

# FAQ : COVID-19 and what it means for the SMSF sector

## Minimum pension withdrawal reduction

### **Has the bill been Royal Assented for the reduction of minimum pension payment requirement for FY20 & FY21 yet?**

Yes, this occurred on Tuesday 24 March.

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### **With the halving of the minimum pension rates for the current year, has there been any discussion about permitting those that have already drawn the pension to be able to return the funds without a work test requirement?**

Superannuation members will not be able to return funds to their accounts unless they meet contribution eligibility. We do not believe there will be amendments to allow individuals to return already drawn pension money.

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### **Can we commute pension payments for the March quarter instead of accounting for pension payment if they have already taken the 50% minimum requirements?**

It is important that all pension payment strategies are documented and are prospective. That means that actions should not be backdated and strategies and the appropriate documentation are in place to detail the pension payments that have been taken.

Once the reduced minimum pension drawdown has been satisfied in the current financial year, members may choose to withdraw additional amounts as partial lump sum commutations from their pension. A partial

commutation requires a conscious decision from a member to convert part of their income stream into a lump sum and needs to be prospective before the payment is made.

**For more information refer to [TR 2013/5](#).**

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### **With the 50% pension reduction, how does this affect Complying Pensions, either term or lifetime. Does it apply to these?**

The pension reduction applies to account based pensions including allocated pensions, transition to retirement pensions and market-linked pensions.

It will not apply to complying lifetime pension (SIS Reg 1.06(9)) or complying life expectancy pensions (SIS Reg 1.06(7)).

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### **If husband & wife SMSF have taken just the husband's minimum pension based on old percentage can we allocate some of this to the wife's pension payment requirement even if the money only hit his personal bank account to avoid erosion of capital?**

Generally, a member can direct where their pension payment goes so depositing the money into the husband's bank account is unlikely to be determinative of 'who' was the pension recipient. However, the trustee's minutes will be important as they will reflect for whom the pension payment was made at the time it was made. This will be supported by the accounts of the fund which will reflect a reduction in that member's balance accordingly.

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## Deeming rates

### **Will social security automatically increase pensions as a result of reductions to social security deeming rates?**

We believe this will be the case.

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## Early release

### **Early release mentions that separate arrangements will apply if you are a SMSF member. Do you have any further detail on that?**

The early release provisions will apply to SMSF members that meet the eligibility criteria. Eligible members will be able to apply through myGov from mid April.

The ATO will then issue them with a determination advising of their eligibility to release an amount. Only once the SMSF has received the determination from the member, will the trustee be authorised to make the payment.

**For more information visit the ATO's website and refer to the ['Government's COVID-19 economic response assists SMSFs and their members'](#).**

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### **What extra guidance do you anticipate for SMSF members accessing their super?**

It will be important that SMSF trustees ensure their deed is compliant with the new temporary release condition and that they properly document the release and which eligibility criteria the member has satisfied.

It is also important trustees have the required liquidity and do not pay any superannuation benefits prior to

having received the ATO determination from the member.

We also encourage SMSF members to seek specialist SMSF advice and explore other options which assist them in financial hardship.

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### **Will a PAYG lump sum payment summary be required for this early release even though the payment is tax free?**

As the SMSF would have no withholding obligation it follows that the reporting obligations to the Commissioner and to the payee should also not apply.

We are hopeful consultation with the ATO will clarify the required process.

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### **If a salaried employee's pay is reduced by 20% without their hours being reduced, would they qualify for early release of super?**

Our initial reading of the law suggests that if a salaried employee's pay was reduced by 20% they would not qualify for early release. The legislation only makes reference to working hours being reduced after 1 January 2020. **Please refer to the Government's early access to superannuation [factsheet](#).**

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## Early release (continued)

**Does early release not apply if you run your business through a partnership, trust or company, only as a sole trader, is this correct?**

**Does this measure mean where one partner loses their job and they are ineligible for job seeker payment can they access their super?**

We believe that the early release will be able to apply if you are able to satisfy one of the below requirements due to the COVID-19 economic impacts:

- you are unemployed; or
- you are eligible to receive a job seeker payment, youth allowance for jobseekers, parenting payment (which includes the single and partnered payments), special benefit or farm household allowance; or
- on or after 1 January 2020:
  - you were made redundant; or
  - your working hours were reduced by 20 per cent or more; or
  - if you are a sole trader — your business was suspended or there was a reduction in your turnover of 20 per cent or more.

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## Rental and loan relief and related parties

**Will there be any guidelines on SMSFs with property leased to related parties and rental relief?**

The Association is pleased to announce the ATO has responded to our requests for guidance regarding rent concessions.

We understand banks are now offering concessions for their loans including deferral of scheduled loan repayments, waiving fees, and temporary interest-only periods.

Some landlords are providing rent concessions to tenants because of the financial impacts of COVID-19. We believe this will now be a standard feature of many commercial market arm's length operations.

The ATO's compliance approach for the 2019–20 and 2020–21 financial years is that they will not take action where an SMSF gives a tenant – who is also a related party – a temporary rent reduction during this period.

**For RP Commercial arrangements, what do we tell our clients in the meantime for those who cannot pay rent due to closure of business?**

We are hopeful the ATO will release guidance shortly. However, there is a strong case that 'rent holidays' are a standard feature of commercial arrangements in the current climate, especially if documented thoroughly.

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## In-house-asset relief

Given the large fall in superannuation balances, SMSF trustees may be in potential breach of the 5% in-house asset rules, where an in-house asset can't be more than 5% of your fund's total assets.

We have made representation to the ATO to provide temporary relief and they have provided the below response:

If, at the end of a financial year, the level of in-house assets of an SMSF exceeds 5% of a fund's total assets, the trustees must prepare a written plan to reduce the market ratio of in-house assets to 5% or below. This plan must be prepared before the end of the next following year of income. If an SMSF exceeds the 5% in-house asset threshold as at 30 June 2020, a plan must be prepared and implemented on or before 30 June 2021. However, the ATO will not undertake

compliance activity if the rectification plan was unable to be executed because the market has not recovered or it was unnecessary to implement the plan as the market had recovered.

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## Other

### Do you know whether people applying for jobseeker payments will be ineligible based on spouse income?

As it currently stands, if you lose your job and your partner earns more than \$1,850 a fortnight (\$48,100 a year) you will not be eligible for the Jobseeker Payment.

However, things are changing rapidly and there are calls for this to be increased.

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### Do those on ATO Paid Parental Leave qualify for the extra \$550 Coronavirus Supplement.

You'll automatically get the supplement if you're getting one of these payments:

- JobSeeker Payment
- Youth Allowance for job seekers
- Youth Allowance for students
- Austudy for students
- ABSTUDY for students
- Parenting Payment
- Farm Household Allowance
- Special Benefit.

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### Does varying of PAYG also extend to individuals e.g. those that receive distributions from their trust structure?

We believe they may be eligible. **For more information visit the ATO's website and refer to [COVID-19 frequently asked questions](#).**

### When does the PAYG payment get applied?

The credit is available to:

- quarterly lodgers for the quarters ending March 2020 and June 2020
- monthly lodgers for the March 2020, April 2020, May 2020 and June 2020 periods.

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### What benefits apply to sole traders?

- Potentially early release of superannuation
- The increased instant asset write-off
- Backing Business Investment (BBI)
- Increased and accelerated income support
- SME Guarantee Scheme

**Remain up to date with the SMSF Association's COVID-19 response webpages which are regularly updated as more information and resources come to light.**

**Visit:**

[smsfassociation.com](https://www.smsfassociation.com)