

GOVERNING RULES UPDATE – VERSION 4/19

TRUSTEE ACKNOWLEDGEMENT RESOLUTION

Instructions

1. This resolution can be used by both corporate and individual trustees.
2. To be effective all trustees/directors must sign the resolution.
3. Once signed the resolution must be kept as part of the Trustee's records of the Superannuation Fund.
4. Variables are in red text.

Background notes

1. The SUPERCentral Governing Rules are periodically amended by way of complete replacement of the current version of the Governing Rules with an updated version of the Governing Rules.
2. The proposed amendment is effected by Super Governing Rules Pty Ltd exercising the power of amendment conferred on that company by the SUPERCentral Establishment Deed/Amendment Deed which has been signed by the Trustee.
3. Fourteen clear days' notice is given of the proposed amendment and the Trustee, if it so wishes, may decline to accept the proposed amendment by notifying SUPERCentral within that notice period. If the Trustee does not opt out of the proposed amendment, then the new version of the SUPERCentral Governing Rules will apply to the Fund after the end of the update period.
4. The formal notice of the proposed amendment was issued on **21 March 2019** and the 14 day notice period expires on **4 April 2019**. Consequently the new version of the SUPERCentral Governing Rules will apply on and from **5 April 2019**. With the formal notice, an information sheet was provided which detailed the changes and the implications of the changes.
5. As the updating system operates on an "opt out" basis, the Trustee does not need to notify SUPERCentral of their decision to accept the proposed amendment.
6. Despite Point 5, the Trustee may wish to record the decision to not to opt out of the proposed amendment of the SUPERCentral Governing Rules for internal management purposes.
7. This template is provided for a Trustee which wishes to formally record for internal management purposes the Trustee's acknowledgement of the proposed amendment and its decision not to "opt out".

Written Resolutions in respect of the Trustee of the J & P Byrne Superannuation Fund ("the Fund")

Purpose of resolution

The purpose of this resolution is to formally confirm and record the decision by the Trustee not to opt out of the SUPERCentral Governing Rules Update – Version 04/19 which was notified to the Trustee (or its information agent) and which will apply (if the update is not rejected by the Trustee within the notice period) on and from 5 April 2019.

Notice of update and information received

Noted that the Trustee (or its information agent for this purpose) had received:

- (a) a notice issued by Super Governing Rules Pty Ltd of the replacement of the current version of the SUPERCentral Governing Rules Version 05/18 with the updated Version 04/19;
- (b) an electronic link to the SUPERCentral Governing Rules Version 04/19;
- (c) an electronic link to a marked up version of the SUPERCentral Governing Rules Version 04/19; and
- (d) a link to an information sheet on the changes made to the SUPERCentral Governing Rules.

Consideration of changes made to the SUPERCentral Governing Rules as set out in Version 04/19

Noted that the information sheet identified, amongst other changes, the principal changes which have been made to the SUPERCentral Governing Rules which are summarised below:

(a) Proposed increase in the maximum number of members from 4 to 6

The Morrison Government has proposed to increase the maximum number of members of self managed superannuation funds to 6 members from the current limit of 4. This proposal is intended to apply from 1 July 2019.

While the proposal has not, as yet been enacted, the amendment of the Governing Rules will accommodate the proposal assuming the proposal is enacted. This will be achieved by removing from the references to "four" or "4" as being the maximum number of members and replacing them with a reference to "four, or if a greater number is specified, that greater number".

This change have been effected by the following amendments:

- (i) Rule 10.1 – first sentence has been replaced by *"The number of members of the Superannuation Fund must not, at any time, exceed four, or, if a greater number is specified for the purposes of s17A(1)(a) of the SIS Act, that greater number."*;
- (ii) Rule 10.8(a) - has been amended by inserting *"exceeding the maximum permitted by Rule 10.1"* in lieu of "being five or more";

- (iii) Rule 10.8(b) - has been amended by inserting "*exceeding the maximum permitted by Rule 10.1*" in lieu of "be five or more";

(b) **Automatic restart of pensions which have not satisfied the pension standards**

New Rule 15.7A has been inserted to ensure that where a pension has failed to satisfy an applicable pension standard in a financial year (typically failing to pay the minimum pension amount), the pension will, unless the pension recipient determines otherwise, have automatically recommenced for taxation purposes immediately upon the start of the following financial year. The recommenced pension will be on the same terms as applied immediately before the start of the financial year in which the pension failed to satisfy the applicable pension standard.

(c) **Binding Death Benefit Nominations**

The Governing Rules have been amended to expressly refer to binding death benefit nominations as being non-lapsing. Binding death benefit nominations under the Governing Rules have always been of indefinite duration (but revocable at any time) and so not subject to any time based lapsing condition. However, to satisfy expectations, Rule 15.18 has been amended to expressly refer to the indefinite duration nominations as non-lapsing.

This change has been effected by amending Rule 15.18 (penultimate paragraph) by inserting "*is both binding on the Trustee and non-lapsing*" for "*is binding on the Trustee*".

(d) **Extension of crowd-sourced funding regime to proprietary companies**

The Governing Rules have been amended to expressly permit investment in securities issued by unlisted proprietary companies pursuant to offers which qualify as crowd-sourced funding offers. Currently the Governing Rules only permits investment in securities issued by unlisted public companies.

This change has been effected by amending the definition of "CSF Offer" set out in Rule 1.2 as follows: the current definition of "CSF Offer" has been amended to include "*made by an eligible CSF company (within the meaning of s738H and whether a public company or a proprietary company)*".

(e) **Extension of permitted investments to include Foreign Passport Fund Products**

The Governing Rules have been amended to expressly permit investment in foreign investment funds which have been registered in Australia under the Asia Region Funds Passport regime of the Corporations Act for investment by retail investors.

This change has been effected by:

- (i) inserting a new definition in Rule 1.2 of "*Notified Foreign Passport Fund*" and
- (ii) amending Rule 3.4(e) by adding at the end "*including interests in Notified Foreign Passport Funds*".

(f) **UK Pension Transfers**

The Governing Rules have been amended to update the provisions relating to UK pension transfers in light of changes made to UK legislation relating to such transfers.

The updating has been effected by:

- (i) Rule 29.4 (Permitted Access Conditions) has been amended;
- (ii) Rule 29.5 (Mandatory Payment Methods) has been amended to require the payment of the UK transferred amount as a flexi-access drawdown fund (as defined by the relevant UK legislation) while the transferred amount remains subject to the "5 year transfer" rule or the "10 year residence" rule;
- (iii) Rule 29.7 (Statutory references) has been updated to reflect revised and amended statutory instruments which relate to qualifying recognised overseas pension schemes (QROPS) and relevant non-resident UK pension schemes (RUNKS).

Other changes

These changes are to improve expression, correct typographical errors, update legislative and cross references or are consequential to the principal changes identified above.

Noted that Version 04/19 automatically applies to the Superannuation Fund.

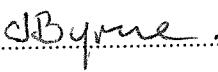
Resolved that the proposed amendment of the SUPERCentral Governing Rules by the replacement of the current Version 05/18 with Version 04/19 is in the best interests of the members of the Fund and, consequently, no objection should be made to the proposed amendment as it applies to the Superannuation Fund.


Resolved that a copy of the information sheet issued in respect of the proposed amendment be provided to each member of the Fund.

Signing & Dating – Trustees/Directors

For the purposes of this Part "Trustee" means the company which acts as trustee or the group of individuals which constitute the trustee (as the case may be).

Signed as a Written Resolution J & P Byrne Super Pty Ltd 168 162 632 as Trustee of the Superannuation Fund J & P Byrne Superannuation Fund


.....
Judith Anne Byrne
Trustee / Director


.....
Paul Barry Byrne
Trustee / Director

Dated: 26 / 03 / 2019

GOVERNING RULES UPDATE – VERSION 03/17

TRUSTEE ACKNOWLEDGEMENT RESOLUTIONS

Instructions

1. These resolutions can be used by both corporate and individual trustees.
2. To be effective all trustees/directors must sign the resolutions.
3. Once signed the resolutions must be kept as part of the Trustee's records of the Superannuation Fund.
4. Variables are in red text.

Background notes

1. The SUPERCentral Governing Rules are periodically amended by way of complete replacement of the current version of the Governing Rules with an updated version of the Governing Rules.
2. The proposed amendment is effected by Super Governing Rules Pty Ltd exercising the power of amendment conferred on that company by the SUPERCentral Establishment Deed/Amendment Deed which has been signed by the Trustee.
3. Fourteen clear days' notice is given of the proposed amendment and the Trustee, if it so wishes, may decline to accept the proposed amendment by notifying SUPERCentral within that notice period. If the Trustee does not opt out of the proposed amendment, then the new version of the SUPERCentral Governing Rules will apply to the Fund after the end of the update period.
4. The formal notice of the proposed amendment was issued on 14 February 2017 and the 14 day notice period expires on 28 February 2017. Consequently the new version of the SUPERCentral Governing Rules will apply on and from 1 March 2017. With the formal notice, an information sheet was provided which detailed the changes and the implications of the changes.
5. As the updating system operates on an "opt out" basis, the Trustee does not need to notify SUPERCentral of their decision to accept the proposed amendment.
6. Despite Point 5, the Trustee may wish to record the decision to not to opt out of the proposed amendment of the SUPERCentral Governing Rules for internal management purposes.
7. This template is provided for a Trustee which wishes to formally record for internal management purposes the Trustee's acknowledgement of the proposed amendment and its decision not to "opt out".

Written resolutions in respect of the Trustee of the J & P Byrne Superannuation Fund ("the Fund")

1. Purpose of resolutions

The purpose of these resolutions is to formally confirm and record the decision by the trustee (the Trustee) not to opt out of the SUPERCentral Governing Rules Update – Version 03/17 which was notified to the Trustee (or its information agent) and which will apply (if the update is not rejected by the Trustee within the notice period) on and from 1 March 2017.

2. Notice of update and information received

Noted that the Trustee (or its information agent for this purpose) had received:

- (a) a notice issued by Super Governing Rules Pty Ltd of the replacement of the current version of the SUPERCentral Governing Rules Version 10816 with the updated Version 03/17;
- (b) an electronic link to the SUPERCentral Governing Rules Version 03/17;
- (c) an electronic link to a marked up version of the SUPERCentral Governing Rules Version 03/17;
and
- (d) a link to an information sheet on the changes made to the SUPERCentral Governing Rules (a copy of which is attached to these resolution).

3. Consideration of changes made to the SUPERCentral Governing Rules as set out in Version 03/17

Noted that the information sheet identified, amongst other changes, the changes which have been made to the SUPERCentral Governing Rules which are summarised below:

(a) Fair and Sustainable Superannuation Changes

The Governing Rules have been amended in light of the Fair and Sustainable Superannuation Changes which generally apply from 1 July 2017. The amendments deal with:

- (i) the introduction of the transfer balance cap and commutation authorities;
- (ii) the introduction of new contribution caps and the modification of the bring-forward of non-concessional contributions
- (iii) the ability to make catch up concessional contributions (in respect of 2019/20 and subsequent financial years);
- (iv) the restructuring of defined benefit and market linked pensions where the current pension causes a breach (or is likely to cause a breach) of the transfer balance cap;
- (v) the de-segregation of assets supporting the payment of pensions;
- (vi) the removal of the earnings tax exemption in respect of transition to retirement pensions;
- (vii) the abolition of anti-detriment payments;
- (viii) the ability to rollover death benefit pensions;

- (ix) the termination of the ability to change a superannuation death benefit into a superannuation member benefit thereby ensuring that death benefits must either be cashed out as lump sums or paid as pensions;
- (x) the reform of release authorities for excess concessional and non-concessional contributions and in respect of the payment of Division 293 tax.

(b) Financial Managers of members

The Governing Rules have been amended to permit a financial manager of a member who has no enduring attorney and is no longer capable of managing their own financial affairs to exercise certain rights of the member. A financial manager is an individual who has been appointed as such by a Government Tribunal having jurisdiction in relation to the financial management of individuals. The financial manager has the right to exercise any powers the Member can exercise in relation to access benefits and varying benefits and making and revoking binding death benefit nominations.

(c) Enduring Attorneys – express exclusion of power to make or vary a binding death benefit nomination

The Governing Rules have been amended to deny an Enduring Attorney the power to make a binding death benefit nomination or to revoke or vary a binding death benefit nomination where the member who granted the power of attorney expressly denied or precluded the Attorney the power to make, vary or revoke a binding death benefit nomination in the instrument by which the Attorney was appointed.

(d) Commutation of lifetime, life expectancy, market linked pensions and non-commutable allocated pensions

The Governing Rules have been amended to permit lifetime, life expectancy, market linked pension and non-commutable allocated pensions to be commuted for the purpose of reducing or avoiding an excess transfer balance to the extent that the commutation amount equals the expected excess transfer balance or where at the time of the commutation there is an excess transfer balance – greater of the excess transfer balance or the crystallised reduction amount stated in the excess transfer balance determination.

(e) Crowd-sourced funded securities

The Governing Rules have been amended to permit (when the relevant changes have been made to the Corporations Act) trustees to acquire securities issued pursuant to crowd-sourced funded offers regulated under the Corporations Act.

Additionally, the power of the trustee to effect insurance on the lives of the members for liquidity purposes has been set out in its own provision – (previously this power was set out in Rule 5.2(c)).

(f) Other changes

These changes are to improve expression, correct typographical errors, update legislative and cross references or are consequential to the principal changes identified above.

Noted that Version 03/17 automatically applies to the Superannuation Fund.

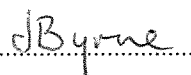
Resolved that the proposed amendment of the SUPERCentral Governing Rules by the replacement of the current Version 10/16 with Version 03/17 is in the best interests of the members of the Fund and, consequently, no objection should be made to the proposed amendment as it applies to the Superannuation Fund.


Resolved that a copy of the information sheet issued in respect of the proposed amendment be provided to each member of the Fund.

Signing & Dating – Trustees/Directors

For the purposes of this Part "Trustee" means the company which acts as trustee or the group of individuals which constitute the trustee (as the case may be).

Signed as written resolutions of J & P Byrne Super Pty Ltd 168 162 632 as Trustee of the Superannuation Fund


.....
Judith Anne Byrne
Trustee / Director


.....
Paul Barry Byrne
Trustee / Director

Dated: 15 / 2 / 2017

GOVERNING RULES UPDATE – VERSION 10/16

TRUSTEE ACKNOWLEDGEMENT RESOLUTION

INSTRUCTIONS

1. This resolution can be used by both corporate and individual trustees.
2. To be effective all trustees/directors must sign the resolution.
3. Once signed the resolution must be kept as part of the Trustee's records of the superannuation fund.
4. Variables are in red text.

BACKGROUND NOTES

1. The SUPERCentral Governing Rules are periodically amended by way of complete replacement of the current version of the Governing Rules with an updated version of the Governing Rules.
2. The proposed amendment is effected by Super Governing Rules Pty Ltd exercising the power of amendment conferred on that company by the SUPERCentral Establishment Deed/Amendment Deed which has been signed by the Trustee.
3. Fourteen clear days' notice is given of the proposed amendment and the Trustee, if it so wishes, may decline to accept the proposed amendment by notifying SUPERCentral within that notice period. If the Trustee does not opt out of the proposed amendment, then the new version of the SUPERCentral Governing Rules will apply to the Fund after the end of the update period.
4. The formal notice of the proposed amendment was issued on 14 October 2016 and the 14 day notice period expires on 28 October 2016. Consequently the new version of the SUPERCentral Governing Rules will apply on and from 29 October 2016. With the formal notice, an information sheet was provided which detailed the changes and the implications of the changes.
5. As the updating system operates on an "opt out" basis, the Trustee does not need to notify SUPERCentral of their decision to accept the proposed amendment.
6. Despite Point 5, the Trustee may wish to record the decision to not to opt out of the proposed amendment of the SUPERCentral Governing Rules for internal management purposes.
7. This template is provided for a trustee which wishes to formally record for internal management purposes the Trustee's acknowledgement of the proposed amendment and its decision not to "opt out".

Written resolution in respect of the Trustee of the J & P Byrne Superannuation Fund ("the Fund")

1. Purpose of resolution

The purpose of this resolution is to formally confirm and record the decision by the trustee ("the Trustee") not to opt out of the SUPERCentral Governing Rules Update – Version 10/16 which was notified to the Trustee (or its information agent) and which will apply (if the update is not rejected by the Trustee within the notice period) on and from 29 October 2016.

2. Notice of update and information received

Noted that the Trustee (or its information agent for this purpose) had received:

- (a) a notice issued by Super Governing Rules Pty Ltd of the replacement of the current version of the SUPERCentral Governing Rules Version 10/15 with the updated Version 10/16;
- (b) an electronic link to the SUPERCentral Governing Rules Version 10/16;
- (c) an electronic link to a marked up version of the SUPERCentral Governing Rules Version 10/16; and
- (d) an electronic link to an information sheet on the changes made to the SUPERCentral Governing Rules (a copy of which is attached to these resolutions).

3. Consideration of changes made to the SUPERCentral Governing Rules as set out in Version 10/16

Noted that the information sheet identified, amongst other changes, the changes which have been made to the SUPERCentral Governing Rules which are summarised below:

(a) UK Superannuation Transfers – Age 55 precondition for transfers (QROPS)

The Governing Rules have been amended to include a provision (reflecting current UK mandatory requirements) that the Trustee cannot accept UK transferred benefits of a member unless the member has attained age 55.

This change has been effected by inserting new Rule 29.2A immediately after Rule 29.2.

(b) Payment Splitting actions

The Governing Rules have been amended to permit the Trustee to various actions in to satisfy the interest of a non-member spouse under a payment split as are permitted by Regulation 14G of the *Family Law (Superannuation) Regulations 2001*.

This change has been effected by inserting new Rule 7.1(d) and making amendments to Rule 7.1(c).

(c) **CGT Contributions arising from the payment of look-through earn-out rights**

The Governing Rules have been amended to expressly permit the Trustee to accept as CGT non-concessional contributions payments arising from look-through earn-out payments arising from the sale of assets to which the small business 15 year or retirement concession applies. Essentially, look-through earn-out payments are sale proceeds which are paid during or before the 5th financial year after the financial year in which the disposal of the active asset occurred.

Additionally, the amount of the payment must be related to the financial performance of the asset in the post-sale period but the amount of the payment cannot reasonably be ascertained at the time of the disposal.

Without this change, earn-out payments arising from a disposal which occurred before age 65, or occurred after age 65 at a time when the member satisfied the work test, but received at a time when the member is precluded from making further superannuation contributions (for example, at a time when the member is aged 65 or more and not satisfied the work test or 76 or more) could not be accepted. Now, the payments can be accepted as superannuation contributions if the payment would not have been affected by the contribution restriction had the payment been made during the financial year in which the disposal occurred.

This change has been effected by amending Rule 14.2(k).

(d) **Overseas securities**

The list of approved investments set out in the Governing Rules has been modified to expressly refer to securities listed on overseas securities exchanges which are electronic exchanges such as NASDAQ.

This change has been effected by amending Rule 3.4(a).

(e) **Disclaimer of death benefits**

The Governing Rules have been modified to permit a beneficiary of a death benefit to expressly disclaim the entirety of their interest in the death benefit. The disclaimed interest will then be allocated at the Trustee's discretion to or amongst the other possible beneficiaries of the relevant deceased member.

This change has been effected by inserting new Rule 15.30 and by inserting new Rule 16.11.

(f) **Repeal of superseded provisions**

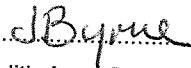
Provisions of the Governing Rules set out in Rule 26 (dealing with the transitional issues arising from the 2007 superannuation and tax changes) and Rule 28 (dealing minimum pension relief in the period from 1 July 2008 to 30 June 2013) have been repealed as they are no longer relevant. While these Rules have been repealed, their numbering will be retained to avoid cross referencing errors.


This change has been effected by deleting Rule 26 and by deleting Rule 28. However there has been no renumbering of rules as a result of this change.

4. Signing & dating – Trustees/Directors

For the purposes of this Part "Trustee" means the company which acts as trustee or the group of individuals which constitute the trustee (as the case may be).

Signed as a written resolution J & P Byrne Super Pty Ltd 168 162 632 as Trustee of the Fund.


.....
Judith Anne Byrne
Trustee / Director


.....
Paul Barry Byrne
Trustee / Director

Dated:/...../ 20.....

GOVERNING RULES UPDATE – VERSION 10/15

TRUSTEE ACKNOWLEDGEMENT RESOLUTION

INSTRUCTIONS

1. This resolution can be used by both corporate and individual trustees.
2. To be effective all trustees/directors must sign the resolution.
3. Once signed the resolution must be kept as part of the Trustee's records of the Superannuation Fund.
4. Variables are in red text.

BACKGROUND NOTES

1. The SUPERCentral Governing Rules are periodically amended by way of complete replacement of the current version of the Governing Rules with an updated version of the Governing Rules.
2. The proposed amendment is effected by Super Governing Rules Pty Ltd exercising the power of amendment conferred on that company by the SUPERCentral Establishment Deed/Amendment Deed which has been signed by the Trustee.
3. Fourteen clear days' notice is given of the proposed amendment and the Trustee, if it so wishes, may decline to accept the proposed amendment by notifying SUPERCentral within that notice period. If the Trustee does not opt out of the proposed amendment, then the new version of the SUPERCentral Governing Rules will apply to the Fund after the end of the update period.
4. The formal notice of the proposed amendment was issued on 15 October 2015 and the 14 day notice period expires on 29 October 2015. Consequently the new version of the SUPERCentral Governing Rules will apply on and from 30 October 2015. With the formal notice, an information sheet was provided which detailed the changes and the implications of the changes.
5. As the updating system operates on an "opt out" basis, the Trustee does not need to notify SUPERCentral of their decision to accept the proposed amendment.
6. Despite Point 5, the Trustee may wish to record the decision to not to opt out of the proposed amendment of the SUPERCentral Governing Rules for internal management purposes.
7. This template is provided for a Trustee which wishes to formally record for internal management purposes the Trustee's acknowledgement of the proposed amendment and its decision not to "opt out".

Written Resolutions in respect of the Trustee of the J & P Byrne Superannuation Fund

1. Purpose of resolution

The purpose of this resolution is to formally confirm and record the decision by the Trustee not to opt out of the SUPERCentral Governing Rules Update – Version 10/15 which was notified to the Trustee (or its information agent) and which will apply (if the update is not rejected by the Trustee within the notice period) on and from 30 October 2015.

2. Notice of update and information received

Noted that the Trustee (or its information agent for this purpose) had received:

- (a) a notice issued by Super Governing Rules Pty Ltd of the replacement of the current version of the SUPERCentral Governing Rules Version 05/15 with the updated Version 10/15;
- (b) an electronic link to the SUPERCentral Governing Rules Version 10/15;
- (c) an electronic link to a marked up version of the SUPERCentral Governing Rules Version 10/15; and
- (d) an electronic link to an information sheet on the changes made to the SUPERCentral Governing Rules (a copy of which is attached to this Resolution).

3. Consideration of changes made to the SUPERCentral Governing Rules as set out in Version 10/15

Noted that the information sheet identified, amongst other changes, the changes which have been made to the SUPERCentral Governing Rules which are summarised below:

(a) Terminal Medical Condition

The relaxation in the certification period from 12 months to 24 months has been incorporated. Previously the medical certificate to permit a release of benefits on the grounds of Terminal Medical Condition required the medical practitioners to certify that death is likely within 12 months of the date of the certificate. Now a 24 month period applies. Consequently the medical practitioners need to certify that death is likely within 24 months of the date of the certificate.

(b) UK Superannuation Transfers – Fund as a qualifying recognised overseas pension scheme (QROPS)

The Governing Rules have been amended so that benefits arising from UK transferred superannuation/pension benefits are preserved until age 55 and can only be accessed before that age in the circumstances permitted by the relevant UK statutory instruments: death and the "ill-health condition" as defined in the relevant UK legislation. In order for the Fund to receive UK superannuation transfers (without significant UK tax being incurred by the member) the Fund will have to apply for QROPS status with the UK Revenue Authorities. These amendments will only apply to UK transferred superannuation/pension benefits which have transferred on or after 6 April 2015.

(c) **Variation of payment terms of death benefits**

The Governing Rules have been amended to permit the Trustee and the beneficiary of a binding death benefit nomination to pay the death benefit as agreed between the Trustee and the beneficiary. However the Trustee and beneficiary will have no power to vary the terms on which the death benefit is paid if the member expressly or by implication otherwise specifies.

(d) **Validity of Binding Death Benefit Nominations**

The Governing Rules have been amended so that a Binding Nomination which is valid at the date of making of the nomination does not cease to be valid solely because of subsequent changes to the Governing Rules.

(e) **Release Authorities – updating references**

The definition of "Release Authority" has been updated to reflect recent changes to the table of release conditions set out in the SIS Regulations.

Noted that Version 10/15 automatically applies to the Superannuation Fund.

Resolved that the proposed amendment of the SUPERCentral Governing Rules by the replacement of the current Version 05/15 with Version 10/15 is in the best interests of the members of the Fund and, consequently, no objection should be made to the proposed amendment as it applies to the Superannuation Fund.

Resolved that a copy of the information sheet issued in respect of the proposed amendment be provided to each member of the Fund.

4. **Signing & Dating – Trustees/Directors**

For the purposes of this Part "Trustee" means the company which acts as trustee or the group of individuals which constitute the trustee (as the case may be).

Signed as a Written Resolution J & P Byrne Super Pty Ltd 168 162 632 as Trustee of the Superannuation Fund.

.....
Judith Anne Byrne
Director

.....
Paul Barry Byrne
Director

Dated: 13 / 10 / 2015

~~GOVERNING RULES UPDATE – VERSION 05/15~~

TRUSTEE ACKNOWLEDGMENT RESOLUTION

INSTRUCTIONS

1. This resolution can be used by both corporate and individual trustees.
2. To be effective all trustees/directors must sign the resolution.
3. Once signed the resolution must be kept as part of the Trustee's records of the Superannuation Fund.
4. Variables are in red text.

BACKGROUND NOTES

5. The SUPERCentral Governing Rules are periodically amended by way of complete replacement of the current version of the Governing Rules with an updated version of the Governing Rules.
6. The proposed amendment is effected by Super Governing Rules Pty Ltd exercising the power of amendment conferred on that company by the SUPERCentral Establishment Deed/Amendment Deed which has been signed by the Trustee.
7. Fourteen clear days' notice is given of the proposed amendment and the Trustee, if it so wishes, may decline to accept the proposed amendment by notifying SUPERCentral within that notice period. If the Trustee does not opt out of the proposed amendment, then the new version of the SUPERCentral Governing Rules will apply to the Fund after the end of the update period.
8. The formal notice of the proposed amendment was issued on 5 May 2015 and the 15 day notice period expires on 19 May 2015. Consequently the new version of the SUPERCentral Governing Rules will apply on and from 20 May 2015. With the formal notice, an information sheet was provided which detailed the changes and the implications of the changes.
9. As the updating system operates on an "opt out" basis, the Trustee does not need to notify SUPERCentral of their decision to accept the proposed amendment.
10. Despite Point 5, the Trustee may wish to record the decision to not to opt out of the proposed amendment of the SUPERCentral Governing Rules for internal management purposes.
11. This template is provided for a Trustee which wishes to formally record for internal management purposes the Trustee's acknowledgment of the proposed amendment and its decision not to "opt out".

Written Resolutions in respect of the Trustee of the J & P Byrne Superannuation Fund

1. Purpose of resolution

The purpose of this resolution is to formally confirm and record the decision by the Trustee not to opt out of the SUPERCentral Governing Rules Update – Version 05/15 which was notified to the Trustee (or its information agent) and which will apply (if the update is not rejected by the Trustee within the notice period) on and from 20 May 2015.

2. Notice of update and information received

Noted that the Trustee (or its information agent for this purpose) had received:

- ☐ (a) a notice issued by Super Governing Rules Pty Ltd of the replacement of the current version of the SUPERCentral Governing Rules Version 08/14 with the updated Version 05/15;
- ☐ (b) an electronic link to the SUPERCentral Governing Rules Version 05/15;
- (c) an electronic link to a marked up version of the SUPERCentral Governing Rules Version 05/15; and
- (d) a link to an information sheet on the changes made to the SUPERCentral Governing Rules (a copy of which is attached to this resolution).

3. Consideration of changes made to the SUPERCentral Governing Rules as set out in Version 05/15

Noted that the information sheet identified, amongst other changes, the changes which have been made to the SUPERCentral Governing Rules which are summarised below:

- ☐ (a) **Medical evidence for removal of trustees**
A provision has been included by which a trustee ceases to hold office if two independent medical certificates are provided by legally qualified medical practitioners certifying that the trustee is not able to manage their own affairs. The certificates are prima facie evidence of incapacity.
- ☐ (b) **Appointment of legal personal representative as trustee in the period from death of member to payment of death benefits**
Provisions have been included to permit a member to appoint their legal personal representative as a trustee from the death of the member until the benefits of the member have been allocated and paid out. The legal personal representative must be the executor or administrator of the estate of the member.

(c) Saving provisions for binding death benefit nominations

A provision has been included to provide that a reference to "Trustee of Deceased Estate" in a death benefit nomination is to be taken to be a reference to the legal personal representative of the member's estate. This change addresses an issue identified in the recent case of *Munro v Munro* [2015] QSC 61, a decision of the Supreme Court of Queensland.

Another saving provision has been included to ensure that a binding death benefit nomination which nominates less than the entire death benefit will be valid and the balance of the death benefit will be allocated by the trustee to or amongst the dependants and/or estate of the member.

(d) Release Authorities – Refund of excess non-concessional contributions

The definition of "Release Authority" has been updated to permit the release of excess non-concessional contributions and associated earnings which relate to the 2013/14 or later financial years.

(e) Grandfathered & other insurance arrangements

The Governing Rules have been amended to expressly provide that insurance cover in place as at 30 June 2014 for a particular member can be maintained after that date.

Additionally, the power of the trustee to effect insurance on the lives of the members for liquidity purposes has been set out in its own provision – (previously this power was set out in Rule 5.2(c)).

(f) Trustee Authorised Investments

The list of authorised investments has been expanded to include Simple Corporate Bonds and exchanged-traded Australian Government Bonds. Also, the leasing power of the trustee has been modified to expressly permit the trustee to grant long term leases (in excess of the period permitted by the relevant Trustee Act).

(g) Commutation of Transition to Retirement Pensions

The Governing Rules have been amended to expressly provide that where the purchase price of a transition to retirement pension includes an unrestricted non-preserved component, the pension may be commuted to the extent the pension balance consists of the unrestricted non-preserved component even though the member has not attained age 65 or retired for superannuation purposes.

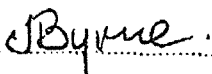
Noted that Version 05/15 automatically applies to the Superannuation Fund.


Resolved that a copy of the information sheet issued in respect of the proposed amendment be provided to each member of the Fund.

Signing & Dating – Trustees/Directors

For the purposes of this Part "Trustee" means the company which acts as trustee or the group of individuals which constitute the trustee (as the case may be).

Signed as a Written Resolution J & P Byrne Super Pty Ltd 168 162 632 as Trustee of the Superannuation Fund


Judith Anne Byrne
Trustee / Director


Paul Barry Byrne
Trustee / Director

Dated: 4 / 5 / 20 15



SUPERCENTRAL'S PRIVATE SUPERANNUATION FUND GUIDE 2013/14 FINANCIAL YEAR

This Guide provides general information about self managed superannuation funds which participate in the SUPERCentral service. The Guide is neither a product disclosure statement nor a substitute for specific professional advice.

This Guide relates to the 2013/14 financial year and was prepared June 2013.

1. Purpose of Guide

This Guide has been prepared to provide a general overview of the key issues arising from adopting the SUPERCentral Governing Rules as the governing rules of a self managed superannuation fund.

The information is necessarily of a general nature and cannot be relied upon as a substitute for considered professional advice.

For future versions of this Guide and for information on recent developments relating to private superannuation funds, go to www.supercentral.com.au

2. Contents

The information in this Guide is set out in the following topics:

- What is a super fund?
- What is a private superannuation fund?
- What is the purpose of the trust deed?
- What is the Trustee's role?
- Admitting Members
- Accepting Contributions
- Investing the Fund's assets
- Paying Benefits
- Administration of Private Superannuation Funds
- Compliance Issues for Trustees
- Taxation and Private Superannuation Funds Trustees
- Taxation of Member Benefits
- Taxation of Death Benefits
- Glossary

3. What is a Super Fund?

A superannuation fund is, essentially, a pool of assets that has been set aside and invested to provide retirement benefits for the members of the fund.

The pool of assets is treated as a trust fund in order to protect the assets of the pool from the claims of creditors.

The person responsible for the administration and investment of the pool of assets is the trustee.

The trustee is the owner of the assets within the pool and is required to invest those assets in order to pay to the members their benefits as and when the entitlement to the benefit arises.

While the assets of the pool are owned by the trustee, they cannot be used to pay the trustee's personal debts.

Superannuation funds which operate under the *Superannuation Industry (Supervision) Act 1993* ("the SIS Act") receive special taxation treatment. If a superannuation fund did not operate or ceased to operate under that Act, the fund would be taxed at such a rate to make the fund uneconomic as an investment for the members.

A superannuation fund operates under the SIS Act by the trustee of the fund making an election to be regulated under the SIS Act. This election, once made, cannot be revoked.

Once the election is made, the superannuation fund will be a regulated superannuation fund and therefore entitled to receive taxation concessions so long as the fund complies with the SIS Act and is an Australian superannuation fund at all times.

The SIS Act imposes rules on the operation of superannuation funds including, for example, rules applying to:

- when contributions to the fund can be accepted;
- when benefits can be paid from the fund;
- the terms upon which benefits can be paid;
- how the fund can be invested; and
- who can be trustees and who can be members.

Also, because superannuation interests are treated as financial products, the *Corporations Act, 2001*, ("the Corporations Act") imposes, amongst other things, rules as to what information must be given to persons before they become members, while they are members, and upon ceasing to be members.

4. What is a private superannuation fund?

A private superannuation fund is a superannuation fund which meets the definition of a "self managed superannuation fund" ("SMSF").

Essentially, a superannuation fund meets the definition of an SMSF when:

- the fund has no more than 4 members at any time;
- all the members of the fund participate in managing the fund;
- unless the members are related, no member of the fund is an employee of another member of the fund; and
- the trustee does not receive any fee for acting as trustee.

In counting the number of members, persons who are receiving a pension are treated as members. However, persons who are not currently but, may in the future, be entitled to receive a pension (eg reversionary pensions or pensions payable to the dependants of a deceased member) are not treated as being members until the pension commences to be paid to them.

The requirement that the members manage the fund means that they must be trustees of the fund or, if a company acts as trustee, directors of that

company. As a general statement, there can be no trustees, or directors of the company acting as trustee, who are not members.

There are a number of special rules which modify this requirement in situations where the member cannot act as trustee due to ill-health, or the member is under age 18. In this situation, the legal personal representative (in the case of ill-health) or the parent or guardian (in the case of members under age 18) can act as the trustee or director in the place of the member until the member ceases to be disabled or attains age 18.

Further, if a member has died, then the executor (or administrator) of the member's estate can act as a trustee or director until the deceased member's benefit has been paid or the pension commenced (if the death benefit is payable by way of pension).

The requirement that no member be an employee of another member (unless they are related) is more onerous than it first appears, as the SIS Act has extended the circumstances in which one person is taken to be an employee of another.

This extension means that a member ("A") who is an employee of an employer who is or has contributed to the fund will be deemed to be an employee of another member ("B") if B is either:

- a relative of the employer (assuming that the employer is an individual);
- a director of the employer (or a relative of a director of employer), assuming that the employer is a company;
- a director (or a relative of a director) of a company which is a related company of the employer;
- a beneficiary (or a relative of a beneficiary) of a trust of which the employer is a trustee;
- a partner (or a relative) of a partner where the employer is a partnership;

- a director (or a relative of a director) of a company which is in partnership with the employer; or
- a beneficiary (or a relative of a beneficiary) of a trust where the trustee is in partnership with the employer.

There are two exceptions to this extended meaning of employee.

The first exception applies in the case of directors of the same company. In this case, neither director is deemed to be an employee of the other.

The second exception applies where a member is both an employee of another member and a relative of that member. In this case, the member will not be taken to be an employee of any other member.

The requirement that the trustee receives no fees (whether from the fund or another source) for acting as trustee does not prevent a trustee from being reimbursed for expenses incurred in acting as trustee.

Where a company acts as the trustee of the fund, then neither the company nor any of its directors can receive fees for services performed in relation to the fund. However, the company and the directors may be reimbursed for any expenses incurred in relation to the fund.

However the trustee or director can in limited circumstances be paid fees from the Fund for non-trustee and non-director services they provide to the Fund. This will apply where the trustee or director is qualified and licensed to provide the particular services, they must carry on a business of providing such services and the remuneration must be an arm's length remuneration.

It is important to remember that a superannuation fund must, at all times, satisfy the SMSF definition. Consequently, before a person is admitted as a

member or upon a person ceasing to be a member (and equally before a person is appointed or ceases to be a trustee or a director of the company acting as trustee) the appropriate changes should be made to ensure that the SMSF definition continues to be satisfied.

If a private superannuation fund ceases to satisfy the SMSF definition:

- because the fund has admitted one or more members when the fund already has 4 members, then the fund will have ceased to be an SMSF and must operate as a different kind of regulated superannuation fund (this may require the appointment of a suitably licensed professional trustee company as trustee); and
- for any other reason, then the fund has 6 months in which to restructure (eg by removing members or by adding trustees, or directors where a company acts as trustee), so that it meets the SMSF definition. If not, then the fund may have to appoint a suitably licensed professional trustee company as trustee.

Where a superannuation fund meets the SMSF definition, the fund will be regulated by the Australian Taxation Office.

5. What is the purpose of the trust deed?

The purpose of the trust deed of a superannuation fund is to set out the rules that govern the operation of the fund. These rules are called the "Governing Rules".

The superannuation deed adopts the SuperCentral Governing Rules by which the trustee must manage the superannuation fund, including rules dealing with:

- who can be trustee and how the trustee can be changed;
- who can be admitted as a member and in what circumstances they cease to be a member;

- what contributions are required or can be made to the fund;
- what benefits are to be paid from the fund – including when they can be paid or must be paid, and the terms upon which they are paid;
- what the trustee must do and is permitted to do in order to manage the fund;
- the types of investments in which the trustee can invest the assets of the fund; and
- how the rules of the fund are amended.

While the trust deed will contain many rules, it will not contain all the rules governing the management and operation of the fund, as to do so would make the trust deed far too large and detailed. Also, given the pace of change of superannuation regulation, it would require the trust deed to be constantly amended.

As some rules which the trustee must comply with are set out in the SIS Act, the *Corporations Act*, and in the *Income Tax Assessment Act, 1997*, these rules are not set out in the trust deed as they apply to the fund by force of law.

Consequently, while the trust deed sets out many of the rules, it does not contain all the rules (and the various definitions). Therefore, whenever considering the trust deed, you must be aware that the SIS Act, Corporations Act, and Taxation Acts are also relevant.

As the superannuation fund has joined the SUPERCentral Service, the trust deed provides that the Governing Rules of the fund are the SUPERCentral Governing Rules. The power to amend the SUPERCentral Governing Rules is set out in the deed by which the superannuation fund joined the SUPERCentral Service (which will be an Establishment Deed for new funds and an Amendment Deed for existing funds).

While the superannuation fund participates in the SUPERCentral Service, the power to amend the SUPERCentral Governing Rules is exclusively conferred on Super Governing Rules Pty Limited ACN 117 737 381. When it is necessary or desirable to amend the Governing Rules, this Company will alter the SUPERCentral Governing Rules and must notify the Trustee of the alteration, the reason for the alteration, and the effect of the alteration on members and their benefits.

The Trustee has 14 days in which to accept or reject the proposed amendment. Unless the Trustee specifically rejects the proposed amendment within this period the proposed amendment will apply to the superannuation fund at the end of the period.

If the Trustee rejects the proposed amendment then the proposed amendment does not apply to the superannuation fund. In this case, the superannuation fund ceases to be part of the SUPERCentral Service. The Governing Rules of the superannuation fund will consist of the SUPERCentral Governing Rules as they were immediately before the proposed amendment. The Trustee will then have power to make any amendments which the Trustee considers necessary or appropriate.

Members can view a copy of the current (and previous versions) SUPERCentral Governing Rules at www.supercentral.com.au.

Members can also download an electronic copy of or print off a hard copy of the SUPERCentral Governing Rules.

6. What is the Trustee's Role?

The trustee's role is to administer the fund in accordance with the trust deed and the SIS Act. In administering the fund, the trustee must:

- comply with the trust deed;
- act honestly;
- exercise due care, skill and diligence;



- exercise its powers and duties in the best interests of the members and other beneficiaries of the fund;
- keep the assets of the fund separate from other assets (eg the trustee's own assets);
- retain control of the fund by not acting upon the instructions of others or allowing others to effectively control the fund;
- develop and implement an investment strategy;
- provide members and other beneficiaries access to information about the fund and their benefits; and
- maintain sufficient records, including financial records, to enable the trustee to show that it has properly administered the fund.

The trustee can engage advisers and other service providers (eg fund administrators, taxation or legal advisers) to assist the trustee in its role. However, it will be the trustee who is ultimately responsible for the proper administration of the fund.

One very important role of the trustee is to ensure that the fund satisfies the "sole purpose" test. This test requires that superannuation funds regulated under the SIS Act must be maintained solely for certain approved purposes. These purposes include:

- the provision of retirement benefits for members, which are to be paid upon the member's retirement or attainment of age 65;
- the provision of transition to retirement pensions on a member attaining their preservation age;
- the provision of benefits for one or more of the dependants of the member in the event of the member's death before retirement.

The test also requires that the fund only provides benefits to members by way of individual superannuation benefits (eg pensions or lump sums). In particular, the fund could not provide

members (or their dependants) with benefits which are not individual superannuation benefits, whether at or before retirement.

7. Admitting Members

Since the superannuation fund is to qualify as a self managed superannuation fund, there are rules that restrict who and how persons can be admitted as members.

These rules have been set out in an earlier section of this Guide, "What is a private superannuation fund?"

The administrative process for admitting a person as a new member is set out below.

Step 1 - Ensure that the 4 member requirement is not breached

To be an SMSF, the fund cannot have, at any one time, more than four members.

Remember:

- a person being paid a pension from the fund is counted as a member;
- a person who has an account balance in the fund, even though they may not be currently contributing to the fund, will be counted as a member;
- a person who may in the future receive a pension (and does not currently have an account balance in the fund) is not a member until the pension commences.

Step 2 - Ensure that the person can participate in the management of the fund

The person to be admitted as a member must be legally permitted to act as one of the trustees or one of the directors (if a company acts as trustee).

Subject to certain exceptions, this generally means that the person must be at least 18 years old; must not be an employee of another member (unless

they are related); must not have been found guilty of an offence involving dishonesty; must not have been subject to a civil penalty order under the SIS Act; and must not be subject to a disqualification order under the SIS Act.

Where the person is under age 18, they can still be admitted so long as the parent or guardian of the person acts as trustee (or director of the company acting as trustee). Naturally, the parent or guardian must themselves be legally permitted to act as a trustee (or director).

Step 3 - Invite the person to apply for membership and issue a Product Disclosure Statement

The trustee must resolve to invite the person to make an application for membership. Also, the trustee must issue a Product Disclosure Statement to the person before they receive the application.

Once the application is received, the trustee will need to approve and accept the application and advise the person that the application has been approved.

Step 4 - Admit the person as member and as trustee

The date upon which the person is admitted to the Fund ideally will coincide with the date on which the person is admitted as trustee or director (if a company is acting as trustee).

However, a gap between these two dates will not adversely affect the status of the fund as a SMSF if the gap is less than 6 months.

Step 5 - Accept contributions for the person

The trustee is now permitted to accept contributions from or in respect of the person, or to accept rollovers and transfers from other superannuation entities in respect of the person.

The circumstances as to when contributions and other payments can be accepted in respect of a member are set out in the following section of this Guide.

8. Accepting Contributions

There are a number of rules as to when contributions can be accepted by the trustee.

In applying these rules a distinction is drawn between:

- new contributions to the fund; and
- contributions which have been made to other funds and which are rolled over/transferred to the fund.

A member's rolled over/transferred contributions (and earnings on those contributions) can be accepted by the fund irrespective of the age and work status of the member.

New contributions by or in respect of a member can only be accepted by the fund where the contribution passes three "tests":

- the "tax file number test" – the fund must have the tax file number of the member in respect of whom the contribution is made – this test applies to all contributions other than employer contributions made for the member;
- the "dollar test" – the fund must not accept a contribution which exceeds \$450,000 (where the member is 64 or less at the start of the financial year) or \$150,000 (if the member is 65 or more at the start of the financial year). Generally, a fund cannot accept a contribution by or in respect of a member if the member is 75 or more unless the contribution is an SG contribution or an employer contribution which the employer is required to make by law.

The dollar test does not apply to employer contributions, the members' own contributions for which they are claiming a tax deduction, CGT

contributions, personal injury contributions, and certain government contributions.

- the “workforce test” – which only applies to members aged 65 or more – generally the fund cannot accept contributions by or in respect of a member for a particular financial year unless the member has, before the contribution is made, been gainfully employed in that financial year for at least 40 hours in a period of no more than 30 consecutive days. Where the member has attained age 70, then only employer contributions and contributions the member makes for him or herself can be accepted.

The workforce test does not apply if the member is under age 65.

- Once a member has reached age 75, generally only employer contributions can be made for the member where the contribution is required to be made by reason of an industrial law.

Remember – the SIS Act and taxation treatment of contributions are different. Simply because the SIS Act permits a trustee to accept a contribution does not mean that the person making the contribution will be entitled to claim a tax deduction for the contribution. Further, as a general statement, third-party contributions will be included in the assessable income of the fund and therefore taxed.

The Government has proposed that from 1 July 2013 the current age cap apply to compulsory employer contributions (these are the “9% contributions”) will be removed. Consequently, employees aged 70 have compulsory superannuation contributions made for them.

9. Investing the fund's assets

In managing a fund's assets, the trustee must comply with a number of “investment rules” which are described below.

In general terms these rules are:

Investment Rule No 1 - Investment Strategy

The fund must have an investment strategy, including a derivatives risk statement (if derivatives are to be used which involve a charge over fund assets).

Investment Rule No 2 - Apply Investment Strategy

Investments must be made in accordance with the current investment strategy.

Investment Rule No 3 - Investment Credentials

The investment must be meritorious having regard to relevant criteria.

Investment Rule No 4 - Special Income

Be aware of the potential adverse tax consequences of investing in private company shares and investing on a non arm's length basis or discretionary trust distributions – these investments may generate “special income” taxable at 47%.

Investment Rule No 5 - Cash Flow

Invest with a view to the expected cash flow requirements of the fund.

Investment Rule No 6 - Derivatives

If the investment is a derivative which involves a charge over fund assets, then it must be in accordance with the derivatives risk statement of the fund.

Investment Rule No 7 - Sole Purpose Test

The investment must satisfy the sole purpose test.

Investment Rule No 8 - Asset Charges

The investment must not cause a charge to be raised over the assets of the fund.

An important exception to this investment rule applies where a charge is granted to support certain types of limited recourse borrowings.

Investment Rule No 9 - Arm's length terms

The investment must be on arm's length terms.

Investment Rule No 10 - No Lending

There must be no lending or providing financial assistance to members (or their relatives).

Investment Rule No 11 - No Borrowing

The investment must not give rise to or involve a borrowing by the fund.

An important exception to this investment rule has been recently introduced. This exception will only apply if certain requirements are satisfied, including the requirement that the borrowing be on a limited recourse basis.

Investment Rule No 12 - No acquisitions from related parties

The investment must not involve an acquisition from a related party (including members or relatives).

An important exception to this investment rule is that the fund can acquire (whether by purchase or otherwise) property from a related party if the property qualifies as "business real property".

Investment Rule No 13 - In-house assets

If the investment constitutes an in-house asset, then the 5% limit must not be exceeded.

There are certain exceptions to these rules. Usually the exceptions are limited in scope and the fund must satisfy any conditions which apply to the exceptions.

10. Paying Benefits

Generally, superannuation funds are able to pay members' benefits as:

- lump sums,
- pensions, or
- a combination of lump sums and pensions

Where a member's benefit is paid as a pension, then the terms of the pension must be agreed between the Trustee and the member.

Generally the pension be an account pension. If the member has only attained their preservation age but not retired then the pension will be a transition to retirement pension.

In certain circumstances a market-linked pension can be paid – but only if the pension can be traced back to a complying which commenced before 20 September 2007.

The terms of the pension must be consistent with the pension rules for that type of pension set out in the SUPERCENTRAL Governing Rules.

A private superannuation fund can also pay a defined benefit pension by purchasing a life insurance policy or annuity from a life insurance company, which completely finances the defined pension.

A member may access their superannuation benefit in full when:

- they attain age 65;
- they have attained age 60 and they subsequently cease any gainful employment;
- they have both attained age 60 and have previously ceased any gainful employment and they intend (to the trustee's reasonable satisfaction) never again to become gainfully employed;
- they have reached their preservation age but not attained age 60 and:

- they have ceased gainful employment (whether before or after reaching their preservation age); and
- the trustee is reasonably satisfied that they intend never to again be gainfully employed;
- they can also access all or part of their superannuation benefit after attaining their preservation age (whether or not they have ceased or reduced gainful employment), so long as their benefit is paid as a transition to retirement pension;
- they become permanently incapacitated.
- they are suffering from a terminal medical condition.

A member may be able to access all or part of their benefit:

- when they cease to be gainfully employed with an employer who has contributed to the fund;
- when they are in severe financial hardship;
- when there are compassionate grounds to access their benefit and the ATO has authorised the payment; and
- in certain other limited circumstances.
- In these cases, the amount the member can access and the form of payment may be restricted.

A member is no longer required to access their benefits on attaining age 65 (even if they have already retired) or ceasing to be gainfully employed after attaining age 65. A member can now retain their benefits in a fund for as long as they wish. However, they must be paid out on the death of the member.

11. Administration of the Fund

The trustee is solely responsible for the administration of the superannuation fund. The trustee may engage others (eg accountants, tax agents, lawyers, administrators) to assist the trustee. However, the trustee is ultimately responsible.

The key administrative tasks of the trustee of a superannuation fund that is regulated as a self managed superannuation fund are:

- maintaining financial records of the fund to record contributions made, expenses incurred, income and profits made and benefits paid;
- maintaining administration records such as member details, application forms, copies of member benefit statements, fund annual reports, and other member communications;
- maintaining legal records of the fund such as changes in trustees, consents to act as trustees/directors, service provider agreements;
- maintaining asset records such as acquisition and disposal contracts;
- preparing financial statements;
- arranging for the audit of the financial statements;
- preparation and lodgement of the Fund Annual Return for the fund and the payment of the annual regulatory levy as well as any tax payable by the fund;
- preparation and filing of quarterly Instalment Activity Statements;
- arranging (if required) for registration of the trustee for PAYG purposes;
- preparing and lodging benefits reports with the Tax Office for the purposes of the reasonable benefits system, and;
- issuing annual PAYG statements to former members and pensioners in respect of taxable payments made and instalments of tax withheld.

12. Compliance Issues for Trustees

The key compliance issues for a trustee of a self managed superannuation fund are set out below. These issues are the matters in relation to which the auditor is required to be satisfied in order to provide the trustee with an unqualified compliance certificate.

Structure of the fund

The auditor must be satisfied that:

- (SIS Act Election) – an effective election to become a regulated superannuation fund was made within 60 days of the establishment of the fund (SIS Act s19);
- (Satisfies SMSF definition) – the fund at all times must satisfy the definition of a “self managed superannuation fund” (SIS Act s17A);
- (ATO Trustee Declarations) – each trustee (or director of a company acting as the trustee) appointed on or after 1 July 2007 has signed (within 21 days of being appointed) the ATO Trustee Declaration (SIS Act s104A);
- (Records of Trustees) – the trustee has kept (for at least 10 years) up to date records of all changes of trustees and changes of directors of companies which act as trustees, together with their consents to act as trustee/director (SIS Act s104 & s118);
- (Records of Member Reports) – the trustee has kept (for at least 10 years but in any event for so long as necessary) copies of all reports issued to members (SIS Act s105);
- (Change of Status from or to an SMSF) – if the fund has ceased to be a self managed superannuation fund, the trustee has notified, within 21 days, the Tax Office of this (SIS Act, s106A);
- (Trustee/director being disqualified) – whether the trustee or any director/secretary or other responsible officer of the company which acts as trustee is disqualified (SIS Act, s120); and
- (ATO has been notified of changes in the fund’s details) – the trustee must within 28 days notify the ATO of any changes occurring in respect of trustees, members, directors of the corporate trustee, name of the fund and postal and contact details (SIS Reg 11.07AA).

Sole Purpose Test

The auditor must be satisfied that the trustee has satisfied at all times the sole purpose test. (SIS Act, s62)

Investments

The auditor must be satisfied that the trustee has complied with the following investment rules:

- lending or providing financial assistance to members or relatives (SIS Act, s65);
- acquisition of assets from related parties (SIS Act, s66);
- borrowing by the fund (SIS Act, s67);
- in-house assets (SIS Act, Part 8);
- arm’s length investments (SIS Act, s109);
- charges over fund assets (SIS Regulations 13.14).

Contributions and preservation standards

The auditor must be satisfied that:

- the trustee has only accepted contributions permitted by the SIS Act to be accepted (SIS Regulation 7.04);
- the trustee has only paid out members’ benefits in the circumstances permitted and to the extent permitted by the SIS Act (SIS Regulation 6.17);
- the trustee has ensure that the benefits of a member arising from their own contributions from the compulsory contributions made by an employer in respect of the member and from any Government Contributions in respect of the member have been retained in the fund or only paid out to the member or to another superannuation fund in the circumstances permitted and to the extent permitted by the SIS Act (SIS Regulation 5.08).

Administration requirements

The auditor must be satisfied that:

- Minutes of all trustee meetings (and board meetings where the trustee is a company) have been kept for at least 10 years (SIS Act s103);



- Accounting records have been kept for a minimum of 5 years (SIS Act s35A);
- The relevant Financial Statements have been prepared, adopted by the trustee, signed, audited and kept for a minimum of 5 years (SIS Act s35B);
- The auditor has been provided with assistance and access reasonably required for the auditor to properly discharge the audit function (SIS Act s35C);
- If an investment manager has been appointed, the appointment is by means of a written contract (SIS Act s124).

13. Taxation and Private Superannuation Funds

This section of the Guide provides a brief overview of the taxation treatment of private superannuation funds.

This covers the taxation treatment of:

- contributions;
- fund earnings; and
- benefits.

Contributions

For taxation purposes contributions are treated as being "concessional" or "non-concessional" contributions.

Concessional contributions are, broadly, contributions for which the contributor is entitled to claim a tax deduction.

For example, contributions made by an employer for one of its employees who is a member or, if a member is self employed, the member's own contributions.

Non-concessional contributions are, broadly, contributions for which the contributor is not entitled to claim a tax deduction.

Concessional Contributions (Deductible Contributions)

For the 2013/14 tax year an annual limit of \$25,000 will apply to all concessional superannuation contributions which can be accepted by a fund for a member. However if the member is aged 59 or more on 30 June 2013, a higher limit of \$35,000 will apply for 2013/14. This higher limit of \$35,000 will, in respect of the 2014/15 and subsequent financial years, apply to members aged 49 or more immediately before the commencement of the financial year

This limit will apply whether the contributions are made only to one fund or are made to two or more funds; the limits are global limits and apply to all concessional contributions made for the member.

All concessional contributions received by a fund (irrespective of which concessional contribution applies) will be taxed at the rate of 15% by the fund.

Excess Concessional Contributions

Concessional contributions for a member which exceed the applicable concessional contribution limit (excess concessional contributions) will be taxed at 31.5% and this tax will be levied on that member. The member will have the option of either paying this tax or transferring the liability to the fund which will pay the tax and debit the tax paid as an expense against the member's superannuation account balance.

The fund is not required to refund the excessive concessional contributions, and the taxpayer who made the excessive contribution will not lose the tax deduction for the contributions merely because they are excessive.

Any amount of the concessional contribution limit that is not used by year end will be lost. The limit is subject to a "use it or lose it" requirement.

The amount of any excess concessional contributions will be counted as non-concessional contributions.

Non-concessional Contributions (Post tax contributions)

These are superannuation contributions that do not give rise to a tax deduction for the person making them. These types of contributions are not taxed by the fund.

For 2013/14 and subsequent tax years, the non-concessional contribution limit is \$150,000. The non-concessional contribution limit will only be increased as and when the ordinary concessional contribution limit is increased.

If the limit has been unused by year end, the unused portion will be lost. The limit will be subject to a "use it or lose it" requirement.

Certain types of non-concessional contributions will not be counted for the non-concessional contributions limit. These exceptions in the context of private superannuation funds are:

- the capital proceeds from the disposal of assets that qualify (or would qualify if they were CGT assets) for the small business capital gains tax (CGT) 15 year exemption and the capital gain arising from the disposal of business assets which qualify for the \$500,000 small business CGT retirement exception. These contributions are subject to a lifetime limit of \$1.315m (current indexed value for 2013/14 tax year);
- the proceeds from a settlement for an injury resulting in permanent disablement. The proceeds must arise from a structured settlement, an order for a personal injury payment or lump sum workers compensation payment. Additionally, the proceeds must be contributed to the fund within 90 days of receipt. There is no dollar limit to the amount of these contributions; and
- Government Contributions – made under the *Superannuation (Government Co-*

Contribution for Low Income Earners) Act 2003.

(For the purposes of contributions tax, benefit rollovers and transfers are generally not treated as contributions).

Lastly, a member will be permitted to use up to "3 years' worth" of the non-concessional contribution limit in the one financial year. This is referred to as "bringing forward" the non-concessional contribution limit. However, this only applies to members who are under age 65.

Example 1

A member could contribute \$450,000 of non concessional contributions in respect of the 2013/14 financial year. However, this would exhaust the non concessional contribution limits for the 2013/14, 2014/15 and 2015/16 financial years.

In this example, the limits for the current and next two years have been fully used up.

Example 2

If a member made non-concessional contributions of \$190,000 in 2013/14 this would automatically invoke the "bring forward" as the non-concessional contributions limit of \$150,000 has been exceeded.

Consequently, over the financial years 2014/15 and 2015/2016 the member could contribute up to \$260,000 of non-concessional contributions – whether in 2014/15 or in 2015/16 or over both years.

The "bring forward" cannot be invoked after the member attains age 65. Consequently to invoke the "bring forward" in respect of the 2013/14 financial year, the member must be under age 65 on 1 July 2013.

If the "bring forward" is invoked before the member has attained age 65, the member must still satisfy the SIS contribution tests set out in section 8.

Consequently, it is possible for a member to "reserve" the right to make significant non concessional contributions after age 65 but not be able to make any contributions because the member has satisfied the "workforce" test; ie because the member has not been gainfully employed in the financial year in which the contribution is made for at least 40 hours in not more than 30 consecutive days within that financial year.

Excess non-concessional contributions

If the non-concessional contribution limit has been exceeded, the excess contributions will be taxed at the rate of 46.5% and this tax will be imposed on the member. This tax can only be paid by the member requesting the fund to pay the tax on behalf of the member. The fund must then pay the tax and debit the tax paid as an expense against the member's superannuation account balance.

If excess concessional contributions have been accepted by a fund then the amount of the excess will be counted as non-concessional contributions. The gross amount of the excess concessional contributions will be treated as a non-concessional contribution.

The fund must retain the excess non-concessional contributions.

What is the tax treatment of contributions for 2013/14 and subsequent years?

The tax treatment of contributions for the persons or companies which made those contributions are summarised below.

Employer contributions

For 2013/14 and subsequent financial years contributions made by an employer for an employee who is a member will be fully tax deductible to the employer even if the amount of the concessional contributions exceeds the applicable concessional contributions limit (ie

\$25,000 or, if the higher contribution limit applies - \$35,000 for 2013/14 if the employee is aged 59 or more on 30 June 2013).

Any excess concessional contributions will be taxed at the rate of 31.5% and tax levied on the member. The member will have the option of either paying this tax or transferring the liability to the fund which will pay the tax and debit the tax paid as an expense against the member's superannuation account balance.

The Commissioner of Taxation will identify whether the contributions are excessive and will notify the member.

Once an employee turns 75, an employer will generally not be entitled to claim a deduction for superannuation contributions. However, if the employer is required to make the contribution by a law or an industrial instrument then a deduction will apply, but only to the extent the contribution is required by law or the industrial instrument.

Additionally, an employer is entitled to claim a deduction for superannuation contributions made within 28 days after the month in which the employee turns 75 (this exception caters for arrangements where contributions are made in arrears).

Contributions by members who are not employees

Where the member is not an employee (or has minimal employment related earnings so their employment related earnings is less than 10% of their assessable income (including reportable fringe benefits and reportable employer superannuation contributions which are treated as earnings for this purpose) then contributions they make for themselves will be fully tax deductible. Any contributions made in excess of the applicable concessional contribution limit (or higher limit if relevant) will still be tax deductible. However, excess concessional contribution tax will be levied



on the member at the rate of 31.5% on the excess contributions.

Like employer contributions, generally a member who is not an employee is not entitled to claim a tax deduction for contributions they make for themselves where the contribution is made after they have attained age 75. However, contributions made within 28 days after the end of the month in which they attain age 75 are still deductible.

Contributions by members who are employees

Except in very special circumstances, a member who is an employee is not entitled to claim a tax deduction for contributions they make for themselves.

In very special circumstances (where they have minimal employer superannuation support) a member who is an employee will, for the purposes of claiming a tax deduction for their own personal contributions, be treated as if they were not an employee. When these circumstances apply, the member falls within the "substantially self employed" exception.

How is the Fund taxed?

The fund is taxed on its investment income, realised capital gains, and on its assessable contributions.

However, some of the fund's investment income and realised capital gains may be exempt from tax.

Further, the fund may reduce the amount of tax paid by any tax credits it receives (eg franking credits arising from franked dividends) and by the fund's own tax deductions including deduction for tax losses.

The fund will pay tax at 15% on its assessable contributions, investment income, and on its short term (ie gains arising from assets disposed of within 12 months of their acquisition by the fund) taxable capital gains. The fund will pay tax at 10%

on its long term capital gains (ie capital gains other than short term).

The fund will not pay capital gains tax on its investments in pooled superannuation trusts or in investment life insurance policies (as these investments are already taxed).

Further, the fund will not pay tax on investment income and realised capital gains arising from assets to the extent that they support pension payments.

In relation to contributions, the fund will pay tax at 15% on assessable contributions it receives during the current year.

All contributions are assessable except the following:

- contributions made by a member for their own benefit for which the member cannot claim a tax deduction;
- contributions made by a member for their spouse;
- contributions which are made for a member so long as the contribution is not made by an employer of the member and the member is under age 18; and
- contributions made by the Government.

Where the fund derives non-arm's length income (eg private company dividends and discretionary trust distributions) this income will be taxed at 45% rather than 15%.

The actual amount of tax paid by the fund will be reduced by benefit of the fund's own tax deductions (eg for audit services; for certain risk insurance premiums) and any tax credits (eg franking credits) it receives.

No Tax File Number (TFN) provided

While deductible contributions will be taxed at 15% in the hands of the fund, if the member has not provided their TFN to the fund (or the fund has not

obtained the member's TFN from another source) the fund cannot accept member contributions (and return any member contributions accepted without a TFN), the fund is required to apply tax at the penalty rate of 45% rather than 15% to employer contributions accepted without a TFN.

Taxation of concessional contributions for very high income earners – special contributions tax

A special contributions tax will be imposed on the concessional contributions of taxpayers who are very high income earners. In board terms, the tax will be at 15% and will be imposed on the concessional contributions of a taxpayer who is very high income earner to the extent to which concessional contributions of the taxpayer cause the adjusted income of the taxpayer to exceed \$300,000.

This tax will be imposed on the taxpayer (and not on the super fund) and may be paid by the taxpayer personally or the taxpayer may request the payment to be paid by the super fund and debited to their super account.

Adjusted income of a taxpayer for the purposes of the special contributions tax is (in board terms) their taxable income increased by their reportable fringe benefits and after adding back any net investment losses of the taxpayer. The amount of any superannuation lump sum which has been taxed at a zero rate (because it falls within the low rate cap threshold) is excluded from the adjusted income.

To the extent concessional contributions are subject to excess contributions tax, they will not be subject to special contributions tax. Additionally, to the extent that excess concessional contributions are paid to the taxpayer (and therefore taxed in the hands of the taxpayer) they will not be subject to special contributions tax. The contributions paid to the taxpayer are already included in the taxable

income of the taxpayer and so not treated as special contributions.

Example

If the taxpayer's adjusted income is \$315,000 of which \$25,000 is concessional contributions, then the special contributions tax will be \$2,250. Without the concessional contributions the adjusted income is \$290,000 and as the concessional contributions are treated as being the "top slice" of income, only \$15,000 of the concessional contribution exceeds \$300,000. The tax on \$15,000 is \$2,250.

The maximum special contributions tax which can be paid is \$3,750 – which is 15% of \$25,000.

The tax will apply from 1 July 2012 and is expected to be legislated on or before 1 July 2013.

14. How are a Member's benefits taxed?

The fund can pay a member's benefit as:

- a lump sum, or
- a pension, or
- a transfer payment/rollover to another superannuation fund.

If a member transfers their benefit to another superannuation fund, no tax will arise at the time of transfer. Any tax payable in respect of the transferred benefit will be paid when the other fund pays the benefit.

The taxation treatment of benefits depends upon the member's age at the time they receive the benefit.

In particular, the tax treatment depends on whether the member has reached their preservation age. For members born before 1 July 1960, their preservation age is 55. For members born on or after 1 July 1960, their preservation age will be greater (refer to the Glossary).



Lump sum benefits

Lump sum benefit – Member aged 60 or more

If the benefit is paid as a lump sum to the member and the member is aged 60 or more then the benefit is tax free.

Lump sum benefit – Member reached preservation age but not reached 60

If the benefit is paid as a lump sum to the member and the member has reached their preservation age but has not reached age 60, then:

- the lump sum will be divided into two components – the tax free component and the taxable component
- the tax free component is tax free
- the taxable component is taxed as follows
 - the first \$180,000 of the taxable component is not taxed; and
 - the balance of the taxable component is taxed at a maximum rate of 15% (plus the medicare levy).

(The \$180,000 is called the low rate cap and is a lifetime limit; it does not separately apply to each lump sum benefit or to each financial year. Lump sum super benefits received before 1 July 2013 may be counted as part of the low rate cap. The low rate cap is indexed annually and any unused cap is carried forward to the following financial year).

Lump sum benefit – Member not reached preservation age

If the benefit is paid as a lump sum to the member and the member has not reached their preservation age, then:

- the lump sum will be divided into two components – the tax free component and the taxable component;
- the tax free component is tax free;
- the taxable component is taxed at a maximum rate of 20% (plus the medicare levy).

Lump sum benefit – Member suffering from a Terminal Medical Condition

If the benefit is paid as a lump sum to a member who is suffering from a Terminal Medical Condition then the benefit is tax free.

A member will be suffering from a Terminal Medical Condition when they are suffering from an illness or an injury in relation to which two medical practitioners (at least one of whom must be a specialist practicing in an area related to the illness or injury) have certified that the illness or injury is likely to result in the death of the member within 12 months from the date of the certificate.

Pension Benefits

The tax treatment of pension benefits depends on the age of the member at the time the pension payment is received.

Pension benefits – Member aged 60 or more

Pension payments received after a member has reached age 60 are tax free.

Pension benefits – Member reached preservation age but not reached age 60

Pension payments received after the member has reached their preservation age but not reached age 60 are taxed as follows:

- each pension payment will be divided into two components – the tax free component and the taxable component
- the tax free component is tax free
- the taxable component is included in the member's assessable income and taxed at normal tax rates (including the medicare levy). However, a tax rebate (tax offset) of 15% of the taxable component is also provided.

Pension benefits – Member not reached preservation age

Pension payments received before a member has reached their preservation age are taxed as follows:

- each pension payment will be divided into two components – the tax free component and the taxable component
- the tax free component is tax free
- the taxable component is included in the member's assessable income and taxed at normal tax rates (including the medicare levy). However, a rebate of tax (offset) of 15% of the taxable component is only provided if the pension qualifies as a disability pension.

Tax free and Taxable Components

As previously noted, lump sums will be divided into tax free and taxable components. This division is based upon the exempt and taxable components of the superannuation interest from which the lump sum is paid.

The tax free component of the superannuation interest is equal to the sum of:

- non-concessional contributions made by or for the member since 1 July 2007
- any tax free component of any benefit of the member transferred to or rolled over to form part of the superannuation interest on or after 1 July 2007; and
- if the interest relates to superannuation membership which commenced before 1 July 2007, the account balance of the superannuation interest as at 30 June 2007, excepting that portion of the account balance which relates to the post 30 June 1983 membership.

(However, any contributions made by or in respect of the member in the period 1 July 1983 to 30 June 2007 which were not tax deductible to the person making the contribution is included in the tax free component.)

The taxable component is the balance of the superannuation interest.

It is possible that the superannuation interest will only consist of taxable component.

When a lump sum benefit is paid from the member's interest in the fund, the benefit will have the same proportion of tax free and taxable components as applied to the superannuation interest at the time the benefit is paid.

When a pension is commenced each pension payment will consist of the same proportion of tax free and taxable components as the superannuation interest from which the pension account balance was originally taken.

15. How are Death Benefits taxed?

Death benefits are benefits paid from the fund after the death of a member.

They can be paid as:

- lump sums, or
- pensions, or
- as a combination of lump sums and pensions.

On the death of a member their superannuation account must be paid as a benefit to their dependants or to their estate (or partially to the dependants with the balance to the estate).

Normally, the trustee has the discretion as to which dependants are to receive a member's death benefits. The member can override this discretion by making a binding death benefit nomination, in which case the trustee must distribute the benefit in accordance with the binding nomination.

Where a member dies while receiving a pension, the pension account balance will only be treated as a death benefit if no reversionary pension is payable.

The tax treatment of death benefits depends primarily on whether the benefit is received by a

"death benefits dependant" of the deceased member.

The "death benefit dependants" of a deceased member are:

- the spouse or a former spouse of the member;
- any child of the member under age 18;
- any person with whom the deceased had an interdependency relationship just before the deceased died; and
- any person who was a financial dependant of the deceased just before the deceased died.

Pension paid to death benefits dependant where the deceased member died before age 60

The tax free component of each pension payment is tax free.

The taxable component of pension payments received by the death benefits dependant before they reach age 60 is taxed as normal income (and subject to the medicare levy) with a 15% tax rebate.

The taxable component of pension payments received by the death benefits dependant on or after they reach age 60 is tax free.

While a child of the deceased aged 18 or more can be paid a death benefit (either as a lump sum or, in limited situations, as a pension), the child will not be treated as a death benefits dependant merely because they are a child of the deceased member.

Lump sum paid to a death benefits dependant

The benefit is tax free.

Lump sum paid to a dependant who is not a death benefits dependant

The tax free component is tax free while the taxable component is taxed at a maximum rate of 15% (plus the medicare levy).

Lump sum paid to the estate of the deceased member

To the extent that a death benefits dependant will ultimately receive the lump sum, the payment to the estate is tax free.

To the extent that a person other than a death benefits dependant will ultimately receive the lump sum, the payment to the estate will be taxed in the same way as if the lump sum had been paid to a person who is not a death benefits dependant.

Pension paid to a death benefits dependant where the deceased member died on or after age 60

Each pension payment is tax free.

From 1 July 2007, Superannuation Law does not permit the payment of death benefit pensions to dependants of a deceased member who are not death benefits dependants.

16. Glossary

Account-based pension – is a pension which is based upon an account where the pension payments are debited to the account and earnings credited to the account. This type of pension can be commenced once the member has reached age 65 or has earlier retired for superannuation purposes. While there is no maximum limit on the amount of pension payments in any financial year, there is a minimum limit (which is calculated at the start of the pension and then recalculated on 1 July each year). This type of pension can be cashed out at any time.

Concessional Contributions – are contributions where the company or person making the contribution is entitled to claim a tax deduction for the contribution. Another name for these contributions is deductible contributions.

Death benefits dependant of a deceased member means any of the following:

- a spouse or former spouse of the deceased member;

- a child under age 18 of the deceased member;
- any person with whom the deceased member had an interdependency relationship just before the deceased died; and
- any person who was a financial dependant of the deceased member just before the deceased died.

Market-linked pensions – essentially another form of account based pension, which are not commutable and which received favourable Social Security treatment. These pensions can only be commenced after 19 September 2007 if the pension represents the continuation of a market linked pension (or certain other types of complying pensions) which originally commenced before 20 September 2007.

Medicare levy – this levy is 1.5% for 2013/14 financial year and will be 2.0% for the 2014/15 and following financial years.

Non-concessional Contributions – are contributions which are not deductible to the company or person which made the contribution. Another name for these contributions is Post tax contributions.

Preservation Age – means

| AGE | FOR A PERSON BORN |
|-----|---|
| 55 | Before 1 July 1960 |
| 56 | In the period 1 July 1960 to 30 June 1961 |
| 57 | In the period 1 July 1961 to 30 June 1962 |
| 58 | In the period 1 July 1962 to 30 June 1963 |
| 59 | In the period 1 July 1963 to 30 June 1964 |
| 60 | On or after 1 July 1964 |

Self managed superannuation fund – in general terms a superannuation fund which has 4 or less members, where each member must participate in the management of the fund (either by being a trustee of the fund or by being a director of the

company which acts as trustee of the fund); and no member can be an employee of another member (unless they are related).

Tax Free Component of a benefit – this is the part of the benefit which represents the non concessional contributions which have been made by or in respect of the member since 1 July 2007. If the benefit relates to pre 1 July 2007 membership then the Tax Free Component will also include a portion of the value of the benefit as at 30 June 2007. The Tax Free Component will be determined by the Trustee and depends on the particular circumstances of the member.

Taxable Component of a benefit – this is the amount of the benefit which is not Tax Free Component.

Transition to Retirement pension – this is an account based pension which a member can commence once they have reached their preservation age. Unlike an account-based pension, the pension cannot be cashed to a lump sum. However, the pension can (in part or in full) be rolled back to accumulation phase at any time. Further, pension payments must be within minimum and maximum limits.