



Go-To Guide

CGT relief

SMSF Association
Technical Team

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Key Advice Issues

From 1 July 2017, the transfer balance cap (TBC) will impose a limit on the amount of assets an individual can transfer into retirement phase. This limits the amount of earnings on assets which are eligible for exemption from income tax. Likewise, earnings on assets which support transition to retirement pensions (TTR) will also lose their tax exempt treatment from 1 July 2017.

Transitional capital gains tax (CGT) relief rules have been introduced to provide relief for individuals who will have to reduce the assets currently supporting superannuation income streams in order to comply with the TBC or the TTR reforms commencing. The legislation with respect to this relief is contained in Subdivision 294B of the [Income Tax \(Transitional Provisions\) Act 1997 \(ITTP 1997\)](#). Practically, this would be available to all TTR's regardless of balance and all income streams with a balance over \$1.6 million.

The CGT relief allows trustees to elect to reset the cost base of assets that will no longer be eligible to support superannuation income streams in retirement phase from 1 July 2017 to their market value. This effectively "locks-in" the CGT treatment of assets up to 30 June 2017 before the TBC applies and the TTR changes take effect.

The CGT relief applies differently depending on whether the fund has segregated assets or unsegregated assets ('pooled assets'). The CGT relief provisions do not apply to assets supporting superannuation income streams which are actually disposed of during 2016/17. In these situations, any capital gain and/or loss is exempt in accordance with existing rules.

The mechanism used to reset the cost base of a CGT asset to its market value is to deem a sale followed by an immediate repurchase of the asset. This leads to a capital gain or loss arising at this time. The gain or loss will be entirely disregarded for segregated current pensions. Capital gains are partly disregarded for unsegregated assets and may be deferred. Capital losses on unsegregated assets are recognised in accordance with current rules.

CGT relief does not apply automatically but requires a written choice in the approved form and consideration should be given to the specific method chosen, the assets subject to cost

base reset any CGT deferral, and the outcomes of the relief. The choice is made on an asset-by-asset basis, which allows trustees to choose which assets they provide the relief to.

It will be critical to determine which method an SMSF is eligible to adopt by its make up during the 'pre-commencement period'. The 'pre-commencement period' begins on 9 November 2016 and ends effectively just before midnight on 30 June 2017. It is likely that financial statements will not be final for this period and therefore review of trustee resolutions will be essential to determining which approach the SMSF is eligible to use.

Note: A precursor to a trustee choosing CGT relief is that a member will need to transfer value back to the accumulation phase to comply with the TBC or they currently have a TTR.

Prohibition of the use of the segregated method and member investment choice

Although the option to continue to use the segregated method is available to trustees in 2016/17, segregation for tax purposes may not be available for future income years. From 1 July 2017 SMSFs under the following conditions will be prohibited from using the segregated method for tax purposes:

- the fund is an SMSF or Small APRA Fund (SAF) at any time during the income year;
- at any time during the year there is at least one interest in the fund in the retirement phase; and
- all of the following apply:
 - just before the start of the income year a person has a total superannuation balance that exceeds \$1.6m; and
 - that person is a retirement phase recipient of a superannuation income stream (whether in an SMSF, SAF or another superannuation provider); and
 - at any time of the year that person has a superannuation interest in the fund.

Therefore, from 1 July 2017, SMSFs which fit the above criteria will have to use the unsegregated method for income tax purposes.

It is important to understand that those funds which are prohibited from using the segregated method to calculate ECPI for the 2017/18 and later financial years are not limited when making choices concerning how the SMSF's assets are held and how asset allocation decisions are made.

The proposed limitation on the use of the segregated method as a means of calculating ECPI has been introduced as part of an anti-tax avoidance measure limiting the transfer of assets between accumulation and retirement phase in order to manipulate the tax outcomes on disposal of assets.

The measures do not limit members of an SMSF making individual investment choices. Equally, SMSF trustees are free for investment purposes to maintain different pools of assets as a consequence of those investment choices made by members. In other words, "segregation" for investment and asset allocation purposes is acceptable in the 2017/18 and later financial years.

Segregated assets method

The segregated assets approach for ECPI under s295-385 of the *Income Tax Assessment Act 1997* (ITAA97) is one of two methods that can be applied. A segregated asset approach provides that ordinary and statutory income derived from assets which satisfy segregated current pension liabilities is exempt from tax. Practically this method requires trustees to specify which assets of the fund support the member's retirement income stream. This commonly occurs when a fund is **entirely in pension phase** and will be the most common application of this method. The other time this occurs is when a fund has specifically **identified assets to be allocated for each member for investment purposes**.

Note: Any reference to segregated non-current pension assets in legislation or ATO documentation refers to assets that are not supporting a pension.

Criteria

The following details the criteria which needs to be satisfied in order to apply CGT relief to assets of a fund that are segregated:

- At the start of the pre-commencement period, the asset of the fund is a segregated current pension asset.
 - *Practically, the segregated method is not available unless the fund was paying an income stream and was segregated as at 9 November 2016. This includes funds which use 100% of their assets to support pension liabilities.*
- At a time during the pre-commencement period, the asset ceases to be a segregated current pension asset. This time is referred to as the ‘cessation time’.
 - *Practically, this means transferring assets back into accumulation or deciding to use the unsegregated method (pool of assets) to give effect to the reduction in pension liabilities.*
- The fund is a complying superannuation fund at all times during the pre-commencement period.
- The trustee chooses for relief to apply to the asset on or before the fund is required to lodge its 2016-17 income tax return.
 - *Practically, the decision to apply relief will occur on the day the asset ceases to be a segregated current pension asset. The SMSFs trustees’ intention should be evidenced by trustee minutes. When lodging the return the trustee will need to confirm use of the CGT relief provisions. Creation of a detailed asset register of assets to which the CGT relief applies must be created and retained as part of the SMSF’s records during this process.*

*Note: A trustee can choose CGT relief for **some or all of a fund’s assets** that cease being segregated current pension assets, if all conditions are met.*

Cessation time

There are some significant decisions that need to be made by trustees leading up to 30 June 2017. For the segregated approach, the timely factor is the triggering of the cessation time. As soon as any value is transferred back into accumulation or a contribution is received so the fund is not fully segregated, this is the point from when taxation outcomes will be determined.

Consequences

The consequences of choosing to apply CGT relief to assets of a fund that are segregated current pension assets are as follows:

- The fund is deemed to repurchase the asset at the cessation time.
 - The CGT discount period is reset.
- The asset's cost base is reset to market value at the cessation time.
- The capital gain or loss on the deemed sale is disregarded as the asset, at the time of the deemed sale, was a segregated current pension asset.
- With respect to calculating the fund's exempt income for 2016/17, once assets are transferred to the accumulation phase the trustee may:
 - Continue to adopt the segregated method asset method, or
 - Choose to adopt the proportionate method for the entire year.

A subsequent capital gain or loss on any future CGT event will be determined based on the reset cost base of the asset. The exempt amount will be determined based on whether the fund is using the segregated or unsegregated method at the time of the future CGT event.

Assets which were segregated current pension assets on 9 November 2016 (the 'pre-commencement period') must use the segregated method to claim CGT relief. However, trustees have three options for how the CGT relief is structured in 2016/17. Trustees can:

1. Choose to adopt the proportionate method;
2. Choose to continue to use the segregated method; or
3. Choose for the relief not to apply.

Option 1 – Adopt the proportionate method prior to 1 July 2017 (*Recommended just prior to 1 July 2017*)

Under this option, the trustee chooses to pool together all of the fund's assets, across all pension and accumulation interests to comply with the TBC or TTR reforms. In essence, all the fund's assets are no longer segregated current pension assets and are all eligible for CGT relief under the segregated method. The fund cannot use the CGT relief provisions relevant to the proportionate method, even though the fund will now apply the proportionate method in

determining its overall ECPI. The fund may be required to get an actuarial certificate to support its use of the proportionate method in 2016/17 and future income years.

This option is likely to provide the best outcome for funds with segregated assets on 9 November 2016. It allows the trustee to lock in and disregard any unrealised capital gain across all segregated assets at cessation time.

Funds in full pension phase (these are considered to be segregated, even though the trustee does not separately identify specific assets to support the pension(s) in the traditional sense.)

- Transferring segregated current pension assets back into accumulation and undertaking the proportionate method.
 - Fund with \$1.8 million in Member 1 pension account, transferring \$200,000 back into accumulation on 30 June 2017 and undertaking an unsegregated pooling method to support both accounts from 1 July 2017. The trustee would be eligible to claim CGT relief under the segregated method for any of the \$1.8 million assets and disregard all capital gains or losses on the deemed sale of those assets, as at 30 June 2017. However, the fund will be required to apply the proportional method in determining the fund's future ECPI as Member 1 has a total superannuation balance exceeding \$1.6 million. If the transfer occurred before 30 June, the fund would require an actuarial certificate for the calculation of ECPI for the 16/17 year.
 - A full pension phase fund receiving a contribution in the 'pre-commencement period' meaning assets now support both accumulation and pension accounts. The day of the contribution is the cessation date, where the assets of the fund can no longer meet the definition of segregated current pension assets. Any gain or loss on any of the segregated pension assets at the time of the contribution will be disregarded. The fund may be required to obtain an actuarial certificate in determining the fund's ECPI in 2016/17, taking into account the contribution made and the date it was received.

Funds that segregate assets for investment purposes

- Transferring specific segregated current pension assets back into accumulation phase and undertaking the proportionate method.
 - Fund with segregated assets to support different member investment profiles has \$2.6 million in Member 1's pension account and \$1 million in Member 2's accumulation account. Transferring \$1 million of Member 1's benefits back into accumulation and then undertaking an unsegregated pooling method to support all the members' interests (de-segregating). All \$2.6 million of assets will be eligible for CGT relief. The trustee may decide to unsegregated all segregated pension assets where they do not wish to select specific assets to commute to accumulation or they cannot because assets are greater in value than the excess required to be commuted.

Option 2 – Continue using the segregated method

Under this option, the trustee selects a specific segregated current pension asset to transfer out of pension phase and into accumulation phase in order to comply with the changes. The asset which is transferred to accumulation will be the only asset that is no longer a segregated current pension asset and is eligible for CGT relief under the segregated method. The remaining pension assets continue to be treated as segregated current pension assets and do not benefit from any cost base reset.

TTRs that are in full pension phase (These are considered to be segregated, even though the trustee does not separately identify specific assets to support the pension(s) in the traditional sense.)

- Transferring specific segregated current pension assets back into accumulation phase such that it becomes a segregated non-current asset
 - TTR of \$1.2 million converting to segregated non-current pension assets as they are no longer in retirement phase at 1 July 2017

Funds that segregate assets for investment purposes

- Transferring specific segregated current pension assets back into accumulation phase such that it becomes a segregated non-current asset
 - A fund with \$2.6 million in Member 1's pension account. Under this option, the trustee selects a segregated current pension asset to the value of \$1 million to transfer from Member 1's pension account to Member 1's accumulation account.

Only the specific \$1 million asset is eligible for CGT relief under the segregated method. The remaining \$1.6 million assets which continue to support Member 1's pension, are not eligible. This is contrasted with adopting the proportionate method above. Using the proportionate method the entire \$2.6 million of assets are eligible for relief even though only \$1 million was required to be transferred to accumulation phase. The fund will be required to apply the proportional method in determining the fund's future ECPI as Member 1 has a total superannuation balance exceeding \$1.6 million.

Option 3 – Choose for CGT relief not to apply

The fund could also choose not to apply the CGT relief to some or all of the assets that would otherwise qualify. Under this option no deemed sale and reacquisition of the asset occurs and the assets original cost base is preserved. Any capital loss incurred on a future CGT event happening with respect to the asset will also be preserved.

This will be a prominent action for assets which currently have a large capital loss. There would be no benefit in re-setting the cost base as the carry forward capital loss would be disregarded.

Note: These consequences would equally apply to a fund where a trustee makes an invalid choice to apply for CGT relief. For example, where a trustee does not make a choice in the approved form before the date the fund's 2016/17 income tax return is due.

Choosing the method of calculation of CGT relief and annual ECPI

As can be seen from the discussion and examples in the following paragraphs of the Guide, there is no link between the way in which an SMSF trustee may elect to access the transitional CGT relief and the method adopted to calculate the exempt current pension income (ECPI) of the fund for the 2016/17 financial year.

In other words, if the SMSF is effectively using the segregated approach at 9 November 2016 because all of the SMSF assets are supporting income streams, the SMSF trustees are not precluded from electing to use the proportionate method at some later time in order to calculate the ECPI of the fund for the 2016/17 financial year. In fact, for some funds, this combination of choices has a very beneficial application of the transitional relief. This is clearly outlined in both the [Explanatory Memorandum](#) accompanying the introductory legislation and the [Australian Tax Office's Law Companion Guideline 2016/8](#) as an acceptable application of the rules, as described in Option 1 above.

Unsegregated method

The unsegregated method is detailed under s295-390 of the ITAA97 and is the alternative method trustees can use to apply CGT relief. The unsegregated approach provides the trustee with an exemption from ordinary and statutory income based on the portion of the fund's assets that are funding superannuation income streams. The tax exemption is based upon an actuarial certificate which determines the amount of earnings which are exempt. The majority of funds will be in an unsegregated position during the 2016-17 financial year so this method will be applied most commonly. There is no cessation or changing of approach of taxation of the fund.

Criteria

The following details the criteria which needs to be satisfied in order to apply CGT relief to assets of a fund that are **not** segregated assets i.e. the fund uses the proportionate method:

- The fund is a complying superannuation fund throughout the pre-commencement period.
- The exempt proportion for the 2016-17 income year exceeds nil.
 - *Practically this means the fund was drawing a pension at some time in the 2016/17 year*
- The asset was not a segregated current pension asset or segregated non-current pension asset during the pre-commencement period
 - *Practically this means the SMSF was applying a pooled asset approach to fund interests and was calculating its ECPI on a proportional basis, based on an actuarial certificate.*
- The trustee chooses for relief to apply to the asset on or before the fund is due to lodge its 2016-17 income tax return.
 - *Practically, the decision to apply relief will occur immediately before 1 July 2017. The SMSF trustees' intention should be evidenced by trustee minutes. When lodging the return the trustee will need to confirm access to the CGT relief provisions and report any deferred CGT gain on the CGT tax schedule. Creation of a detailed register of assets to which the CGT relief applies must be created and retained as part of the SMSF's record keeping requirements.*

*Note: A trustee can choose CGT relief for **some or all of a fund's assets** that meet the above criteria.*

Consequences

Electing to apply CGT relief in respect of all or any of the assets (chosen by the trustee) means the fund is taken to have sold the assets immediately prior to 1 July 2017 for market value.

- Net capital gain
 - Any gain from the deemed sale is reduced by the exempt proportion for the 2016/17 income year. The fund can choose to pay tax on the notional capital gain in 2016/17 or can make an election to defer the gain until the asset is sold.

- Net capital loss
 - A choice cannot be made to defer a deemed loss although it can be utilised in 2016/17 if the fund has capital gains available. Otherwise the loss must be carried forward as per normal. Any loss is not proportioned before it is carried forward.
- Fund is deemed to repurchase the asset on 30 June 2017
 - This will reset the acquisition time for the asset to 30 June 2017 and in turn reset the CGT discount period.
- Reset the asset cost base
 - The reset cost base will be the asset's market value at 30 June 2017. The cost base of the whole asset is reset with no need to apportion to reflect any portion that was supporting an accumulation interest.
- Subsequent capital gain or loss on any future CGT event will be determined based on the reset cost base of the asset. The exempt amount will be determined based on whether the fund is using the segregated or unsegregated method at the time of the future CGT event.
 - Where the fund chooses to defer any 2016/17 capital gain, this amount will need to be recognised in the year of the future CGT event. The future CGT discount and exempt proportion cannot apply to any of the 2016/17 deferred gain.

A fund that uses the unsegregated method throughout the pre-commencement period has three options:

- Choose to apply the relief and not defer the gain or
- Choose to apply the relief and defer the gain or
- Choose for the relief not to apply.

Option 1 - Choose to apply the relief and not defer the gain

A fund that is transferring value back into accumulation to comply with the TBC or TTR reforms making an irrevocable choice to apply CGT relief using the proportionate method.

- Fund with a single asset valued at \$3 million that supports a \$2 million pension account and a \$1 million accumulation account. The member commutes \$400,000 to comply with the TBC.
- The asset with a cost base of \$2.82 million is deemed to be sold and purchased for market value of \$3 million resulting in an \$180,000 capital gain.
- The one third CGT discount applies reducing the net capital gain to \$120,000.
- The approximate exempt portion of the fund will be 66% by determination from an actuarial certificate
- Just over \$40,000 will be included in the funds assessable income for that year, representing the amount of gain attributable to the proportion of the funds' assets supporting the accumulation phase interest.

Option 2 - Choose to apply the relief and defer the gain

A fund that is transferring value back into accumulation to comply with the TBC or TTR reforms making an irrevocable choice to apply CGT relief and defer any capital gain using the proportionate method. (Consider the same factual scenario in Option 1)

- The trustee may choose to defer the capital gain of just over \$40,000, it will then not be assessable until the income year in which the asset is realised.
 - The current exempt tax proportions apply and not the exempt tax proportion that may apply in the income year when the asset is realised.
- When the asset is sold
 - The subsequent capital gain is determined from the CGT event based upon the reset cost base (\$3 million). CGT discount can apply providing the event occurs on or after 30 June 2018.

- Say the asset is sold for \$3.3 million on 1 July 2018 and the exempt portion of the fund is 50%. CGT gain of \$300,000 is discounted to \$200,000. \$100,000 is taxable due to the actuarial certificate.
- The deferred gain \$40,000 will be brought to account. No discount will apply and no tax exemption will apply. Capital losses can be applied.
- Fund will have an assessable capital gain of \$140,000.

Option 3 – Choosing not to apply the CGT relief

A fund using the unsegregated assets method may also choose to not apply the CGT relief to some or all of the assets that would otherwise qualify, in which case no deemed sale or reacquisition occurs.

The CGT asset's original cost base and acquisition is preserved and any loss or gain in the future will be determined under the existing CGT rules at the time.

This is a method which will be a legitimate tax option as there are circumstances which are discussed below that detail that locking in a capital gain will not be the correct move. This is extremely relevant when a fund is anticipating a higher tax exempt portion in future years.

Note: These consequences would equally apply to a fund where a trustee makes an invalid choice to apply for CGT relief. For example, where a trustee does not make a choice in the approved form before the date the fund's 2016/17 income tax return is due.

Summary of choices

There are some significant decisions that need to be made by trustees leading up to 30 June 2017.

Future ECPI

The main argument for not applying the CGT relief with regards to the unsegregated approach is where the funds tax exempt percentage is expected to increase in the future. This may occur when one fund member is in retirement phase but another fund member is not yet in

retirement phase but is expected to satisfy a condition of release and convert their balance to retirement phase before the sale of an asset. Instead of locking in a potential capital gain in 2016/17, there may in fact not be any capital gain in the future if the fund is 100% in pension phase in the future.

Therefore you must consider the future fund retirement phase make up with respect to members entering the retirement phase.

Capital losses

It should be noted when an asset has sustained a capital loss there appears to be no advantage in making an election to reset the cost base of the asset.

In turn, you can select an asset that makes a deemed capital loss to offset against any gains in the 2016/17 year and the unused losses if any can be carried forward. However, a capital loss on a deemed sale of the asset cannot be deferred.

It is important to note that when SMSF trustees are thinking about locking in capital losses they need to be thinking about taxable capital gains realised in the future as well. Otherwise capital losses do not have much worth in the superannuation environment when exempt income is factored in.

Unit trust structures

For SMSFs with units in private trusts or companies the cost base reset will also apply. However, the cost base reset will only apply to the unit/shares and not the underlying assets held by the unit trust or company. Therefore a higher taxable amount may flow through to the SMSF than desired on sale of the assets in the trust or company. Consideration then should be given to timely winding up of the trust.

Anti-avoidance

The ATO will also be applying Part IVA for schemes which do more than is necessary to comply with the TBC or TTR changes. Therefore any schemes which are designed to abuse CGT relief will be scrutinised.

The arrangements that the Commissioner will scrutinise carefully will exhibit the following features:

- they place the taxpayer in a position to make the choice,
- they go further than is necessary to provide temporary relief from CGT for members complying with the reforms commencing, and
- they exhibit contrivance of manner, a lack of correspondence of form with substance, or other matters relevant under section 177D of the ITAA 1936, that point to the purpose of avoiding tax.

We note some examples that potentially could be scrutinised by the ATO:

- Setting up a TTR post 9 November 2016 and ceasing it after 30 June 2017 purely to gain the uplift in cost base values. However, setting up a genuine pension after the 9 November 2016 will not necessarily be considered tax avoidance and SMSF trustees can utilise the CGT relief if the TTR continues.
- A member with an account based pension (ABP) below \$1.6 million making a contribution of \$1 to force the SMSF into the unsegregated method so that it could be eligible for the cost base reset
- Transferring assets out of the segregated current pension class in excess of what is necessary to comply and also transferring other fund assets into the segregated current pension asset class to maintain a pension near the level of \$1.6 million.

All of these arrangements are conducted purely for a tax benefit and provide no change in the economic position of the taxpayer and therefore should be conducted with great care. You should always ensure that whatever strategies you recommend to your clients in implementing the transitional CGT relief are acceptable to your clients and that they fully understand any risks that may be inherent in adopting those strategies, if any.

Documentation

This election will be made in the annual return Capital Gains Schedule specifying the total relief to apply. Elections in relation to individual assets will still need to be made, but the

schedule of assets should be retained by trustees as part of their fund records and available for ATO inspection if requested. Of course, where the election is not made in relation to a particular asset as it's in a capital loss position at 30 June 2017, no election needs to be made in relation to that asset.

While generally, it is expected that this process will form part of the preparation of the annual accounts and annual return after the 1 July 2017 introduction date, nevertheless, it is highly recommended that SMSF trustees minute their intentions in relation to the use of either the segregated or unsegregated methods to calculate their ECPI for the 2016/17 financial year, before 1 July 2017. Equally, it is recommended that they also minute their intention to apply for the transitional CGT relief generally, even though it may not be possible at that time to quantify the total value of the relief or to identify specific assets affected.

Case Studies - a practical run through

A single member fund has 4 assets supporting a \$2.1 million ABP. (Segregated)

- Fund that traditionally uses an unsegregated approach has commenced a pension on 1 July 2016. The fund is segregated on 9 November 2016 as all assets support the superannuation income stream.
- All assets were held throughout the pre-commencement period.

	Cost Base	Market Value at cessation time
Asset A	\$ 100,000.00	\$ 500,000.00
Asset B	\$ 300,000.00	\$ 900,000.00
Asset C	\$ 200,000.00	\$ 400,000.00
Asset D	\$ 500,000.00	\$ 300,000.00
	\$ 1,100,000.00	\$ 2,100,000.00

- Member notifies fund to transfer \$500,000 back into their accumulation account on 30 June 2017.
- The fund's pool of assets now supports both the member's ABP and accumulation account.
- The trustee decides to adopt the proportionate method from cessation time.
- Trustee minutes that the member will transfer amount back to \$1.6 million and the fund's intention to apply for relief.
- During lodgement of the 2016/17 tax return in May 2018, the trustee elects which assets the fund will apply for CGT relief, an irrevocable decision.
- The trustee applies relief for Asset A, B and C. The capital gain of \$1.2 million is exempt from tax and the assets will have a reset market value as at that the time of cessation.
- Records are kept.
- The trustee does not apply for CGT relief with regards to Asset D due to its CGT loss.

If the fund transferred \$500,000 into their accumulation on 1 January 2017 rather than on 30 June 2017 and then adopted the proportionate method, the fund would require and actuarial certificate to determine ECPI for the 2016/17 year.

If the fund traditionally used a segregated approach, it would still be beneficial to adopt the proportionate method. Continuing to apply the segregated method means the trustee would re-characterise Asset A as a segregated non-current asset. Asset A would be the only asset eligible for CGT relief.

Fund with 4 assets supporting a \$2 million ABP for Member 1 and a \$1 million accumulation interest for Member 2 who is currently 58. (Unsegregated). The fund has obtained an actuarial certificate for the year confirming 66% of the funds income is exempt.

	Cost Base	Market Value at cessation time	Potential 'Locked-in' Capital Gain/Loss
Asset A	\$ 100,000.00	\$ 1,000,000.00	\$ 200,000.00
Asset B	\$ 800,000.00	\$ 900,000.00	\$ 22,222.22
Asset C	\$ 200,000.00	\$ 800,000.00	\$ 133,333.33
Asset D	\$ 500,000.00	\$ 300,000.00	-\$ 200,000.00
	\$ 1,600,000.00	\$ 3,000,000.00	\$ 155,555.56

- The fund has an exempt tax portion greater than nil.
- The fund held all assets throughout the pre-commencement period.
- The assets were not segregated at any stage.
- Trustee minutes reflect Member 1's intention to reduce their ABP to \$1.6 million and the trustee's intention to use proportionate method for CGT relief.
- During lodgement of the 2016/17 return in May 2018, the trustee elects which assets the fund will apply for CGT relief and if any deferral is to occur.

Things to consider

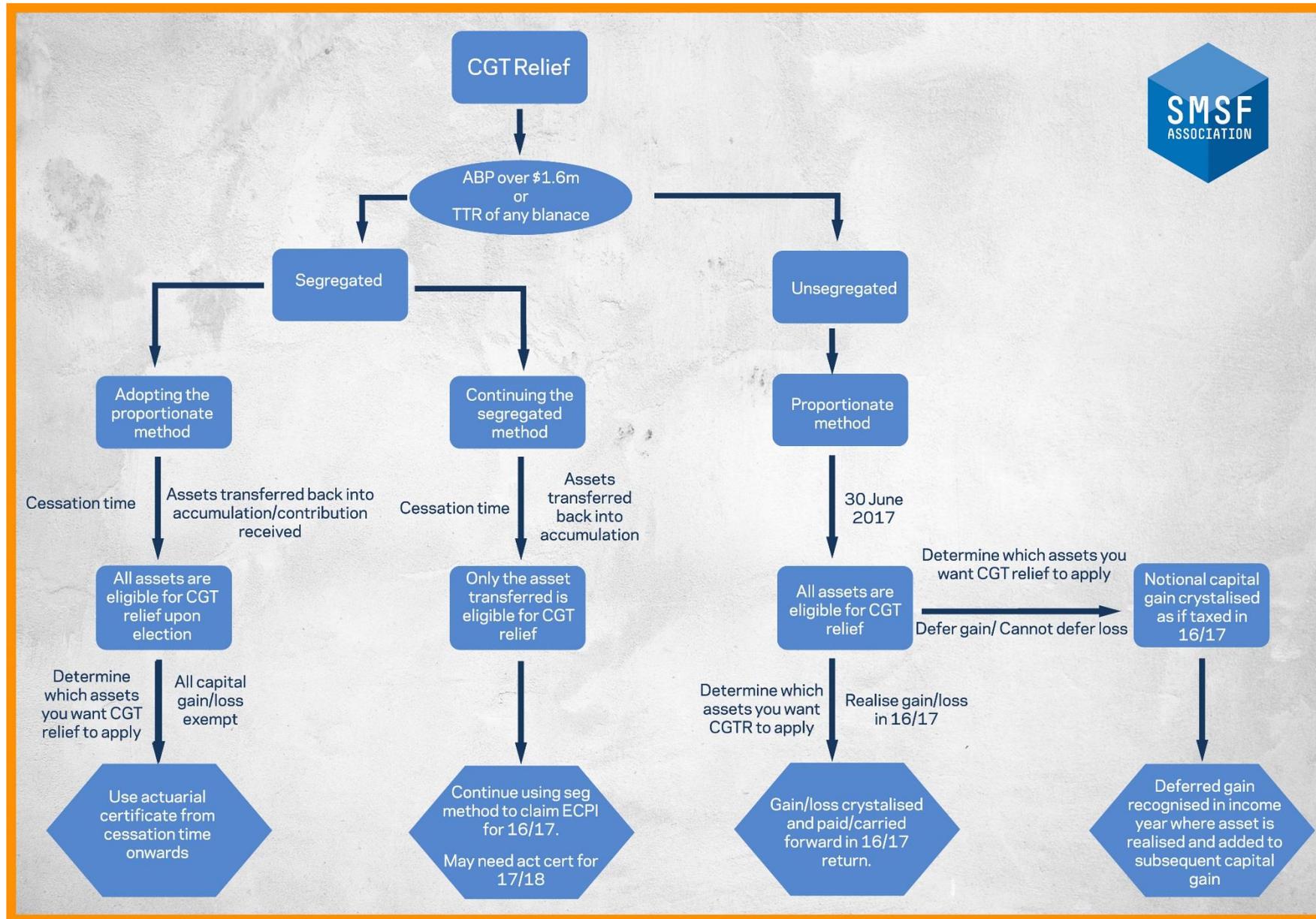
- Asset A has a large capital gain.
- Member 2 is currently 58 years and has retired.
- Resetting the cost base will result in a gain being locked – irrevocable.

- If Asset A, B and D are sold when Member 2 is in full pension phase, the majority of the capital gain at that time would be tax exempt. (Apart from Member 1 with \$400,000 in accumulation).
- Future market values of all assets and timing of sales.
- Cannot defer a capital loss.

Deferral can be useful if the fund has/expects to have capital losses in the future. This is because capital losses are disregarded when calculating the notional gain. With CGT relief and deferral, capital losses are offset after the discount and exempt proportion have been applied.

Choose wisely

This CGT relief 'Go-to-Guide' demonstrates the complexity and intricacies of the transitional relief supplied by the legislation. These CGT issues will need to be considered by trustees and their advisors in the lead up to 1 July 2017 and in preparation for lodgement of their income tax return. There are numerous decisions and planning that need to be undertaken in a short period of time. We emphasise that segregated funds will need to be extremely aware of their cessation time and that all SMSF CGT decisions are considered and chosen wisely.



White Label Document

Capital Gains Tax relief – Start planning now

The changes to superannuation announced in the 2016 Federal Budget have been passed by Parliament. Amongst the changes was legislation which provides CGT relief for members who are transferring assets out of retirement phase in 2016/17 to comply with the changes. In essence, the legislation allows you to reset the cost bases of assets in your fund to their current market value.

The main issues that you need to consider because of the changes taking effect on 1 July 2017, include:

- Assessing the current circumstances of your fund including determining all your account based pensions or transition to retirement pensions.
- Reviewing if your fund was segregated and in receipt of a pension on 9 November 2016
 - Segregation will occur if you have specific assets set aside for specific members or all of the assets of your fund are supporting pensions (100% pension phase).
- Reviewing if your account based pension will be near the \$1.6 million transfer balance cap and determining if you will need to take action to get under this cap.
- Gathering information about the current cost bases of assets you currently hold in your SMSF.
 - Considering when or if these assets will be sold and the fluctuations in market value they may have in the future.
- Determining with your advisor which option of CGT relief is best for you:
 - This could be choosing which assets to reset their cost base and paying any capital gain tax.
 - It may be choosing which assets to reset their cost base and deferring any capital gain tax.
 - Or it may be choosing not to reset any asset cost bases and not applying for CGT relief.
- Considering the future tax exempt make up of your fund. This includes whether:

- Members will be entering retirement phase in the future.
- Funds will be added to a member's retirement phase in the future.
- Funds in accumulation phase will be reduced in the future.

The legislation and implications are complex so early planning and discussions with your specialist advisor are essential.

How can we help?

If you are concerned that the Government's introduction of CGT relief will affect you on 1 July 2017, please feel free to give me a call to arrange a time to meet so that we can discuss your particular requirements in more detail.