

## Ask a Techspert

# Can I claim ECPI after the death of a pension member?

**Q: I have a two member SMSF whereby one of the members is receiving a non-reversionary retirement phase income stream. On 20 September 2022, the member receiving the retirement phase income stream passed away however their death benefits were not paid out of the fund until 1 May 2023. Can the Fund still claim Exempt Current Pension Income after the death of the member until the death benefits are paid out?**



William

**A:** Hi William, great question! A fund can continue to claim Exempt Current Pension Income (ECPI) on a non-reversionary retirement phase income stream after the death of the retirement phase member so long as the retirement phase account is paid out 'as soon as practicable'.

What does 'as soon as practicable' mean you may ask? Well, that's another great question. Unfortunately, the ATO have not provided much guidance in relation to their interpretation of what 'as soon as practicable' means. They do give examples on their website which suggests that six months is a reasonable timeframe. Of course, if it was not possible for the Fund to pay the death benefits within a six month timeframe due to exceptional circumstances such as a legal dispute over the estate, then it would be expected that the ATO would still view the death benefits were paid as soon as practicable.

It is always good practice to check with the Fund's auditor that they are satisfied the death benefits were paid out 'as soon as practicable' before claiming ECPI.



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