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Legacy pension commutations and Centrelink implications

This article outlines key issues to consider when commuting legacy pensions for Centrelink clients.

Background

From 7 December 2024, clients can choose to exit certain legacy pensions (also called complying pensions) within a five-year period ending 6 December 2029. Following these changes, a client may choose to:

- cash out
- roll back to accumulation phase, or
- commence an account based pension, subject to their transfer balance cap.

Previously, these legacy pensions could only be commuted to purchase another legacy pension or to pay a death benefit.

It may take some time for pension providers to enable these commutations. Many funds will require trust deed changes and/or administration system changes to allow commutations of previously non-commutable pensions.

Legacy pensions that can now be exited are:

- term allocated pensions (TAPs), otherwise known as market linked income streams, and
- legacy term and lifetime income streams provided by a self managed super fund (SMSF) or a small APRA-regulated fund (SAF).

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These changes do not extend to lifetime and life expectancy pensions provided by defined benefit funds.

Legacy pensions were commenced prior to 20 September 2007 unless they were rolled over to commence a new legacy pension after this date. They were used to:

- manage reasonable benefit limits (no longer relevant since 1 July 2007) for those with high superannuation balances, or
- get a partial or full asset test exemption (ATE) from the Centrelink assets test.

To obtain these benefits, legacy pensions were non-commutable except in limited circumstances.

This change is good news for legacy pension holders, who are generally elderly clients in their late 70s or older, as it will allow them to:

- access the capital of these income streams for their needs and expenses, including funding entry to aged care
- access the reserves supporting lifetime and life expectancy income streams in SMSFs, and
- wind up SMSFs holding the legacy pension where the SMSF no longer suits their needs.

There are considerations when deciding to commute a legacy pension including the:

- impact on the client's transfer balance cap
- options for the commuted amount, such as whether to cash out of super, or to roll over to another superannuation income stream or to a super accumulation account, and
- Centrelink impact for income support recipients and concession card holders.

This article only covers the Centrelink implications for clients who receive the social security age (or service) pension. Clients receiving these pensions ordinarily have lower balances and generally do not have transfer balance cap issues. For transfer balance cap considerations when commuting legacy pensions, please refer to our [Legacy pensions and transfer balance cap](#) article.

Centrelink debt waiver

Where the owner chooses to commute their legacy pension and the proceeds are not rolled over to commence another legacy pension, Centrelink may include the original legacy pension balance for asset test calculations for the last five years. Where the inclusion of the balance would have resulted in lower Centrelink pension payments, a debt will be raised.

The changes allowing the exit of legacy pensions did not include provisions for Centrelink to waive any debt. However, the Government announced there will be no debts raised where someone exits their legacy pension as a result of these changes. The [Social Security \(Waiver of Debts – \(Legacy Product Conversions\) Specification 2025](#), a debt waiver instrument, was released in 28 March 2025. Unless disallowed in either House of Parliament, it is expected to be effective from 28 October 2025 based on the Parliament's proposed sitting days.

Advice tip

Where clients are likely to have a Centrelink debt raised because of the commutation of their legacy pension, it may be prudent to wait until the Ministerial determination providing the debt waiver becomes effective. You may also wish to seek guidance from your licensee's compliance area.

Impact for Centrelink clients

It's essential to consider the change of income and asset test assessment for an income support payment, or income test assessment for a concession card holder, before exiting a legacy pension.

Where the commuted amount is rolled over to a financial investment such as an account-based pension, short-term annuity, a super accumulation account (for someone at least age 67) or cashed and invested in a bank account or non-super investment portfolio, the balance is an assessable asset and deemed under the income test for an income support payment.

The definition of income for the Low Income Health Care Card (LIHCC) also captures deeming, including deeming of account based pension balances.

The definition of income for the Commonwealth Seniors Health Card (CSHC) uses an adjustable taxable income definition, capturing taxable income and deemed income from account based pensions that are not 'grandfathered.' 'Grandfathered' account-based pensions are not assessed. These are account-based pensions commenced prior to 1 January 2015 where the client was and has continuously been holding the CSHC.

For additional information on concession cards, refer to our [Concession cards](#) article.

Advice tip

Where the client commences an account based pension, it will be deemed for an income support payment, LIHCC and CSHC. Deeming rates will cease to be frozen from 1 July 2025 and are expected to increase.

Some clients may invest into a pooled lifetime annuity, which initially allows 40% ATE (followed by 70% ATE when the 'threshold day' is reached) for the amount invested and a 40% exemption for annuity payments. Because of the favourable social security treatment, the annuity must meet certain rules which are more restrictive compared to account-based pensions.

Loss of Centrelink asset test exemption

Depending on when the legacy pension was commenced, the pension was either 100% or 50% ATE for the social security means test.

100% ATE legacy pensions

Lifetime and term legacy pensions paid by an SMSF or SAF, commenced prior to 20 September 2004, were 100% ATE for the Centrelink pension means tests. Legacy pensions commence after this date may be 100% ATE if sourced from another 100% ATE legacy pension.

50% ATE legacy pensions

Lifetime and term legacy pensions paid by an SMSF or SAF, and TAPs commenced from 20 September 2004 up to 19 September 2007, are 50% ATE. Legacy pensions commenced after 19 September 2007 may be 50% ATE if sourced from another ATE income stream.

Where the ATE is lost, clients who receive the age pension will have more assessable assets under the assets test.

Advice tip

You need to determine whether a change in assessable assets will impact your client's income support payments before recommending they exit a legacy pension.

Examples: Exiting a TAP

Example 1: Commutation results in increase in age pension

Sandra is single and a homeowner. On 1 March 2025, she has the following assets:

\$900,000 home (ATE)

\$10,000 home contents

\$20,000 car

\$20,000 bank account

\$150,000 shares and managed funds

\$285,000 TAP (50% ATE)

\$342,500 assessable by Centrelink

TAP details:

\$900,000 commencement value in July 2007

20-year term

\$45,000 deductible amount calculated as \$900,000/20 years

\$280,000 balance at 1 July 2024 (\$285,000 balance at 1 March 2025)

2.80 payment factor for remaining term (3 years)

\$90,000 annual TAP payment chosen (10% less than the annual pension payment which is calculated as $((\$280,000/2.80) \times 90\%)$).

\$45,000 income assessable by Centrelink (calculated as gross pension payment of \$90,000 - \$45,000 deductible amount).

Sandra's age pension is \$335.53 pf (\$8,724 pa)¹, calculated under the income test mainly because of the TAP income.

If Sandra commutes the TAP and rolls all the proceeds to an account-based pension, Centrelink will assess the full value of the account-based pension (\$285,000 instead of \$142,500) and deem the balance at \$6,412.50 ($\$285,000 \times 2.25\%$ pa) for the income test. Sandra's age pension will be assessed under the assets test and will increase to \$631.40 pf (\$16,417 pa).

Example 2: TAP commutation results in loss of age pension

Peta is single and a homeowner. She has the following assets:

\$1,200,000 home (ATE)

\$10,000 home contents

\$30,000 car

\$20,000 bank account

\$350,000 shares and managed funds

\$380,000 TAP (50% ATE)

The TAP details:

\$1,200,000 commencement value in October 2004

24 year term

\$50,000 deductible amount calculated as $\$1,200,000/24$ years

\$360,000 balance at 1 July 2024 (\$380,000 balance at 1 March 2025)

3.67 payment factor for remaining term (4 years)

\$88,290 annual TAP payment chosen (10% less than the calculated pension payment which is $((\$360,000/3.67 \text{ rounded to the nearest } \$10) \times 90\%)$).

\$38,290 income for Centrelink (calculated as $\$88,290 - \$50,000$ deductible amount).

Peta's age pension is \$286.40 pf (\$7,446 pa)¹ which is calculated under the assets test.

If Peta commutes her TAP and rolls it to an account-based pension, her age pension reduces to nil. Income from the ABP is less, however, as Centrelink fully assesses the ABP balance, she exceeds the asset cut-off threshold. Peta loses her Pension Concession Card, however, she can apply for the LIHCC and the CSHC.

The above examples demonstrate the implications where a client commutes 50% ATE legacy pensions. The commutation of a 100% ATE lifetime pension which is an SMSF (or SAF) defined benefit pension will have its value, as well as the reserves supporting the pension, assessed for the assets test and the impact on the client's assets test may be more significant, as the balance was not previously assessed at all.

Before exiting the TAP, consider whether resetting the term with a new TAP could improve the Centrelink outcome for the client, as example 3 illustrates.

¹ Based on social security rates and thresholds as at 20 September 2024.

Example 3: TAP rolled over to new TAP

Anuska, aged 85, is a single homeowner. At 1 March 2025 she has the following assets:

\$1,000,000 home (ATE)

\$10,000 home contents

\$10,000 bank account

\$95,000 shares and term deposits

\$380,000 TAP (50% ATE, \$360,000 balance at 1 July 2024)

\$305,000 assessable by Centrelink

The TAP details:

\$1,200,000 commencement value in November 2004

24-year term

\$50,000 deductible amount calculated as $\$1,200,000 / 24$ years

3.67 payment factor for remaining term (4 years)

\$88,290 annual TAP payment chosen (10% less than the calculated pension payment which is $(\$360,000 / 3.67$ rounded to the nearest \$10) $\times 90\%$)).

\$38,290 income for Centrelink (calculated as $\$88,290 - \$50,000$ deductible amount).

Anuska's age pension is \$492.70 pf (\$12,810 pa)² which is calculated under the income test. If Anuska rolls over to an account-based pension, she will receive a part-age pension of \$601.40 pf (\$15,636 pa).

Anuska wishes to have a better pension outcome if possible. She can rollover to a new TAP and choose the longest term possible, 15 years, which will have a payment factor of 11.52.

The new TAP details:

\$380,000 commencement value in March 2025

15-year term

\$25,333 deductible amount calculated as $\$380,000 / 15$ years

Anuska wishes to draw the minimum pension. Being a new TAP, the minimum pension must also satisfy the standard minimum percentages that apply to an account based pension. Therefore, the minimum pension is the greater of:

- \$29,691 annual TAP payment chosen (10% less than the annual pension payment calculated as $(\$380,000 / 11.52$ rounded to the nearest \$10) $\times 90\%$) rounded up), or
- $\$380,000 \times 9\% = \$34,200$.

Therefore, the minimum TAP pension is \$34,200.

\$8,867 income for Centrelink (calculated as $\$34,200 - \$25,333$ deductible amount).

² Based on social security rates and thresholds as at 20 September 2024.

Anuska can receive an increased pension of \$1,058.53 pf (\$27,522 pa) calculated under the income test.

	Current position	TAP rolled over to ABP	TAP rolled over to new TAP
Age pension	\$492.70 pf (\$12,810 pa)	\$601.40 pf (\$15,636 pa)	\$1,058.53 pf (\$27,522 pa)
Increase to age pension (compared to current position)	n/a	\$108.70 pf (\$2,826)	\$565.83 pf (\$14,712 pa)

Compared to rolling over to an account based pension, Anuska can receive an extra \$457.13 pf or \$11,886 pa if she rolls over to a new TAP. Anuska can still commute the new TAP within the five-year amnesty period (up to 6 December 2029).

Other considerations

In addition to improving social security pension entitlements, there are other considerations such as:

- easier access to capital upon exiting the legacy pension
- potentially improved estate planning outcomes after exiting lifetime and life expectancy legacy pensions paid from an SMSF or SAF
- suitability of SMSFs paying legacy pensions for elderly clients
- cost of maintaining a legacy pension provided via an SMSF or SAF, and
- transfer balance cap reporting.

For more information on transfer balance cap considerations when commuting legacy pensions, please refer to our [Legacy pensions and transfer balance cap](#) article.

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