Superannuation (Departing Australia Superannuation Payments Tax) Act 2007

No. 13, 2007 as amended

Compilation start date: 25 June 2014

Includes amendments up to: Act No. 51, 2014

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About this compilation

This compilation

This is a compilation of the *Superannuation (Departing Australia Superannuation Payments Tax) Act 2007* as in force on 25 June 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 3 July 2014.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

Contents

An Act to impose tax on departing Australia superannuation payments, and for related purposes

1 Short title

This Act may be cited as the *Superannuation (Departing Australia Superannuation Payments Tax) Act 2007*.

2 Commencement

This Act commences on 1 July 2007.

3 Definitions

In this Act:

departing Australia superannuation payment has the same meaning as in the *Income Tax Assessment Act 1997*.

element taxed in the fund has the same meaning as in the *Income Tax Assessment Act 1997*.

element untaxed in the fund has the same meaning as in the *Income Tax Assessment Act 1997*.

excess untaxed roll-over amount has the same meaning as in the *Income Tax Assessment Act 1997*.

roll-over superannuation benefit has the same meaning as in the *Income Tax Assessment Act 1997*.

taxable component has the same meaning as in the *Income Tax Assessment Act 1997*.

tax free component has the same meaning as in the *Income Tax Assessment Act 1997*.

4 Imposition of tax

Tax payable on a departing Australia superannuation payment under subsection 301-175(2) of the *Income Tax Assessment Act 1997* is imposed.

5 Amount of tax

(1) The amount of the tax is as follows:

  (a) for the tax free component of the departing Australia superannuation payment—nil;

  (b) for the element taxed in the fund of the taxable component of the departing Australia superannuation payment—35%;

  (c) for the element untaxed in the fund of the taxable component of the departing Australia superannuation payment—45%.

(2) However, if the departing Australia superannuation payment is a roll-over superannuation benefit paid under subsection 20H(2), (2AA) or (2A) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*, the amount of the tax for the element untaxed in the fund of the taxable component of the payment is:

  (a) for the amount (if any) of the element that is not an excess untaxed roll-over amount—45%; and

  (b) for the amount (if any) of the element that is an excess untaxed roll-over amount—nil.

  Note: The tax for the excess untaxed roll-over amount is set at nil to avoid double taxation of that amount, which is also subject to tax under the *Superannuation (Excess Untaxed Roll-over Amounts Tax) Act 2007*.

6 Temporary budget repair levy

(1) This section applies to departing Australia superannuation payments received in a temporary budget repair levy year.

(2) Increase:

  (a) the percentage mentioned in paragraph 5(1)(b) by 3 percentage points; and

    (b) the percentage mentioned in paragraph 5(1)(c) by 2 percentage points; and

    (c) the percentage mentioned in paragraph 5(2)(a) by 2 percentage points.

(3) In this section:

temporary budget repair levy year has the same meaning as in section 4-11 of the *Income Tax (Transitional Provisions) Act 1997*.

Endnotes

Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history
Endnote 5—Uncommenced amendments
Endnote 6—Modifications
Endnote 7—Misdescribed amendments
Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word "none" will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2
The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.
Modifications—Endnote 6
If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

Misdescribed amendments—Endnote 7
An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

Miscellaneous—Endnote 8
Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted

am = amended

c = clause(s)

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

exp = expired or ceased to have effect

hdg = heading(s)

LI = Legislative Instrument

LIA = *Legislative Instruments Act 2003*

mod = modified/modification

No = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s)
     /sub-subparagraph(s)

pres = present

prev = previous

(prev) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

Reg = Regulation/Regulations

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation (Departing Australia Superannuation Payments Tax) Act 2007	13, 2007	15 Mar 2007	1 July 2007	
Superannuation (Departing Australia Superannuation Payments Tax) Amendment Act 2008	152, 2008	11 Dec 2008	Schedule 1: 1 Apr 2009 (*see* F2008L04639) Remainder: Royal Assent	Sch. 1 (item 7)
Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013	88, 2013	28 June 2013	Sch 1 (item 19): Royal Assent	—
Superannuation (Departing Australia Superannuation Payments Tax) Amendment (Temporary Budget Repair Levy) Act 2014	51, 2014	25 June 2014	Sch 1: 25 June 2014 (*see* s 2(1)) Remainder: Royal Assent	—

Endnote 4—Amendment history

Provision affected	How affected
s. 3	am. No. 152, 2008
s. 5	am. No. 152, 2008; No 88, 2013
s 6	ad No 51, 2014

Endnote 5—Uncommenced amendments [none]

Endnote 6—Modifications [none]

Endnote 7—Misdescribed amendments [none]

Endnote 8—Miscellaneous [none]