions relevant to the exception can apply.

Where there is a simultaneous debit and credit of the SMSF’s and member's accounts linked at the same institution and the funds are available immediately for use by the member, the pension payment is made on 30 June.

The trustee must provide evidence such as a receipt of the amount into the member’s account to establish the timing of the payment.

Example: financial institution error

We may consider applying the exception if the trustee can demonstrate:

- they took all reasonable steps to ensure the pension payment would be processed before 30 June
- something outside their control prevented the payment being made.

Can I record the underpayment of the pension as an accrual in the fund's accounting records?

No. To meet the minimum pension standards, you must meet the minimum payment requirements. It is not enough for the pension rules to state a payment will be made each year if a payment is not actually made in that year.

If you do not make the minimum payment in an income year, the pension will be treated as having ceased at the start of that income year for tax purposes unless the exception applies.

This is the case even if:

- the member is entitled to receive a payment from the super fund for the income stream under the governing rules or general trust law concepts
- you record the underpayment as an 'accrual' to recognise that liability.

The exception allows you to make a catch-up payment in a following income year to satisfy the SIS Regulations for the year of the underpayment. This means you must:

- treat the catch-up payment as if it were made in a prior income year for all purposes
- account for the payment as an 'accrual' in the underpayment year to reflect that it is not included in the pension payments for the income year the catch-up payment is made.

When does the exception for underpayments apply?

The exception to allow a super income stream to continue if it does not meet minimum payment requirements, applies to underpayments on or after 1 July 2007.