



The Hon Mal Brough MP
Minister for Families, Community Services and Indigenous Affairs
Minister Assisting the Prime Minister for Indigenous Affairs

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Mr Richard Gilbert
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17 SEP 2007

Dear  Mr Gilbert

Thank you for your letter of 16 August 2007 regarding the social security treatment of income stream products that is to apply from 20 September 2007.

Your letter seeks a broadening of the provisions for retention of the assets test exemption in circumstances where income streams purchased from 20 September 2007 are sourced from assets generated by the commutation of asset test exempt (ATE) income streams, or partially ATE income streams purchased before that date. You suggest this might occur either through specific changes to the existing social security income streams rules or via more general changes designed to have the social security rules mirror the provisions of s.1.06 of the *Superannuation Industry (Supervision) (SIS) Regulations 1994*. Your letter also requests that the current income streams rules be altered to allow the carry-over of an assets test exemption to an income stream purchased by a member of a couple using assets that become available from an ATE income stream that is commuted on the death of the other partner.

I consider that the commutation/rollover rules that were introduced in September 2004 for ATE income streams have allowed the means test to be applied effectively to these products.

While having some areas that are complementary, the provisions of the social security means test and those embodied in the SIS Act are intended to address different areas of government policy. The means test helps to keep the income support safety net sustainable thereby allowing income support payments to be directed towards those who are most in need. By contrast, the provisions of the SIS Act are intended to create an environment where superannuation savings are managed in the interest of the members to whom they belong, and kept secure until their retirement from the workforce. For these reasons, I consider that the existing income streams provisions should be retained and modified to address the issues you have raised.

To this end, I have directed my Department to amend the existing provisions for the commutation and rollover of ATE income streams to allow the retention of an assets test exemption where:

- a self managed super fund (SMSF) member's partner, or other member, dies and the surviving member(s) wish to close the fund and therefore need to rollover to a new ATE income stream;

- a SMSF member wishes to close a fund due to administrative obligations becoming difficult in old age and therefore needs to rollover to a new ATE income stream;
- poor administration by a large fund, leading to a member with a market-linked income stream (that is, a term allocated pension (TAP)) wishing to exercise choice and move to new fund; and
- a superannuation fund trustee changes product features of a TAP to the extent that the product no longer meets the members' needs or expectations. Most super fund trust deeds provide trustees with powers to change product terms and conditions, for example, in relation to fees, investment choices and other features.

The first two of the above provisions would apply to all ATE income streams whereas the latter two provisions would apply only to TAPs. The latter two provisions would seem to be less relevant in relation to ATE lifetime and life expectancy income where the income stream payments are fixed under the provisions of the contract or governing rules covering the income stream payments.

The intent of the existing rules has always been that retention of the assets test exemption for commutation/rollover of life expectancy and ATE income streams and TAPs will carry-over only where automatic reversion to a reversionary partner is specified in the contract or governing rules for these products.

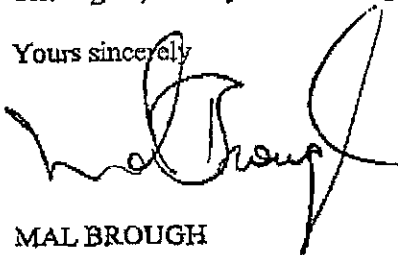
Where automatic reversion is not selected, the exemption will not carry through to a new TAP purchased by individuals from 20 September 2007 from the proceeds of assets commuted from a deceased partner's TAP. Individuals who wish to retain the assets test exemption under these circumstances from 20 September 2007 should ensure that the governing rules of the superannuation fund allow for reversion on the death of the primary beneficiary and that the documentation for their TAP stipulates that reversion will occur.

The removal of the assets test exemption for income stream products purchased from 20 September 2007 was undertaken in the context of the Australian Government's initiatives to simplify and streamline superannuation. As indicated in the Treasury booklet '*A Plan to Simplify and Streamline Superannuation*', it was removed to limit the scope for wealthier individuals to access Age Pension and associated concessions. The government considers that any limitations arising from removal of the assets test exemption will be adequately compensated by the additional benefits flowing from a more generous assets test.

If you would like to discuss the matters raised in your letter further, please contact the Manager of the Seniors and Means Test Branch in my Department, Dr Nick Hartland, on 02 6244 6068.

Once again, thank you for writing. I trust my comments are of assistance.

Yours sincerely



MAL BROUGH