



Superannuation Legislation Amendment (Simplification) Act 2007

No. 15, 2007

**An Act to amend the law relating to taxation,
superannuation, social security and veterans'
entitlements, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 15, 2007

**An Act to amend the law relating to taxation,
superannuation, social security and veterans'
entitlements, and for related purposes**

[Assented to 15 March 2007]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Superannuation Legislation
Amendment (Simplification) Act 2007*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	15 March 2007
2. Schedule 1	Immediately after the commencement of Schedule 1 to the <i>Tax Laws Amendment (Simplified Superannuation) Act 2007</i> .	15 March 2007
3. Schedule 2	The later of: (a) at the same time as the provision(s) covered by table item 1; and (b) immediately after the commencement of the <i>Tax Laws Amendment (2006 Measures No. 7) Act 2007</i> .	12 April 2007 (paragraph (b) applies)
4. Schedule 3 item 1	The later of: (a) 1 July 2007; and (b) immediately after the start of the day on which the <i>Bankruptcy Legislation Amendment (Superannuation Contributions) Act 2007</i> receives the Royal Assent. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	1 July 2007 (paragraph (a) applies)
5. Schedule 3 items 2 and 3	1 July 2007.	1 July 2007
6. Schedule 3 items 4 to 51	At the same time as the provision(s) covered by table item 1.	15 March 2007
7. Schedule 3 items 52 and 53	The day on which this Act receives the Royal Assent.	15 March 2007

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
7. Schedule 3 item 54	1 July 2007.	1 July 2007
8. Schedule 3 items 55 to 66	At the same time as the provision(s) covered by table item 1.	15 March 2007
9. Schedule 4, items 1 to 9	At the same time as the provision(s) covered by table item 1.	15 March 2007
10. Schedule 4, item 10	The later of: (a) immediately after the commencement of item 2 of Schedule 7 to the <i>Tax Laws Amendment (2006 Measures No. 7) Act 2007</i> ; and (b) immediately after the commencement of item 25 of Schedule 1 to the <i>Tax Laws Amendment (Simplified Superannuation) Act 2007</i> .	12 April 2007 (paragraph (a) applies)
11. Schedule 4, item 11	At the same time as the provision(s) covered by table item 1.	15 March 2007
12. Schedule 4, item 12	At the same time as item 14 in Schedule 4 to the <i>Tax Laws Amendment (Simplified Superannuation) Act 2007</i> .	15 March 2007

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Repeals disregarded for the purposes of dependent provisions

If the operation of a provision (the *subject provision*) of any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*) made under any Act depends to any extent on an Act, or a provision of an Act, that is repealed by this Act, the repeal is disregarded so far as it affects the operation of the subject provision.

Schedule 1—Consequential amendments etc.

Part 1—Main consequential repeals

Income Tax Assessment Act 1936

1 Section 6E

Repeal the section.

2 Sections 26AC, 26AD and 26AFB

Repeal the sections.

3 Sections 27A, 27AAAA, 27AAA, 27AAB, 27AA, 27AB, 27AC, 27ACA, 27ACB, 27B, 27C, 27CAA, 27CAB, 27CA, 27CB, 27CC, 27CD, 27CE, 27D, 27E, 27F, 27G and 27GA

Repeal the sections.

4 Sections 27HA and 27J

Repeal the sections.

5 Subdivisions AA and AB of Division 3 of Part III

Repeal the Subdivisions.

6 Division 14 of Part III

Repeal the Division.

7 Subdivisions AAA, AAB and AACA of Division 17 of Part III

Repeal the Subdivisions.

8 Part IX

Repeal the Part.

Part 2—Other consequential amendments etc.

A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999

9 Subsection 9(2)

Repeal the subsection, substitute:

- (2) However, if a person is entitled to a tax offset under subsection 301-20(2) of the *Income Tax Assessment Act 1997* for a year of income, the person's **taxable income** for the year of income is the amount worked out under subsection (1), reduced by the amount mentioned in subsection 301-20(3) of that Act for the person for the year.

Family Law Act 1975

10 Section 90ACA

Repeal the section, substitute:

90ACA This Part not to apply to certain annuities

The powers of the court under this Part do not apply to superannuation annuities (within the meaning of the *Income Tax Assessment Act 1997*).

11 Section 90MD (definition of *eligible annuity*)

Repeal the definition.

12 Section 90MD (paragraph (e) of the definition of *eligible superannuation plan*)

Repeal the paragraph, substitute:

- (e) a superannuation annuity (within the meaning of the *Income Tax Assessment Act 1997*).

13 Subsection 90MQ(1)

Omit “the ETP threshold”, substitute “the member spouse’s low rate cap amount for the income year in which the declaration time occurs”.

Note: The heading to section 90MQ is altered by omitting “**ETP threshold**” and substituting “**low rate cap amount**”.

14 Subsection 90MQ(3) (definition of *ETP threshold*)

Repeal the definition.

15 Subsection 90MQ(3)

Insert:

low rate cap amount has the meaning given by the *Income Tax Assessment Act 1997* (disregarding subsection 307-345(2) of that Act and section 307-345 of the *Income Tax (Transitional Provisions) Act 1997*).

16 Subsection 90MZ(3)

Omit “within the meaning of section 267 of the *Income Tax Assessment Act 1936*”, substitute “(within the meaning of the *Income Tax Assessment Act 1997*)”.

Fringe Benefits Tax Assessment Act 1986

17 Subparagraph 58PB(4)(c)(v)

Omit “an eligible termination payment (within the meaning of section 27A of the *Income Tax Assessment Act 1936*)”, substitute “an employment termination payment (within the meaning of the *Income Tax Assessment Act 1997*)”.

18 Subsection 136(1) (subparagraph (j)(i) of the definition of *fringe benefit*)

Omit “(as defined by subsection 6(1) of the *Income Tax Assessment Act 1936*) that the person making the contribution had reasonable grounds for believing was a complying superannuation fund (as defined by subsection 267(1) of the *Income Tax Assessment Act 1936*)”, substitute “(as defined by the *Income Tax Assessment Act 1997*) that the person making the contribution had reasonable grounds for believing was a complying superannuation fund (as defined by that Act)”.

19 Subsection 136(1) (subparagraph (j)(ii) of the definition of *fringe benefit*)

Omit “non-resident superannuation fund (within the meaning of section 6E of the *Income Tax Assessment Act 1936*)”, substitute “foreign superannuation fund (within the meaning of the *Income Tax Assessment Act 1997*)”.

20 Subsection 136(1) (paragraphs (k), (ka) and (kb) of the definition of *fringe benefit*)

Repeal the paragraphs, substitute:

- (k) a superannuation benefit (within the meaning of the *Income Tax Assessment Act 1997*); or
- (l) a payment covered by section 26AF or 26AFA of the *Income Tax Assessment Act 1936*; or
- (la) an early retirement scheme payment (within the meaning of the *Income Tax Assessment Act 1997*); or
- (lb) a genuine redundancy payment (within the meaning of the *Income Tax Assessment Act 1997*); or
- (lc) an employment termination payment (within the meaning of the *Income Tax Assessment Act 1997*); or
- (ld) a payment that would be an employment termination payment (within the meaning of the *Income Tax Assessment Act 1997*) apart from paragraph 82-130(1)(b) of that Act; or
- (le) any of the following payments, if they would be employment termination payments (within the meaning of the *Income Tax Assessment Act 1997*) apart from paragraph 82-130(1)(b) and section 82-135 of that Act:
 - (i) an unused annual leave payment (within the meaning of that Act);
 - (ii) an unused long service leave payment (within the meaning of that Act);
 - (iii) a payment covered by Subdivision 83-D (Foreign termination payments) of that Act;
 - (iv) a payment covered by paragraph 82-135(g) of that Act;
 - (v) a payment of an annuity, or a supplement, covered by section 27H of the *Income Tax Assessment Act 1936*; or

21 Subsection 136AB(1)

Omit “subsection 267(1) of the *Income Tax Assessment Act 1936*”, substitute “the *Income Tax Assessment Act 1997*”.

Income Tax Assessment Act 1936

22 Subsection 6(1) (paragraph (d) of the definition of assessment)

Omit “a fund or unit trust referred to in paragraph (a), (b) or (c) of the definition of *eligible entity* in subsection 267(1)”, substitute “a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust”.

23 Subsection 6(1)

Insert:

Australian superannuation fund has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

24 Subsection 6(1)

Insert:

complying approved deposit fund has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

25 Subsection 6(1)

Insert:

complying superannuation fund has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

26 Subsection 6(1)

Insert:

employment termination payment has the same meaning as in the *Income Tax Assessment Act 1997*.

27 Subsection 6(1) (definition of foreign superannuation fund)

Repeal the definition, substitute:

foreign superannuation fund has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

28 Subsection 6(1) (paragraphs (d), (e) and (f) of the definition of *full self-assessment taxpayer*)

Repeal the paragraphs, substitute:

- (d) the trustee of a complying approved deposit fund or a non-complying approved deposit fund in relation to the current year;
- (e) the trustee of a complying superannuation fund or a non-complying superannuation fund in relation to the current year;
- (f) the trustee of a pooled superannuation trust in relation to the current year.

29 Subsection 6(1)

Insert:

non-complying approved deposit fund has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

30 Subsection 6(1)

Insert:

non-complying superannuation fund has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

31 Subsection 6(1) (definition of *non-resident superannuation fund*)

Repeal the definition.

32 Subsection 6(1)

Insert:

pooled superannuation trust has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

33 Subsection 6(1) (definition of *resident superannuation fund*)

Repeal the definition.

34 Subsection 6(1)

Insert:

superannuation fund for foreign residents has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

35 Subsection 6(1)

Insert:

superannuation lump sum has the same meaning as in the *Income Tax Assessment Act 1997*.

36 Subsection 6(1) (definition of *withholding tax*)

Repeal the definition, substitute:

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

37 Subsection 6AB(1)

Omit “eligible termination payments as defined in subsection 27A(1)”, substitute “superannuation lump sums and employment termination payments”.

38 Subsection 6AB(1)

Omit “section 26D, 27CAA, 102AAZD, 456, 457, 459A or 529”, substitute “section 26D, 102AAZD, 456, 457, 459A or 529 of this Act, or section 305-70 of the *Income Tax Assessment Act 1997*”.

39 Subsection 6AB(1A)

Omit “net previous income referred to in subsection 288A(2)”, substitute “an amount worked out under section 295-325 of the *Income Tax Assessment Act 1997*”.

40 Subsection 6AB(1B)

Omit “net previous income referred to in subsection 288B(2)”, substitute “an amount worked out under section 295-330 of the *Income Tax Assessment Act 1997*”.

41 After subsection 6AB(1B)

Insert:

(1C) A reference in this Act to foreign income includes a reference to an amount included in assessable income under:

- (a) Division 301 of the *Income Tax Assessment Act 1997* in its application under section 301-5 of the *Income Tax (Transitional Provisions) Act 1997*; or
- (b) Division 302 of the *Income Tax Assessment Act 1997* in its application under section 302-5 of the *Income Tax (Transitional Provisions) Act 1997*.

42 Subparagraphs 23AF(17)(aa)(i) and (ii)

Repeal the subparagraphs, substitute:

- (i) is included in assessable income under Division 82, section 83-295 or Division 301, 302, 304 or 305 of the *Income Tax Assessment Act 1997*; or
- (ii) is included in assessable income under Division 82 of the *Income Tax (Transitional Provisions) Act 1997*; or
- (iii) is mentioned in paragraph 82-135(e), (f), (g), (i) or (j) of the *Income Tax Assessment Act 1997*; or
- (iv) is an amount transferred to a fund, if the amount is included in the assessable income of the fund under section 295-200 of the *Income Tax Assessment Act 1997*; or

43 Subsection 23AF(17A) (paragraph (aa) of the definition of *Notional gross tax*)

Omit “an exempt resident foreign termination payment (within the meaning of Subdivision AA of Division 2)”, substitute “a payment covered by section 83-240 or 305-65 of the *Income Tax Assessment Act 1997*”.

44 Subsection 23AF(17C)

Omit “any exempt resident foreign termination payment (within the meaning of Subdivision AA of Division 2) that related to the termination of qualifying service (within the meaning of that Division)”, substitute “any payment covered by section 83-240 or 305-65 of the *Income Tax Assessment Act 1997* in relation to qualifying service”.

45 Subsection 23AG(3) (paragraph (aa) of the definition of *Notional gross tax*)

Omit “an exempt resident foreign termination payment (within the meaning of Subdivision AA of Division 2)”, substitute “a payment covered by section 83-240 or 305-65 of the *Income Tax Assessment Act 1997*”.

46 Subsection 23AG(5)

Omit “any exempt resident foreign termination payment (within the meaning of Subdivision AA of Division 2)”, substitute “any payment covered by section 83-240 or 305-65 of the *Income Tax Assessment Act 1997*”.

47 Subsection 23AG(7) (paragraphs (a) and (b) of the definition of *foreign earnings*)

Repeal the paragraphs, substitute:

- (a) is included in assessable income under Division 82 or Subdivision 83-295 or Division 301, 302, 304 or 305 of the *Income Tax Assessment Act 1997*; or
- (b) is included in assessable income under Division 82 of the *Income Tax (Transitional Provisions) Act 1997*; or
- (c) is mentioned in paragraph 82-135(e), (f), (g), (i) or (j) of the *Income Tax Assessment Act 1997*; or
- (d) is an amount transferred to a fund, if the amount is included in the assessable income of the fund under section 295-200 of the *Income Tax Assessment Act 1997*.

48 Subsection 24AYA(1)

Omit “section 82AAC”, substitute “section 290-60 of the *Income Tax Assessment Act 1997*”.

49 Subsection 24AYA(3)

Omit “dependants”, substitute “SIS dependants”.

50 Subsection 24AYA(7)

Omit “section 82AAC”, substitute “section 290-60 of the *Income Tax Assessment Act 1997*”.

51 Paragraph 26AF(1)(aa)

After “section 26AFB”, insert “(as in force just before the commencement of Schedule 1 to the *Superannuation Legislation Amendment (Simplification) Act 2007*)”.

52 Subsection 26AF(2)

After “section 26AFB”, insert “(as in force just before the commencement of Schedule 1 to the *Superannuation Legislation Amendment (Simplification) Act 2007*)”.

53 Subsection 26AF(4)

After “section 26AFB of this Act”, insert “(as in force just before the commencement of Schedule 1 to the *Superannuation Legislation Amendment (Simplification) Act 2007*)”.

54 Paragraph 26AFA(1)(aa)

After “section 26AFB”, insert “(as in force just before the commencement of Schedule 1 to the *Superannuation Legislation Amendment (Simplification) Act 2007*)”.

55 Subsection 26AFA(3)

After “section 26AFB”, insert “(as in force just before the commencement of Schedule 1 to the *Superannuation Legislation Amendment (Simplification) Act 2007*)”.

56 Subsection 26AFA(5)

After “section 26AFB of this Act”, insert “(as in force just before the commencement of Schedule 1 to the *Superannuation Legislation Amendment (Simplification) Act 2007*)”.

57 Subsection 26AH(6A)

Omit “(within the meaning of Part IX)”.

58 Paragraph 26AH(7)(b)

Repeal the paragraph, substitute:

- (b) the eligible policy is held by the trustee of:
 - (i) a complying superannuation fund; or
 - (ii) a complying approved deposit fund; or
 - (iii) a pooled superannuation trust; or

59 Subdivision AA of Division 2 of Part III (heading)

Repeal the heading, substitute:

Subdivision AA—Non-superannuation annuities etc.

60 Subsection 27H(1)

Omit “subsection (1A) and”.

61 Subsection 27H(1A)

Repeal the subsection.

62 Paragraphs 27H(3A)(a) and (b)

Repeal the paragraphs.

63 Subsection 27H(4)

Insert:

agreement means any agreement, arrangement or understanding whether formal or informal, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings.

64 Subsection 27H(4) (definition of *annuity*)

Repeal the definition, substitute:

annuity means an annuity, a pension paid from a foreign superannuation fund (within the meaning of the *Income Tax Assessment Act 1997*) or a pension paid from a scheme mentioned in paragraph 290-5(c) of that Act, but does not include:

- (a) an annuity that is a qualifying security for the purposes of Division 16E; or
- (b) a superannuation income stream (within the meaning of the *Income Tax Assessment Act 1997*).

65 Subsection 27H(4)

Insert:

purchase price means:

- (a) in relation to a pension—the sum of:

- (i) contributions made by any person to a foreign superannuation fund to obtain the pension; and
 - (ii) so much as the Commissioner considers reasonable of contributions made by any person to a foreign superannuation fund to obtain superannuation benefits including the pension; and
- (b) in relation to an annuity other than a pension—the sum of:
- (i) payments made solely to purchase the annuity; and
 - (ii) so much as the Commissioner considers reasonable of payments made to purchase the annuity and to obtain other benefits.

66 Subsection 27H(4)

Insert:

residual capital value, in relation to an annuity, means the capital amount payable on the termination of the annuity.

67 Subsection 27H(4)

Insert:

undeducted purchase price, in relation to an annuity, has the meaning given by section 27A immediately before the commencement of Schedule 1 to the *Superannuation Legislation Amendment (Simplification) Act 2007*.

68 At the end of section 27H

Add:

- (5) In the definition of *purchase price* in subsection (4):
- (a) a reference to contributions made by any person to a foreign superannuation fund to obtain a pension does not include a reference to contributions made to a foreign superannuation fund by an employer, or by another person under an agreement to which the employer is a party, for the purpose of providing superannuation benefits for, or for dependants of, an employee of the employer; and
 - (b) a reference to payments made to purchase, or solely to purchase, an annuity (other than a pension) does not include a reference to payments made by an employer, or by another person under an agreement to which the employer is a party,

to purchase, or solely to purchase, the annuity for, or for dependants of, an employee of the employer.

- (6) For the purposes of subsection (5), in determining whether a person is an employer of another person, treat the holding of an office by the other person as employment of that person.

69 Subparagraph 47A(16)(c)(iv)

Omit “an eligible entity (within the meaning of Part IX)”, substitute “a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust”.

70 Sub-subparagraph 47A(18)(d)(ii)(D)

Omit “an eligible entity (within the meaning of Part IX)”, substitute “a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust”.

71 Section 67AAA

Repeal the section.

72 Paragraph 70B(2A)(b)

Repeal the paragraph, substitute:

- (b) segregated current pension assets (as defined in the *Income Tax Assessment Act 1997*) of a complying superannuation fund.

73 Subsection 73B(1) (definition of *annual leave*)

Repeal the definition, substitute:

annual leave means leave covered by section 83-10 of the *Income Tax Assessment Act 1997* (see subsection (1) of that section).

74 Subsection 73B(1) (definition of *contributions to superannuation funds*)

Omit “section 82AAC”, substitute “section 290-60 of the *Income Tax Assessment Act 1997*”.

75 Subsection 73B(1) (definition of *long service leave*)

Repeal the definition, substitute:

long service leave means leave covered by Subdivision 83-B of the *Income Tax Assessment Act 1997* (see section 83-70 of that Act).

76 After subsection 73B(20)

Insert:

(20A) To avoid doubt, subsection (20) applies despite subsection 290-10(1) of the *Income Tax Assessment Act 1997*.

77 Section 90 (definition of net income)

Omit “section 82AAT of this Act”, substitute “section 290-150”.

78 Section 90 (definition of partnership loss)

Omit “section 82AAT of this Act”, substitute “section 290-150”.

79 Paragraph 92(2A)(b)

Repeal the paragraph, substitute:

(b) a segregated current pension asset (as defined in the *Income Tax Assessment Act 1997*) of a complying superannuation fund.

80 Subsection 101A(2)

Omit “section 26AC or 26AD”, substitute “section 83-10 or 83-80 of the *Income Tax Assessment Act 1997*”.

81 Subsection 101A(3)

Omit “Where”, substitute “To avoid doubt, if”.

82 Subsection 101A(3)

Omit “Subdivision AA of Division 2 in respect of an eligible termination payment, within the meaning of that Subdivision,”, substitute “Division 82 or 302 of the *Income Tax Assessment Act 1997* in respect of a payment”.

83 Subsection 101A(3)

Omit “and shall be deemed to be income to which no beneficiary is presently entitled”.

84 Section 102AAB (paragraph (c) of the definition of resident trust estate)

Omit “an eligible entity (within the meaning of Part IX)”, substitute “a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust”.

85 Sub-subparagraph 102AAE(2)(b)(ii)(B)

Omit “an eligible entity (within the meaning of Part IX)”, substitute “a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust”.

86 Paragraph 102AAM(2)(d)

Omit “an eligible entity within the meaning of Part IX”, substitute “a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust”.

87 Sub-subparagraph 102AAM(4)(b)(ii)(B)

Omit “an eligible entity (within the meaning of Part IX)”, substitute “a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust”.

88 Subparagraph 102AAZA(a)(iv)

Omit “section 272”, substitute “section 295-10 of the *Income Tax Assessment Act 1997*”.

89 Section 102M (subparagraph (b)(iii) of the definition of exempt entity)

Omit “a complying ADF, or a PST, within the meaning of Part IX”, substitute “a complying approved deposit fund or a pooled superannuation trust”.

90 Section 121AQ (definition of annuity)

Omit “section 27A”, substitute “section 10 of the *Superannuation Industry (Supervision) Act 1993*”.

91 Section 121AQ (definition of ETP)

Repeal the definition.

92 Section 121AQ

Insert:

superannuation interest has the same meaning as in the *Income Tax Assessment Act 1997*.

93 Section 121AQ (definition of *superannuation pension*)

Repeal the definition.

94 Section 121AQ (definition of *undeducted contributions*)

Repeal the definition.

95 Section 121AQ (definition of *undeducted purchase price*)

Repeal the definition.

96 Section 121AR (table)

Repeal the table, substitute:

Definition	Provision
annuity	121AQ
applicable accounting day	121AM(3) and 121AN(4)
capital reserve adequacy level	121AO(2)
eligible actuary	121AO(3)
embedded value	121AM(1)
demutualise	121AD(1) and (2)
demutualisation method	121AE(3)
demutualisation method 1 to demutualisation method 7	121AF to 121AL
demutualisation resolution day	121AD(3)
first trading day price	121AQ
general insurance business	121AQ
general insurance company	121AB(4)
insurance company	121AB(2)
life insurance business	121AQ
life insurance company	121AB(3)
listed	121AQ
listing period	121AE(6)
mutual affiliate company	121AC
mutual insurance company	121AB(1)
net tangible asset value	121AN(1)

Definition	Provision
policyholder/member group	121AE(4) and (5)
security	121AO(4)
subsidiary	121AP(1) and (2)
superannuation interest	121AQ
Treasury bond rate	121AO(1)
wholly-owned subsidiary	121AP(3)

97 Section 121AT (Table 2, item 11)

Omit:

If the trustee pays an ETP, a superannuation pension or an annuity to the member, the undeducted contributions in relation to the ETP, or undeducted purchase price of the pension or annuity, is increased by the amount worked out using the formula:

substitute:

If the trustee pays a superannuation benefit to the member, the tax free component (within the meaning of the *Income Tax Assessment Act 1997*) of the superannuation interest (within the meaning of that Act) from which the benefit is paid is increased by the amount worked out using the formula:

98 Paragraph 124ZM(3)(d)

Omit “an eligible entity within the meaning of Part IX”, substitute “a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust”.

99 Subsection 128A(10)

Omit “non-resident superannuation fund”, substitute “foreign superannuation fund”.

100 Subparagraph 128B(3)(jb)(i)

Omit “foreign superannuation fund”, substitute “superannuation fund for foreign residents”.

101 Subsection 128FA(8) (paragraph (b) of the definition of *eligible unit holder*)

Repeal the paragraph, substitute:

- (b) the trustee (within the meaning of the *Income Tax Assessment Act 1997*) of a complying superannuation fund that has 50 or more members; or

102 Subsection 128FA(8) (paragraph (d) of the definition of *eligible unit holder*)

Repeal the paragraph, substitute:

- (d) the trustee (within the meaning of the *Income Tax Assessment Act 1997*) of a complying approved deposit fund; or

103 Subsection 149A(1)

Omit “subsection 27B(1A) or (3)” (wherever occurring), substitute “section 82-65, 82-70 or 302-145 of the *Income Tax Assessment Act 1997*”.

Note: The heading to section 149A is altered by omitting “ETP excessive component” and substituting “certain death benefits”.

104 Subparagraph 159GZZZZG(1)(a)(iv)

Omit “an eligible entity within the meaning of Part IX”, substitute “a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust”.

105 Subsection 159ZR(1) (paragraph (a) of the definition of *normal taxable income*)

Repeal the paragraph, substitute:

- (a) no amount were included in assessable income under Division 82, section 83-10 or 83-80 or Division 301 or 302 of the *Income Tax Assessment Act 1997* or Division 82 of the *Income Tax (Transitional Provisions) Act 1997*; and

106 Subsection 159ZR(1) (definition of *rebated tax*)

Repeal the definition, substitute:

rebated tax means the tax payable after the allowance of any tax offset under Division 82, 83, 301 or 302 of the *Income Tax Assessment Act 1997*, subsection 392-35(2) of that Act (which allows some primary producers tax offsets) or Division 82 of the *Income Tax (Transitional Provisions) Act 1997*, but before the allowance of any other tax offsets or any credits.

107 Subsection 160AAB(5A)

Omit “an eligible entity within the meaning of Part IX”, substitute “a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust”.

108 Subsection 160AF(1A)

Omit “subsection 288A(2)”, substitute “table item 2 in section 295-320 of the *Income Tax Assessment Act 1997*”.

109 Paragraph 160AF(1B)(a)

Omit “a resident superannuation fund in relation to the current year of income includes the fund’s net previous income in respect of previous years of income (as defined by subsection 288A(2))”, substitute “an Australian superannuation fund in relation to the current year of income includes the amount worked out for the fund under section 295-325 of the *Income Tax Assessment Act 1997*”.

110 Subsection 160AF(1C)

Omit “a resident superannuation fund referred to in subsection 288B(2)”, substitute “an Australian superannuation fund referred to in table item 3 in section 295-320 of the *Income Tax Assessment Act 1997*”.

111 Paragraph 160AF(1D)(a)

Omit “a resident superannuation fund in relation to the current year of income includes the fund’s net previous income in respect of previous years of income (as defined by subsection 288B(2))”, substitute “an Australian superannuation fund in relation to the current year of income includes the amount worked out for the fund under section 295-330 of the *Income Tax Assessment Act 1997*”.

112 Paragraph 160AF(6)(b)

Omit “section 27CAA”, substitute “section 305-70 of the *Income Tax Assessment Act 1997*”.

113 Paragraph 160AF(7)(ba)

Omit “section 27CAA”, substitute “section 305-70 of the *Income Tax Assessment Act 1997*”.

Schedule 1 Consequential amendments etc.

Part 2 Other consequential amendments etc.

Note 1: The heading to section 202DI is altered by omitting “eligible termination payments” and substituting “superannuation benefits”.

Note 2: The heading to section 202DJ is altered by omitting “eligible termination payments” and substituting “superannuation benefits”.

114 Subsection 170(10AA) (before table item 180)

Insert:

- | | | |
|-----|-----------------------|--|
| 174 | Section 295-25 | Commissioner makes an assessment as if an entity were a complying superannuation entity or a pooled superannuation trust for the income year and:
(a) the entity does not become one; or
(b) the Australian Prudential Regulation Authority (APRA) does not receive certain documents about the entity within a specified period |
| 175 | Section 295-30 | Notice under section 342 of the <i>Superannuation Industry (Supervision) Act 1993</i> or under regulations made for the purposes of that section is revoked, or the decision to give the notice is set aside |
| 176 | Subsection 295-195(3) | An amount is excluded from the assessable income of a complying superannuation fund or an RSA provider because of the exercise of an option by the trustee or provider |
| 177 | Section 295-270 | Commissioner makes an assessment on the basis of an amount of pre-1 July 88 funding credits being anticipated for an income year and:
(a) it becomes clear that those credits will not be available; or
(b) APRA does not receive certain documents within a specified period |
| 178 | 295-490(2) | Deduction is denied because financial assistance funding levy is remitted or there is a refund of an overpayment of the levy |

115 Subsection 177EA(15)

After “following provisions”, insert “of the *Income Tax Assessment Act 1997*”.

116 Paragraphs 177EA(15)(a) and (b)

Repeal the paragraphs, substitute:

- (a) section 295-385 (about income from assets set aside to meet current pension liabilities), section 295-390 (about income from other assets used to meet current pension liabilities) and 295-400 (about income of a PST attributable to current pension liabilities); or
- (b) paragraph 320-37(1)(a) (about segregated exempt assets) or paragraph 320-37(1)(d) (about income bonds, funeral policies and scholarship plans).

117 Paragraph 202DHA(a)

After “a person has”, insert “on or after 1 July 2007”.

118 Paragraph 202DHA(b)

After “superannuation scheme”, insert “or is an RSA holder”.

119 Paragraph 202DHA(c)

After “superannuation scheme”, insert “or RSA”.

120 Section 202DHA

After “or scheme”, insert “or the RSA provider”.

121 Subsection 202DJ(2) (definition of *constitutionally protected superannuation fund*)

Omit “Part IX”, substitute “the *Income Tax Assessment Act 1997*”.

122 Subsection 251S(1A)

Repeal the subsection, substitute:

- (1A) If the taxpayer is entitled to a tax offset under subsection 301-20(2) of the *Income Tax Assessment Act 1997* for a year of income, paragraph (1)(a) of this section applies as if the taxable income of the taxpayer of the year of income were reduced by the amount mentioned in subsection 301-20(3) of that Act for the person for the year.

123 Subsection 262A(4A)

Omit “under Subdivision AAC of Division 17 of Part III as in force immediately before the day on which the *Taxation Laws Amendment Act (No. 6) 1992* received the Royal Assent or”.

124 Section 317 (paragraph (a) of the definition of *trust*)

Repeal the paragraph, substitute:

- (a) an entity in the capacity of trustee (including an entity that manages a trust if there is no trustee); or

125 Paragraph 371(7)(c)

Repeal the paragraph, substitute:

- (c) a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust.

126 Paragraph 459A(3)(c)

Repeal the paragraph, substitute:

- (c) a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust.

127 Paragraph 460(1)(c)

Repeal the paragraph, substitute:

- (c) a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust.

128 Section 470 (definition of *resident Part IX entity*)

Repeal the definition, substitute:

resident superannuation entity has the meaning given by section 477.

129 Section 470 (paragraph (a) of the definition of *trust*)

Repeal the paragraph, substitute:

- (a) an entity in the capacity of trustee (including an entity that manages a trust if there is no trustee); or
-

130 Section 470 (definition of *trustee*)

Repeal the definition, substitute:

trustee, in relation to a fund that has no trustee, means the person who manages the fund.

131 Section 477

Repeal the section, substitute:

477 Resident superannuation entity

For the purposes of this Part, a trust is a *resident superannuation entity* at a particular time if at that time the trust is:

- (a) an Australian superannuation fund; or
- (b) a complying approved deposit fund or a pooled superannuation trust.

Note: The heading to section 477 is altered by omitting “**Part IX**” and substituting “**superannuation**”.

132 Paragraph 481(3)(a)

Omit “resident Part IX entity”, substitute “resident superannuation entity”.

133 Subsection 485(6)

Omit “resident Part IX entity”, substitute “resident superannuation entity”.

134 Paragraph 491(2)(c)

Omit “or an eligible Part IX entity”, substitute “, a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust”.

135 Subsection 533B(1)

Omit “(1)”.

136 Paragraph 533B(1)(a)

Omit “an eligible non-resident non-complying superannuation fund”, substitute “a fund or scheme in relation to which Subdivision 305-B of the *Income Tax Assessment Act 1997* applies (see section 305-55 of that Act)”.

137 Paragraph 533B(1)(c)

Repeal the paragraph, substitute:

- (c) the taxpayer chooses under section 305-80 of the *Income Tax Assessment Act 1997* that the amount, or part of the amount, is to be treated as assessable income of the complying superannuation fund; and

138 Paragraph 533B(1)(f)

Omit “election”, substitute “choice”.

139 Subsection 533B(2)

Repeal the subsection.

140 Paragraph 603(1)(h)

Omit “Subdivision AA of Division 2 of Part III”, substitute “Division 82, 301, 302, 304 or 305 of the *Income Tax Assessment Act 1997*, or Division 82 of the *Income Tax (Transitional Provisions) Act 1997*”.

141 Paragraph 605(11)(c)

Repeal the paragraph, substitute:

- (c) a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust; or

142 Subsection 57-40(1) in Schedule 2D

Omit “section 82AAC”, substitute “section 290-60 of the *Income Tax Assessment Act 1997*”.

143 Subsection 57-50(1) in Schedule 2D

Omit “section 82AAC”, substitute “section 290-60 of the *Income Tax Assessment Act 1997*”.

144 Subsection 57-70(1) in Schedule 2D

Omit “an eligible termination payment”, substitute “a superannuation lump sum or an employment termination payment”.

Note: The heading to section 57-70 in Schedule 2D is replaced by the heading “**Treatment of superannuation lump sums and employment termination payments**”.

145 Subsection 57-70(3) in Schedule 2D

Repeal the subsection, substitute:

(3) This section does not apply to an early retirement scheme payment (within the meaning of the *Income Tax Assessment Act 1997*), or a genuine redundancy payment (within the meaning of that Act).

146 Subsection 57-70(4) in Schedule 2D

Repeal the subsection.

147 Subparagraph 272-25(3)(a)(ii) in Schedule 2F

Omit “foreign superannuation fund”, substitute “superannuation fund for foreign residents”.

148 Subsection 272-25(3) in Schedule 2F (notes)

Repeal the notes, substitute:

Note: See subsection 6(1) for the meaning of *complying superannuation fund*, *complying approved deposit fund* and *superannuation fund for foreign residents*.

149 Paragraph 393-60(4)(a) in Schedule 2G

Omit “subsection 27B(1A) or (3) (Assessable income to include certain superannuation and kindred payments)”, substitute “section 82-65, 82-70 or 302-145 of the *Income Tax Assessment Act 1997* (certain superannuation benefits and employment termination payments)”.

Income Tax Assessment Act 1997

150 Subsection 9-5(1) (table item 4)

Omit “sections 295-5 and 295-605”, substitute “sections 295-5, 295-605 and 320-155”.

151 Section 10-5 (table item headed “eligible termination payments (ETPs)”)

Repeal the item.

152 Section 10-5 (table item headed “employment”)

Repeal the item, substitute:

employment

allowances and benefits in relation to employment or rendering services	15-2
employment termination payment	82-10 82-65 82-70
other payments for employment termination	83-295
return to work payments	15-3
see <i>accrued leave transfer payments, leave payments, superannuation</i> and sections 82-10A and 82-10C of the <i>Income Tax (Transitional Provisions) Act 1997</i>	

153 Section 10-5 (table item headed “insurance”)

Omit:

life assurance, transfer of contributions by superannuation fund or approved deposit fund to	275
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substitute:

life insurance, transfer of contributions by superannuation fund or approved deposit fund to	295-260
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154 Section 10-5 (table item headed “insurance”)

Omit:

rebates and premiums refunded to a superannuation fund trustee	279A(1)
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substitute:

rebates and premiums refunded to a superannuation fund trustee	295-320 (table item 4)
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155 Section 10-5 (table item headed “leave payments”)

Repeal the item, substitute:

leave payments

accrued leave transfer payment	15-5
unused annual leave payment	83-10
unused long service leave payment	83-80
see <i>employment</i>	

156 Section 10-5 (table item headed “superannuation”)

Repeal the item, substitute:

superannuation

benefits generally	Divisions 301 to 306
benefits in breach of legislative requirements	Division 304
benefits received from older superannuation funds	26AF, 26AFA
complying fund becomes non-complying, effect of	295-320 (table item 2)
contributions to an approved deposit fund	Subdivisions 295-C and 295-D
contributions to an RSA	Subdivision 295-C
contributions to a superannuation fund	Subdivisions 295-C and 295-D
death benefits	302-75 302-85 302-90 302-145
foreign superannuation funds and schemes, benefits from	305-70
member benefits	301-20 301-25 301-35 301-40 Subdivision 301-C
foreign fund becoming Australian, effect of	295-320 (table item 3)
no-TFN contributions income	295-605
returned contributions	290-100
trustee’s liability to pay tax	295-5(2) and (3)
see <i>insurance</i>	

157 Section 11-10 (table item headed “Government co-contributions”)

Repeal the item.

158 Section 11-10 (at the end of the table)

Add:

superannuation

benefits from non-complying funds	305-5
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159 Section 11-15 (table item headed “superannuation or related business”)

Repeal the item, substitute:

superannuation and related business

approved deposit fund, continuously complying fixed interest, income from 25 May 1988 deposits	295-390 of the <i>Income Tax (Transitional Provisions) Act 1997</i>
approved deposit fund, income from a grant of financial assistance under Part 23 of the <i>Superannuation Industry (Supervision) Act 1993</i>	295-405 (table item 1)
approved deposit fund, non-reversionary bonuses on policies of life assurance	295-335 (table item 1)
pooled superannuation trust, income from constitutionally protected funds	295-335 (table item 2)
pooled superannuation trust, income from current pension liabilities of complying superannuation funds	295-400
pooled superannuation trust, non-reversionary bonuses on policies of life assurance	295-335 (table item 1)
superannuation fund, income from other assets used to meet current pension liabilities	295-390
superannuation fund, income from segregated current pensions assets	295-385
superannuation fund, non-reversionary bonuses on policies of life assurance	295-335 (table item 1)
superannuation fund, regulated, income from a grant of financial assistance under Part 23 of the <i>Superannuation Industry (Supervision) Act 1993</i>	295-405 (table item 1)

160 Section 11-55 (after table item headed “dividends”)

Insert:

employment

early retirement scheme payment, tax free amount of	83-170
employment termination payment	82-10 82-65 82-70
foreign termination payment	83-235 83-240

genuine redundancy payment, tax free amount of 83-170
unused long service leave payment, pre-16/8/78 period 83-80
see *superannuation* and sections 82-10A and 82-10C of
the *Income Tax (Transitional Provisions) Act 1997*

161 Section 11-55 (after table item headed “social security or like payments”)

Insert:

superannuation

benefits generally	Divisions 301 to 306
commutation of income stream, under 25 years	303-5
death benefits	302-60 302-65 302-70 302-140
departing Australia superannuation benefits	301-175
foreign superannuation funds, lump sum benefits	305-60 305-65 305-70
member benefits	301-10 301-15 301-30 301-225
release authorities, payments from	304-15
roll-over superannuation benefits	306-5
unclaimed money payment	306-20

162 Section 12-5 (after table item headed “environment”)

Insert:

excess contributions tax

no deduction	26-75
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163 Section 12-5 (table item headed “interest”)

Omit “67AAA” (first occurring), substitute “26-85”.

164 Section 12-5 (table item headed “interest”)

Omit “67AAA” (second occurring), substitute “26-80”.

165 Section 12-5 (table item headed “superannuation and related business”)

Repeal the item, substitute:

superannuation and related business

generally	Part 3-30
asset disposals	295-85
death or disability benefits, deduction for future service element	295-470
death or disability cover, premiums for	295-465
detriment payments	295-485
financial assistance levy	295-490(1) (table item 3)

166 Section 12-5 (table item headed “superannuation—eligible person contributions”)

Repeal the item, substitute:

superannuation—deductibility of contributions

generally	Division 290
contributions for employees etc.	Subdivision 290-B
contributions to non-complying funds	sections 290-10 and 290-75
limit on deduction	26-55
no deduction under any other provision of the Act	section 290-10
personal contributions	Subdivision 290-C

167 Section 12-5 (table item headed “superannuation—employer contributions”)

Repeal the item.

168 Section 12-5 (table item headed “superannuation guarantee charge”)

Omit “26-85”, substitute “290-95”.

169 Section 13-1 (table item headed “annuity”)

Omit “*eligible termination payments*”, substitute “*superannuation*”.

170 Section 13-1 (table item headed “eligible termination payments (ETPs)”)

Repeal the item, substitute:

employment termination

employment termination payments 82-10
82-70

see *leave payments, superannuation* and
sections 82-10A and 82-10C of the *Income Tax*
(*Transitional Provisions*) Act 1997

171 Section 13-1 (table item headed “leave payments”)

Repeal the item, substitute:

leave payments

unused annual leave payment 83-15
unused long service leave payment 83-85

see *employment termination*

172 Section 13-1 (table item headed “rebatable ETP annuity”)

Repeal the item.

173 Section 13-1 (table item headed “superannuation”)

Repeal the item, substitute:

superannuation

generally Divisions 301 and
302
spouse contributions Subdivision 290-D
death benefits 302-75
302-85
302-145
member benefits 301-20
301-25
301-35
301-40
301-95
301-100
301-105
301-115
TFN quoted to superannuation or RSA provider after
no-TFN contributions tax paid 295-675

174 Section 13-1 (table item headed “superannuation funds”)

Repeal the item.

175 Section 13-1 (table item headed “termination payments”)

Omit “*eligible termination payments*”, substitute “*employment termination, leave payments and superannuation*”.

176 Paragraphs 15-2(3)(a) and (b)

Repeal the paragraphs, substitute:

- (a) a *superannuation lump sum or an *employment termination payment;
- (b) an *unused annual leave payment or an *unused long service leave payment;

177 Section 20-5 (table item 8)

Omit “82AAQ”, substitute “290-100”.

178 Paragraph 26-55(1)(d)

Repeal the paragraph, substitute:

- (d) section 290-150 (which is about deductions for personal superannuation contributions).

179 Sections 26-75, 26-80 and 26-85

Repeal the sections, substitute:

26-75 Excess contributions tax cannot be deducted

You cannot deduct under this Act an amount of *excess contributions tax that you pay.

26-80 Financing costs on loans to pay superannuation contribution

- (1) You can only deduct under this Act a *financing cost connected with a contribution you make to a *superannuation plan if you can deduct the contribution under Subdivision 290-B.
- (2) A *financing cost* connected with a contribution is expenditure incurred to the extent that it relates to obtaining finance to make the contribution, including:
 - (a) interest, and payments in the nature of interest; and
 - (b) expenses of borrowing.

26-85 Borrowing costs on loans to pay life insurance premiums

- (1) You can only deduct under this Act interest on, or other expenses associated with, money you borrow to pay a premium for a *life insurance policy if:
 - (a) the *risk component of the premium received by the insurer is the entire amount of the premium; and
 - (b) each amount the insurer is liable to pay under the policy would be included in your assessable income if it were paid.
- (2) The *risk component* of a premium for a *life insurance policy means the amount of the premium worked out on the basis specified in the regulations.

180 Subsection 28-185(3) (table item 5)

Repeal the item, substitute:

- 5 Subdivision 12-C *Superannuation benefits, *employment termination payments, unused leave payments and annuities

181 Section 51-65

Repeal the section.

182 Paragraphs 61-570(2)(a) and (b)

Repeal the paragraphs, substitute:

- (a) amounts of *superannuation lump sums or *employment termination payments;
- (b) amounts of *unused annual leave payments or *unused long service leave payments;

183 Paragraph 82-135(h)

Omit “paragraph 109(1)(d) of the *Income Tax Assessment Act 1936* (which deals with excessive payments to shareholders, directors and *associates);”, substitute “this Act”.

184 Subparagraph 82-135(l)(ii)

Omit “Act).”, substitute “Act);”.

185 At the end of section 82-135

Add:

- (m) an amount included in your assessable income under Division 13A of Part III of the *Income Tax Assessment Act 1936* (which deals with employee share schemes).

186 Paragraph 85-10(2)(f)

Omit the paragraph (including the note), substitute:

- (f) contributing to a fund in order to obtain *superannuation benefits for yourself or for your *SIS dependants in the event of your death; or

Note: For deductions for superannuation contributions: see Subdivision 290-C.

187 Subsection 85-25(1)

Omit “superannuation benefits”, substitute “*superannuation benefits”.

188 Subsection 86-75(1)

Omit “superannuation benefits”, substitute “*superannuation benefits”.

189 Section 109-60 (table item 8)

Omit “complying ADF or complying PST”, substitute “complying approved deposit fund or pooled superannuation trust”.

190 Section 109-60 (table item 8)

Omit “section 306”, substitute “section 295-90”.

191 Section 112-97 (table item 13)

Omit “section 308”, substitute “section 295-85 of the *Income Tax (Transitional Provisions) Act 1997*”.

192 Section 112-97 (table item 14)

Omit “ADF or PST”, substitute “complying approved deposit fund or pooled superannuation trust”.

193 Section 112-97 (table item 14)

Omit “section 311”, substitute “section 295-100 of the *Income Tax (Transitional Provisions) Act 1997*”.

194 Section 118-1 (note 1)

Omit:

- section 27CB (about eligible termination payments);

195 Subsection 118-20(3) (note)

Repeal the note, substitute:

Note: These rules are modified for complying superannuation funds that become non-complying and for foreign superannuation funds that become Australian superannuation funds: see Division 295.

196 Subsection 118-20(4A)

Omit “net previous income for earlier income years under section 288A or 288B of the *Income Tax Assessment Act 1936*”, substitute “income from previous years under section 295-325 or 295-330”.

197 Section 118-22

Repeal the section, substitute:

118-22 Superannuation lump sums and employment termination payments

In applying section 118-20, treat a *superannuation lump sum or an *employment termination payment that you receive as being included in your assessable income.

198 Section 118-320

Omit “segregated current pension asset (as defined in Part IX of the *Income Tax Assessment Act 1936*)”, substitute “*segregated current pension asset”.

199 Subsection 126-210(5) (note 2)

Omit “section 306 of the *Income Tax Assessment Act 1936*”, substitute “section 295-90”.

200 Paragraph 207-45(d)

Omit “an eligible entity within the meaning of Part IX of that Act”, substitute “a *complying superannuation fund, a *non-complying superannuation fund, a *complying approved deposit fund, a *non-complying approved deposit fund or a *pooled superannuation trust”.

201 Section 207-45 (note 1)

Repeal the note.

202 Section 207-45 (note 2)

Omit “Note 2”, substitute “Note”.

203 Subparagraph 207-110(1)(b)(i)

Repeal the subparagraph, substitute:

- (i) *exempt income under section 295-385 (about income from assets set aside to meet current pension liabilities), section 295-390 (about income from other assets used to meet current pension liabilities) or section 295-400 (about income of a PST attributable to current pension liabilities); or

204 Subparagraph 210-170(1)(b)(ii)

Omit “an eligible entity within the meaning of Part IX of the *Income Tax Assessment Act 1936*”, substitute “a *complying superannuation fund, a *non-complying superannuation fund, a *complying approved deposit fund, a *non-complying approved deposit fund or a *pooled superannuation trust”.

205 At the end of section 290-5

Add:

- ; (c) an amount transferred to a *complying superannuation fund or an *RSA from a scheme for the payment of benefits in the nature of superannuation upon retirement or death that:
 - (i) is not, and never has been, an *Australian superannuation fund or a *foreign superannuation fund; and
 - (ii) was not established in Australia; and
 - (iii) is not centrally managed or controlled in Australia.

206 Subsection 290-60(1) (note)

Omit “and subsection 73B(14) of the *Income Tax Assessment Act 1936*”.

207 Subsection 290-150(2)

After “290-160”, insert “(if applicable)”.

208 Section 292-390

After “If *excess contributions tax”, insert “or *shortfall interest charge”.

209 Paragraph 292-390(a)

After “excess contributions tax”, insert “or shortfall interest charge”.

210 Subparagraph 292-390(b)(i)

After “excess contributions tax”, insert “or shortfall interest charge”.

211 Subparagraph 292-390(b)(ii)

After “excess contributions tax”, insert “or shortfall interest charge”.

212 Subsection 295-5(4) (note)

Omit “Note”, substitute “Note 1”.

213 At the end of subsection 295-5(4)

Add:

Note 2: However, Subdivisions 295-I and 295-J apply to RSA providers that are life insurance companies: see section 320-155.

214 At the end of section 295-95

Add:

- (4) To avoid doubt, the central management and control of a *superannuation fund is ordinarily in Australia at a time even if that central management and control is temporarily outside Australia for a period of not more than 2 years.

215 After section 295-170

Insert:

295-173 Exception—trustee contributions

Item 1 of the table in section 295-160 does not include in assessable income a contribution made by an entity that, when the contribution was made, was:

- (a) the trustee of a *complying superannuation fund, a *complying approved deposit fund or a *pooled superannuation trust; or

- (b) the trustee of an exempt life assurance fund (within the meaning of Division 6C of Part III of the *Income Tax Assessment Act 1936*).

216 At the end of section 295-200

Add:

- (4) This section also applies to an amount transferred from a scheme for the payment of benefits in the nature of superannuation upon retirement or death that:
- (a) is not, and never has been, an *Australian superannuation fund or a *foreign superannuation fund; and
 - (b) was not established in Australia; and
 - (c) is not centrally managed or controlled in Australia.

217 Paragraph 295-460(c)

Omit “perform normal employment duties”, substitute “engage in *gainful employment”.

218 Subsection 295-470(2) (paragraph (b) of the definition of *future service days*)

Omit “perform normal work duties”, substitute “engage in *gainful employment”.

219 Subsection 304-15(1)

Repeal the subsection, substitute:

- (1) This section applies to a *superannuation benefit that you receive, paid in relation to a release authority given in relation to you in accordance with section 292-410.

220 Section 305-5

Omit “, unless”, substitute “if”.

221 Paragraphs 305-5(a) and (b)

Repeal the paragraphs, substitute:

- (a) the fund:
- (i) has never been a *complying superannuation fund; or

- (ii) last stopped being a complying superannuation fund for the income year in which 1 July 1995 occurred or a later income year; and
- (b) the fund:
 - (i) has never been a *foreign superannuation fund; or
 - (ii) last stopped being a foreign superannuation fund for the income year in which 1 July 1995 occurred or a later income year.

222 Section 305-55

Before “This Subdivision”, insert “(1)”.

223 At the end of section 305-55

Add:

- (2) This Subdivision also applies if you receive a payment, other than a pension payment, from a scheme for the payment of benefits in the nature of superannuation upon retirement or death that:
 - (a) is not, and never has been, an *Australian superannuation fund or a *foreign superannuation fund; and
 - (b) was not established in Australia; and
 - (c) is not centrally managed or controlled in Australia.
- (3) This Subdivision applies to a payment mentioned in subsection (2) from a scheme mentioned in that subsection in the same way as it applies to a *superannuation lump sum from a *foreign superannuation fund.

224 Subsection 305-65(1) (note)

Omit “or the lump sum exceeds the vested amount.”.

225 After subsection 306-15(1)

Insert:

- (1A) However, this section does not apply to a *roll-over superannuation benefit that is transferred from one *superannuation interest in a *superannuation plan to another superannuation interest in the same plan.

Note 1: A superannuation benefit may be paid from one superannuation plan of a superannuation provider to another superannuation plan of the

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same provider. Such a benefit may be a roll-over superannuation benefit: see section 306-10.

Note 2: For the treatment of amounts transferred within the same superannuation plan, see subsection 307-5(8).

226 Subparagraph 307-10(c)(ii)

Omit “Act).”, substitute “Act);”.

227 At the end of section 307-10

Add:

(d) a payment of a pension or an *annuity from a *foreign superannuation fund.

228 At the end of section 320-1

Add:

This Division also ensures that life insurance companies that are RSA providers are liable to pay tax on no-TFN contributions income.

229 Paragraph 320-15(1)(l)

Omit “*taxable contributions made to *RSAs provided by the company”, substitute “contributions made to *RSAs provided by the company that would be included in the company’s assessable income under Subdivision 295-C if that Subdivision applied to the company”.

230 Section 320-45

Omit “Division 10 of Part IX of the *Income Tax Assessment Act 1936*”, substitute “section 295-85 and 295-90”.

231 At the end of section 320-45

Add:

Note: See Subdivision 295-B of the *Income Tax (Transitional Provisions) Act 1997* for rules about cost base for assets owned by superannuation entities at the end of 30 June 1988.

232 Paragraph 320-137(3)(a)

Omit “are not *taxable contributions”, substitute “would not be included in the company’s assessable income under Subdivision 295-C if that Subdivision applied to the company”.

233 After Subdivision 320-D

Insert:

Subdivision 320-E—No-TFN contributions of life insurance companies that are RSA providers

Guide to Subdivision 320-E

320-150 What this Subdivision is about

This Subdivision makes Subdivisions 295-I and 295-J apply to life insurance companies that are RSA providers.

The consequence is that those life insurance companies are liable to pay tax on no-TFN contributions income under Subdivision 295-I. They may also be entitled to a tax offset under Subdivision 295-J.

Table of sections

Operative provisions

320-155 Subdivisions 295-I and 295-J apply to companies that are RSA providers

Operative provisions

320-155 Subdivisions 295-I and 295-J apply to companies that are RSA providers

- (1) Despite subsection 295-5(4), Subdivisions 295-I and 295-J apply to a *life insurance company that is an *RSA provider.
- (2) For the purposes of the application of those Subdivisions to a *life insurance company, a contribution included in the assessable income of the company under paragraph 320-15(1)(I) is taken to have been included under Subdivision 295-C.

234 Subparagraph 320-195(3)(b)(i)

Repeal the subparagraph, substitute:

- (i) that provide *superannuation death benefits, *disability superannuation benefits or temporary disability benefits of a kind referred to in paragraph 295-460(c), that are *participating benefits; and

235 Paragraph 320-246(1)(a)

Repeal the paragraph, substitute:

- (a) that is held by the trustee of a *complying superannuation fund and provides solely for the discharge of the fund's liabilities (contingent or not) in respect of *superannuation income stream benefits that are currently payable by the fund; or

236 Subparagraph 320-246(1)(b)(i)

Omit “current pension liabilities (within the meaning of Part IX of the *Income Tax Assessment Act 1936*) of”, substitute “liabilities (contingent or not) in respect of *superannuation income stream benefits that are currently payable by”.

237 Subparagraph 320-246(1)(e)(i)

Omit “a rolled-over amount”, substitute “a *roll-over superannuation benefit”.

238 Subparagraph 320-246(1)(e)(ii)

Omit “a rolled-over amount”, substitute “a roll-over superannuation benefit”.

239 At the end of paragraph 320-246(1)(e)

Add:

- (iv) satisfies the conditions in subsections (3), (4) and (5) and was purchased on or after 1 July 2007; or

240 Subsection 320-246(2)

Repeal the subsection.

241 Paragraph 320-246(4)(a)

Repeal the paragraph, substitute:

- (a) the total amount payable for its commutation to exceed:
 - (i) if the annuity is a *superannuation income stream that was purchased on or after 1 July 2007—the amount of the *taxable component of the *superannuation interest supporting the superannuation income stream; or
 - (ii) if subparagraph (i) does not apply—its reduced purchase price (within the meaning of former section 27A of the *Income Tax Assessment Act 1936* just before the commencement of Schedule 1 to the *Superannuation Legislation Amendment (Simplification) Act 2007*).

242 Paragraph 320-247(1)(a)

Repeal the paragraph, substitute:

- (a) the part provides solely for the discharge of the liabilities (contingent or not) in respect of *superannuation income stream benefits that are currently payable by a *complying superannuation fund; and

243 Paragraph 320-247(2)(a)

Repeal the paragraph, substitute:

- (a) the part provides solely for the discharge of liabilities that are attributable to the liabilities (contingent or not) in respect of *superannuation income stream benefits that are currently payable by *complying superannuation funds; and

244 Subsection 392-15(1) (method statement, step 1, paragraph (a))

Omit “subsection 27B(1A) or (3) (Assessable income to include certain superannuation and kindred payments) of the *Income Tax Assessment Act 1936*”, substitute “section 82-65, 82-70 or 302-145 of the *Income Tax Assessment Act 1997* (certain superannuation benefits and employment termination payments)”.

245 Paragraph 392-45(2)(a)

Omit “under subsection 27B(1A) or (3) (Assessable income to include certain superannuation and kindred payments) of the *Income Tax Assessment Act 1936*”, substitute “section 82-65, 82-70 or 302-145 of the *Income Tax Assessment Act 1997* (certain employment termination payments and superannuation benefits)”.

246 Paragraphs 405-30(3)(a) and (b)

Repeal the paragraphs, substitute:

- (a) a *superannuation lump sum or an *employment termination payment; or
- (b) an *unused annual leave payment or an *unused long service leave payment; or

247 Subsection 713-555(3) (definition of *reduced purchase price of the annuity*)

Omit “Subdivision AA of Division 2 of Part III of the *Income Tax Assessment Act 1936*”, substitute “subsection (3A)”.

248 After subsection 713-555(3)

Insert:

- (3A) For the purposes of subsection (3), work out the reduced purchase price of the *annuity as follows:
 - (a) first, work out the purchase price (within the meaning of section 27H of the *Income Tax Assessment Act 1936*) of the annuity;
 - (b) next, reduce that purchase price by the total of the amounts excluded from assessable income under paragraph 27H(1)(a) of that Act as deductible amounts in relation to the annuity.

249 Subsection 900-12(3) (table item 5)

Repeal the item, substitute:

- 5 Subdivision 12-C *Superannuation benefits, *employment termination payments, unused leave payments and annuities

250 Subsection 995-1(1) (definition of *deferred annuity*)

Repeal the definition.

251 Subsection 995-1(1) (definition of *eligible termination payment*)

Repeal the definition.

252 Subsection 995-1(1) (paragraph (a) of the definition of *excluded virtual PST life insurance policy*)

Repeal the paragraph, substitute:

- (a) provides only for *superannuation death benefits, *disability superannuation benefits or temporary disability benefits of a kind referred to in paragraph 295-460(c), that are not *participating benefits; or

253 Subsection 995-1(1)

Insert:

financing cost has the meaning given by section 26-80.

254 Section 995-1(1) (definition of *indexation factor*)

Repeal the definition, substitute:

indexation factor:

- (a) for an amount mentioned in a provision listed at items 8 to 12 in section 960-265—*indexation factor* has the meaning given by section 960-285; or
- (b) for an amount mentioned in a provision listed at another item in section 960-265—*indexation factor* has the meaning given by section 960-275.

255 Subsection 995-1(1) (definition of *indexation number*)

Repeal the definition, substitute:

index number:

- (a) for an amount mentioned in a provision listed at items 8 to 12 in section 960-265—*index number* has the meaning given by section 960-285; or
- (b) for an amount mentioned in a provision listed at another item in section 960-265—*index number* has the meaning given by section 960-280.

256 Subsection 995-1(1) (definition of *risk component*)

Repeal the definition, substitute:

risk component:

- (a) the *risk component* of a premium for a *life insurance policy has the meaning given by subsection 26-85(2); and
- (b) the *risk component* of a claim paid under a life insurance policy has the meaning given by section 320-80.

257 Subsection 995-1(1) (definition of *specified roll-over amount*)

Repeal the definition, substitute:

specified roll-over amount of a *life insurance company means so much of an amount paid to the company as constitutes the *element untaxed in the fund of a *superannuation benefit that is a *roll-over superannuation benefit because of subparagraph 306-10(d)(ii).

258 Subsection 995-1(1) (definition of *taxable contributions*)

Repeal the definition.

259 Subsection 995-1(1) (subparagraph (b)(i) of the definition of *virtual PST life insurance policy*)

Repeal the subparagraph, substitute:

- (i) provides for an *annuity that is not presently payable, if the annuity was purchased out of a *superannuation lump sum or an *employment termination payment; or

260 Subsection 995-1(1) (definition of *withholding tax*)

Repeal the definition, substitute:

withholding tax means income tax payable under:

- (a) section 301-175 (departing Australia superannuation payments); or
- (b) section 306-15 (excess untaxed roll-over amounts); or
- (c) section 128B of the *Income Tax Assessment Act 1936*.

Income Tax (Transitional Provisions) Act 1997

261 Before subsection 292-25(1)

Insert:

- (1A) To avoid doubt, the tax free component of a directed termination payment (within the meaning of section 82-10F) made in a financial year on behalf of you is not included in your concessional contributions (see section 292-25 of the *Income Tax Assessment Act 1997*) for the financial year.

262 Subsection 292-25(1)

Omit “A directed termination payment”, substitute “The taxable component of a directed termination payment”.

263 Subsection 292-25(1)

Omit “it”, substitute “the component”.

264 Subsection 292-25(2)

After “reduced by”, insert “the taxable component of”.

265 At the end of Division 292

Add:

292-90 Non-concessional contributions for a financial year

The tax free component of a directed termination payment (within the meaning of section 82-10F) made in a financial year on behalf of you is not included in your non-concessional contributions (see section 292-90 of the *Income Tax Assessment Act 1997*) for the financial year.

266 Before Subdivision 295-I

Insert:

Subdivision 295-B—Modifications of the Income Tax Assessment Act 1997 for 30 June 1988 assets

Table of sections

295-75	Application of Subdivision
295-80	Meaning of <i>30 June 1988 asset</i>
295-85	Cost base of 30 June 1988 asset
295-90	Market value of stock exchange listed assets
295-95	Adjustment of cost base as at 30 June 1988—return of capital
295-100	Exercise of rights

295-75 Application of Subdivision

This Subdivision applies to an entity that is the trustee of a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust.

295-80 Meaning of 30 June 1988 asset

For the purposes of this Subdivision, an asset is a **30 June 1988 asset** of a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust if the entity owned it at the end of 30 June 1988.

Note: Section 295-90 of the *Income Tax Assessment Act 1997* treats these assets as having been acquired on 30 June 1988.

295-85 Cost base of 30 June 1988 asset

- (1) The first element of the cost base of each 30 June 1988 asset of the entity's is the greater of the asset's market value (at the end of 30 June 1988) and its cost base (on that day).
- (2) The first element of the reduced cost base of each 30 June 1988 asset of the entity's is the lesser of the asset's market value (at the end of 30 June 1988) and its cost base (on that day).

295-90 Market value of stock exchange listed assets

- (1) If:
 - (a) a 30 June 1988 asset of the entity's was listed on an Australian stock exchange on 30 June 1988; and
 - (b) on that day, identical assets were:
 - (i) computer traded on a national market; or
 - (ii) traded on a State capital city market;the market value of the asset as at the end of 30 June 1988 is the average of the highest and lowest trade prices for identical assets recorded on 30 June 1988 in whichever of the following markets is applicable:
 - (c) if, on that date, identical assets were computer traded on a national market—that national market;
 - (d) if, on that date, there was a State capital city market (other than the Sydney market) that recorded a higher volume of trading than the Sydney market in identical assets—that State capital city market;
 - (e) in any other case—the Sydney market.
 - (2) For the purposes of this section, an asset is taken to have been listed on an Australian stock exchange on 30 June 1988 if, and only if, on that day the asset had the status of having been granted
-

official quotation by a securities exchange within the meaning of the former *Securities Industry Act 1980* or the law of a State or Territory corresponding to that former Act.

295-95 Adjustment of cost base as at 30 June 1988—return of capital

(1) If:

- (a) 30 June 1988 assets of the entity's consist of shares in a company; and
- (b) at any time during the period commencing at the time when the shares were acquired and ending at the end of 30 June 1988, the company paid an amount that was not a dividend to the entity in respect of the shares;

the cost base to the entity of the shares as at 30 June 1988 is reduced by that amount.

(2) If:

- (a) a 30 June 1988 asset of the entity's consists of an interest or unit in a trust; and
- (b) at any time during the period commencing at the time when the interest or unit was acquired and ending at the end of 30 June 1988, the trustee of the trust paid an amount to the entity in respect of the interest or unit, being:
 - (i) in a case where the entity was exempt from tax for the year of income in which the payment was made—an amount that, if the entity had not been exempt from tax, would not have been the entity's assessable income; or
 - (ii) in any other case—an amount that would not have been the entity's assessable income;

the cost base to the entity of the interest or unit as at 30 June 1988 is reduced by so much of the amount as is not attributable to a deduction allowed under former Division 10C or 10D of the *Income Tax Assessment Act 1936*.

295-100 Exercise of rights

- (1) Despite section 130-40 of the *Income Tax Assessment Act 1997*, the modifications in subsections (2) and (3) of this section apply if an entity exercises rights or options as mentioned in that section to acquire:

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- (a) shares in a company, or options to acquire shares in a company; or
 - (b) units in a unit trust, or options to acquire units in a unit trust; and those rights or options are 30 June 1988 assets of the entity.
- (2) The first element of the cost base of the shares, units or options is the sum of:
- (a) the amount paid to exercise the rights or options; and
 - (b) the greater of the market value of the rights or options (at the end of 30 June 1988) and the cost base of the rights or options (on that day).
- (3) The first element of the reduced cost base of the shares, units or options is the sum of:
- (a) the amount paid to exercise the rights or options; and
 - (b) the lesser of the market value of the rights or options (at the end of 30 June 1988) and the cost base of the rights or options (on that day).
- (4) The payment referred to in subsection (2) or (3) can include giving property. To the extent that the payment does, use the market value of the property in working out the amount of the payment.
- (5) For indexation purposes, the amount referred to in paragraph (2)(b) is taken to have been incurred on 30 June 1988.

Subdivision 295-C—Notices relating to contributions

Table of sections

295-190 Deductions for personal contributions

295-190 Deductions for personal contributions

- (1) A notice given under subsection 82AAT(1A) or (1CB) of the *Income Tax Assessment Act 1936* in relation to the 2006-07 income year or an earlier year has effect, after 1 July 2007, as if it were a notice under section 290-170 of the *Income Tax Assessment Act 1997*.
- (2) A notice given under subsection 82AAT(1C) or (1CD) of the *Income Tax Assessment Act 1936* in relation to the 2006-07 income year or an earlier year has effect, after 1 July 2007, as if it were a

notice under section 290-180 of the *Income Tax Assessment Act 1997*.

Subdivision 295-F—Exempt income

Table of sections

295-390 Fixed interest complying ADFs—exemption of income attributable to certain 25 May 1988 deposits

295-390 Fixed interest complying ADFs—exemption of income attributable to certain 25 May 1988 deposits

- (1) A proportion of the ordinary income and statutory income of a continuously complying fixed interest ADF of an income year that would otherwise be assessable income is exempt from income tax under this section. The proportion is worked out under subsection (3).
- (2) Subsection (1) does not apply to:
 - (a) non-arm's length income; or
 - (b) amounts included in assessable income under Subdivision 295-C of the *Income Tax Assessment Act 1997*.
- (3) The proportion is:
$$\frac{\text{Aggregate of current 25 May balances}}{\text{Aggregate current balance}}$$
where:

Aggregate current balance is the total amount deposited with the fund (together with accumulated earnings), as at the reckoning time in relation to the income year.

Aggregate of current 25 May balances is the aggregate of the current 25 May balances of eligible depositors, as at the reckoning time in relation to the income year.
- (4) A choice for the purposes of the definition of **reckoning time** in subsection (5) must be made on or before the date of lodgment of the income tax return of the ADF for the income year to which the choice relates, or before a later day allowed by the Commissioner.
- (5) In this section:

continuously complying fixed interest ADF, in relation to an income year (the ***current year***), means a fund that is a fixed interest complying ADF in relation to each of the following years:

- (a) the current year;
- (b) the income year in which 1 July 1988 occurred;
- (c) each income year later than the year mentioned in paragraph (b) and earlier than the current year.

current 25 May balance, in relation to an eligible depositor as at the reckoning time, is the balance as at that time determined by varying the original 25 May balance, in accordance with the following rules, during the period from 26 May 1988 to the reckoning time:

- (a) the balance from time to time is not to exceed the original 25 May balance and is not to be less than nil;
- (b) subject to paragraph (a), an amount deposited with the ADF by the depositor before 1 September 1989 is to be added to the balance;
- (c) subject to paragraph (a), an amount repaid to the depositor from the ADF is to be deducted from the balance.

eligible depositor, in relation to an ADF, means:

- (a) a depositor whose 55th birthday occurred on or before 25 May 1988; or
- (b) a depositor whose 50th birthday occurred on or before 25 May 1988 and who, on or before that day, made a deposit with the ADF that consisted wholly or partly of the roll-over (as defined in Subdivision AA of Division 2 of Part III of the *Income Tax Assessment Act 1936* as in force on that day) of an eligible termination payment as so defined, being an eligible termination payment that included a concessional component (as so defined).

fixed interest complying ADF, in relation to a year of income, means a complying ADF where both of the following conditions are satisfied:

- (a) not less than 90% of the amount that, apart from this section, would be the assessable income of the ADF of the income year (other than non-arm's length income or amounts included in assessable income under Subdivision 295-C of

the *Income Tax Assessment Act 1997*) consists of any one or more of the following:

- (i) interest or a payment in the nature of interest;
 - (ii) any profit arising on the disposal, redemption, cancellation or maturity of a CGT asset referred to in paragraph 295-85(3)(b) of the *Income Tax Assessment Act 1997*;
 - (iii) an amount included in assessable income under Division 16E of Part III of the *Income Tax Assessment Act 1936*;
- (b) at no time during the year of income did the assets of the fund consist of or include any of the following:
- (i) units in a PST;
 - (ii) virtual PST life insurance policies (as defined in the *Income Tax Assessment Act 1997*) issued by a life insurance company.

original 25 May balance, in relation to an eligible depositor, means the amount of the deposits (together with accumulated earnings) standing to the credit of the depositor as at the end of 25 May 1988.

reckoning time, in relation to an ADF in relation to an income year, means the beginning of the income year, or such other time during the income year as the ADF chooses in accordance with subsection (4).

- (6) This section does not apply to an ADF in relation to an income year unless the whole of the benefit that would accrue to the ADF from the application of this section in relation to the income year has been, or can reasonably be expected to be, passed on to eligible depositors.

Subdivision 295-G—Deductions

Table of sections

295-465 Deductions for insurance premiums

295-465 Deductions for insurance premiums

An election made by the trustee of a complying superannuation fund under subsection 279(4) of the *Income Tax Assessment Act 1936* that had effect for the income year of the fund in which 30 June 2007 occurs continues to have effect as if it had been made under section 295-465 of the *Income Tax Assessment Act 1997*.

267 Before section 301-85

Insert:

301-5 Extended application to certain foreign superannuation funds

- (1) A foreign superannuation fund is covered by this section if:
 - (a) the fund has been a complying superannuation fund; and
 - (b) the fund last stopped being a complying superannuation fund after 1 July 1988 and before 1 July 1995.
- (2) Division 301 of the *Income Tax Assessment Act 1997* applies to payments to you from a foreign superannuation fund covered by this section because you are a member of the fund in the same way as it would apply if the payments were superannuation member benefits paid to you from a complying superannuation fund.

268 Before section 302-195

Insert:

302-5 Extended application to certain foreign superannuation funds

- (1) A foreign superannuation fund is covered by this section if:
 - (a) the fund has been a complying superannuation fund; and
 - (b) the fund last stopped being a complying superannuation fund after 1 July 1988 and before 1 July 1995.
- (2) Division 302 of the *Income Tax Assessment Act 1997* applies to payments to you from a foreign superannuation fund covered by this section after another person's death, because the other person was a member of that fund, in the same way as it would apply if the payments were superannuation death benefits paid to you from a complying superannuation fund.

269 After Division 302

Insert:

Division 304—Superannuation benefits in breach of legislative requirements etc.

304-15 Excess payments from release authorities

- (1) This section applies to a superannuation benefit that you receive, paid in relation to a release authority given in relation to you in accordance with section 292-80B.
- (2) The superannuation benefit is not assessable income and is not exempt income to the extent that it does not exceed the amount mentioned in subsection (3).
- (3) The amount is the amount of excess non-concessional contributions stated in the release authority in accordance with paragraph 292-80A(3)(a), reduced (but not below zero) by the amount of any superannuation benefit that was not assessable income and not exempt income under a previous operation of subsection (2) in relation to the release authority.
- (4) The superannuation benefit is assessable income to the extent (if any) that it exceeds the amount mentioned in subsection (3).
- (5) This section applies despite Divisions 301, 302 and 303 of the *Income Tax Assessment Act 1997*.

Division 306—Roll-overs etc.

306-10 Roll-over superannuation benefit—directed termination payment

For the purposes of the definition of *specified roll-over amount* in the *Income Tax Assessment Act 1997*, treat the taxable component of a directed termination payment (within the meaning of section 82-10F) as the element untaxed in the fund of a superannuation benefit that is a roll-over superannuation benefit.

270 After paragraph 307-125(3)(b)

Insert:

- (ba) the holder of the superannuation interest is aged 60 or above on 1 July 2007, if none of the superannuation income stream benefits paid from the superannuation interest after 30 June 2007 consist of, or include, an element untaxed in the fund;

271 Paragraph 307-125(6)(b)

Omit “, reduced by the tax free components (worked out under subsection (2)) of any benefits paid from the superannuation income stream after 30 June 2007”.

272 At the end of paragraph 307-125(6)(c)

Add “However, treat this amount as nil for the purposes of this paragraph if at least one superannuation income stream benefit was paid from the superannuation income stream before 1 July 1994.”.

Parliamentary Superannuation Act 2004

273 Paragraph 4(1)(a)

Omit “Part IX of the *Income Tax Assessment Act 1936*”, substitute “the *Income Tax Assessment Act 1997*”.

Pooled Development Funds Act 1992

274 Subsection 4A(2)

Omit “Part IX of that Act”, substitute “the *Income Tax Assessment Act 1997*”.

275 Paragraph 4A(3)(b)

Repeal the paragraph, substitute:

- (b) it is a foreign superannuation fund (within the meaning of the *Income Tax Assessment Act 1997*); and

Remuneration and Allowances Act 1990

276 Paragraph 1B(1)(a) of Schedule 3

Omit “Part IX of the *Income Tax Assessment Act 1936*”, substitute “the *Income Tax Assessment Act 1997*”.

Retirement Savings Accounts Act 1997

277 Subparagraph 3(1)(a)(iii)

Repeal the subparagraph, substitute:

- (iii) Parts 6 and 9, and Part 11 (except Divisions 2 and 4A);
and

278 At the end of subsection 3(1)

Add:

- ; and (e) the Commissioner of Taxation has the general administration of Divisions 2 and 4A of Part 11.

279 After section 43

Insert:

43A Rules about cashing benefits after death of RSA holder

- (1) The terms and conditions of an RSA must not permit the RSA holder's benefits to be cashed after the holder's death otherwise than in accordance with standards prescribed for the purposes of section 38.
- (2) If the terms and conditions of an RSA are inconsistent with subsection (1):
 - (a) subsection (1) prevails; and
 - (b) the terms and conditions are invalid, to the extent of the inconsistency.

280 Paragraph 133(1)(a)

Repeal the paragraph, substitute:

- (a) an employee:
 - (i) quotes or first quotes his or her tax file number to his or her employer in connection with the operation or the possible future operation of this Act and the other Superannuation Acts; or
 - (ii) quotes or first quotes his or her tax file number on or after 1 July 2007 to his or her employer in connection with the operation of Division 3 of Part VA of the *Income Tax Assessment Act 1936*; and

281 At the end of subsection 133(1)

Add:

Schedule 1 Consequential amendments etc.
Part 2 Other consequential amendments etc.

Note: Division 3 of Part VA of the *Income Tax Assessment Act 1936* deals with quotation of tax file numbers by recipients of eligible PAYG payments.

282 Paragraph 139(a)

After “APRA”, insert “or in the approved form (as defined by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*)”.

283 After Division 4 of Part 11

Insert:

Division 4A—Incorrect quotation of tax file number

143A Effect of mistaken quotation of tax file number

- (1) The Commissioner of Taxation may give an RSA provider notice of the tax file number of the holder of an RSA if:
 - (a) the provider has made a record of a number (the *recorded TFN*) the provider believes to be the tax file number of the holder; and
 - (b) the Commissioner is satisfied that the recorded TFN:
 - (i) has been cancelled or withdrawn since it was quoted; or
 - (ii) is otherwise wrong; and
 - (c) the Commissioner is satisfied that the holder has a tax file number.
- (2) The holder is taken to have quoted his or her tax file number to the provider in connection with the operation or the possible future operation of this Act and the other Superannuation Acts at a time if:
 - (a) the Commissioner gives the provider a notice under subsection (1); and
 - (b) had the recorded TFN been the tax file number of the holder, the holder would have quoted his or her tax file number to the trustee in that way at the time.

143B Effect of invalid quotation of tax file number

- (1) The Commissioner may give an RSA provider a notice under subsection (2) if:
-

- (a) the provider has made a record of a number (the *recorded TFN*) the trustee believes to be the tax file number of the holder of an RSA; and
 - (b) the Commissioner is satisfied that the recorded TFN:
 - (i) has been cancelled or withdrawn since it was quoted; or
 - (ii) is otherwise wrong; and
 - (c) the Commissioner is not satisfied that the holder has a tax file number.
- (2) The notice must identify the holder and state that the Commissioner is not satisfied that the holder has a tax file number.
- (3) If the Commissioner gives a notice under subsection (2), the Commissioner must give a copy of the notice to the holder.

Seafarers Rehabilitation and Compensation Act 1992

284 Subsection 34(4) (definition of *approved deposit fund*)

Repeal the definition, substitute:

approved deposit fund has the same meaning as in the *Income Tax Assessment Act 1997*.

285 Subsection 34(4) (definition of *rolled-over*)

Repeal the definition, substitute:

rolled-over means paid as a roll-over superannuation benefit (within the meaning of the *Income Tax Assessment Act 1997*).

286 Subsection 34(4) (at the end of the definition of *superannuation fund*)

Add “(as in force just before the commencement of Schedule 1 to the *Superannuation Legislation Amendment (Simplification) Act 2007*)”.

Small Superannuation Accounts Act 1995

287 Section 4 (definition of *complying superannuation fund*)

Omit “Part IX of the *Income Tax Assessment Act 1936*”, substitute “the *Income Tax Assessment Act 1997*”.

288 Section 4 (note to the definition of *complying superannuation fund*)

Repeal the note, substitute:

Note: The *Income Tax Assessment Act 1997* defines *complying superannuation fund* by reference to section 45 of the *Superannuation Industry (Supervision) Act 1993*.

Social Security Act 1991

289 Subsection 9(1) (definition of *approved deposit fund*)

Repeal the definition, substitute:

approved deposit fund has the same meaning as in the *Income Tax Assessment Act 1997*.

290 Subsection 9(1) (definition of *deferred annuity*)

Repeal the definition, substitute:

deferred annuity means an annuity, within the meaning of section 10 of the *Superannuation Industry (Supervision) Act 1993*, that is not presently payable.

291 Subsection 9(1) (definition of *residual capital value*)

Repeal the definition, substitute:

residual capital value, in relation to an income stream, means the capital amount payable on the termination of the income stream.

Note: An account-based income stream does not have a residual capital value (see subsection (10) of this section).

292 Subsection 9(1) (definition of *superannuation fund*)

Repeal the definition, substitute:

superannuation fund means:

- (a) a fund that is or has been a complying superannuation fund within the meaning of section 45 of the *Superannuation Industry (Supervision) Act 1993* in relation to any tax year; or
- (b) an Australian superannuation fund (within the meaning of the *Income Tax Assessment Act 1997*) that is not a complying superannuation fund mentioned in paragraph (a) in relation to any tax year; or

- (c) a scheme for the payment of benefits upon retirement or death that is constituted by or under a law of the Commonwealth or of a State or Territory; or
- (d) an RSA within the meaning of the *Retirement Savings Accounts Act 1997*; or
- (e) any of the following funds (unless the fund is a foreign superannuation fund within the meaning of the *Income Tax Assessment Act 1997*):
 - (i) a fund to which paragraph 23(jaa), or section 23FC, 121CC or 121DAB, of the *Income Tax Assessment Act 1936* (as in force at any time before the commencement of section 1 of the *Taxation Laws Amendment Act (No. 2) 1989*) has applied in relation to any tax year;
 - (ii) a fund to which paragraph 23(ja), or section 23F or 23FB, of the *Income Tax Assessment Act 1936* (as in force at any time before the commencement of paragraph (a) of the definition of *superannuation fund* in former subsection 27A(1) of the *Income Tax Assessment Act 1936*) has applied in relation to the tax year that started on 1 July 1985 or an earlier tax year;
 - (iii) a fund to which section 79 of the *Income Tax Assessment Act 1936* (as in force at any time before 25 June 1984) has applied in relation to the tax year that started on 1 July 1983 or an earlier tax year.

293 At the end of section 9

Add:

- (10) To avoid doubt, for the purposes of this Act, an account-based income stream does not have a *residual capital value*.

294 Subsection 14A(1) (paragraph (d) of the definition of liquid assets)

Repeal the paragraph, substitute:

- (d) a roll-over superannuation benefit (within the meaning of the *Income Tax Assessment Act 1997*); or
- (daa) a superannuation lump sum (within the meaning of that Act) that is a contributions-splitting superannuation benefit (within the meaning of that Act); or

(dab) a directed termination payment (within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*); or

295 Subsection 14A(1) (note 2 at the end of the definition of *liquid assets*)

Repeal the note.

296 Section 19B (paragraph (f) of the definition of *liquid assets*)

Repeal the paragraph, substitute:

- (f) a roll-over superannuation benefit (within the meaning of the *Income Tax Assessment Act 1997*); or
- (fa) a superannuation lump sum (within the meaning of that Act) that is a contributions-splitting superannuation benefit (within the meaning of that Act); or
- (fb) a directed termination payment (within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*); or

297 Point 1064-F3

Repeal the point, substitute:

Directed termination payments excluded

1064-F3 If:

- (a) a person's employment has been terminated; and
- (b) as a result the person is entitled to a lump sum payment from the person's former employer; and
- (c) the payment, or part of the payment, is a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*;

the payment, or that part, is to be disregarded in working out the ordinary income of the person for the purposes of Module E.

298 Point 1064-F13

Omit "1064-F3", substitute "1064-F4".

299 Point 1064-F14 (definition of *redundancy payment*)

Repeal the definition, substitute:

redundancy payment does not include a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*.

300 Point 1064-F14 (definition of *roll-over*)

Repeal the definition.

301 Point 1066A-G3

Repeal the point, substitute:

Directed termination payments excluded

1066A-G3 If:

- (a) a person's employment has been terminated; and
- (b) as a result the person is entitled to a lump sum payment from the person's former employer; and
- (c) the payment, or part of the payment, is a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*;

the payment, or that part, is to be disregarded in working out the ordinary income of the person for the purposes of Module F.

302 Point 1066A-G13

Omit "1066A-G3", substitute "1066A-G4".

303 Point 1066A-G14 (definition of *redundancy payment*)

Repeal the definition, substitute:

redundancy payment does not include a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*.

304 Point 1066A-G14 (definition of *roll-over*)

Repeal the definition.

305 Point 1067G-H10

Repeal the point, substitute:

Directed termination payments excluded

1067G-H10 If:

- (a) a person's employment has been terminated; and
- (b) as a result the person is entitled to a lump sum payment from the person's former employer; and
- (c) the payment, or part of the payment, is a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*;

the payment, or that part, is to be disregarded in working out the ordinary income of the person for the purposes of this Module.

306 Points 1067G-H18 and 1067G-H19

Omit "1067G-H10", substitute "1067G-H11".

307 Point 1067G-H19 (definition of *redundancy payment*)

Repeal the definition, substitute:

redundancy payment does not include a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*.

308 Point 1067G-H19 (definition of *roll-over*)

Repeal the definition.

309 Point 1067L-D4

Repeal the point, substitute:

Directed termination payments excluded

1067L-D4 If:

- (a) a person's employment has been terminated; and
- (b) as a result the person is entitled to a lump sum payment from the person's former employer; and
- (c) the payment, or part of the payment, is a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*;

the payment, or that part, is to be disregarded in working out the ordinary income of the person for the purposes of this Module.

310 Points 1067L-D14 and 1067L-D15

Omit "1067L-D4", substitute "1067L-D5".

311 Point 1067L-D15 (definition of *redundancy payment*)

Repeal the definition, substitute:

redundancy payment does not include a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*.

312 Point 1067L-D15 (definition of *roll-over*)

Repeal the definition.

313 Point 1068-G7AF

Repeal the point, substitute:

Directed termination payments excluded

1068-G7AF If:

- (a) a person's employment has been terminated; and
- (b) as a result the person is entitled to a lump sum payment from the person's former employer; and
- (c) the payment, or part of the payment, is a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*;

the payment, or that part, is to be disregarded in working out the ordinary income of the person for the purposes of Module G of section 1068.

314 Points 1068-G7AP and 1068-G7AQ

Omit "1068-G7AF", substitute "1068-G7AG".

315 Point 1068-G7AQ (definition of *redundancy payment*)

Repeal the definition, substitute:

redundancy payment does not include a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*.

316 Point 1068-G7AQ (definition of *roll-over*)

Repeal the definition.

317 Point 1068A-E2

Repeal the point, substitute:

Directed termination payments excluded

1068A-E2 If:

- (a) a person's employment has been terminated; and
- (b) as a result the person is entitled to a lump sum payment from the person's former employer; and
- (c) the payment, or part of the payment, is a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*;

the payment, or that part, is to be disregarded in working out the ordinary income of the person for the purposes of this Module.

318 Points 1068A-E11 and 1068A-E12

Omit "1068A-E2", substitute "1068A-E3".

319 Point 1068A-E12 (definition of *redundancy payment*)

Repeal the definition, substitute:

redundancy payment does not include a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*.

320 Point 1068A-E12 (definition of *roll-over*)

Repeal the definition.

321 Point 1068B-D8

Repeal the point, substitute:

Directed termination payments excluded

1068B-D8 If:

- (a) a person's employment has been terminated; and
- (b) as a result the person is entitled to a lump sum payment from the person's former employer; and
- (c) the payment, or part of the payment, is a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*;

the payment, or that part, is to be disregarded in working out the ordinary income of the person for the purposes of this Module.

322 Points 1068B-D17 and 1068B-D18

Omit “1068B-D8”, substitute “1068B-D9”.

323 Point 1068B-D18 (definition of *redundancy payment*)

Repeal the definition, substitute:

redundancy payment does not include a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*.

324 Point 1068B-D18 (definition of *roll-over*)

Repeal the definition.

325 Paragraph 1075(1)(c)

Omit “subsection 82AAC(1) of the *Income Tax Assessment Act 1936*”, substitute “section 290-60 of the *Income Tax Assessment Act 1997*”.

326 Subparagraph 1185Y(3)(d)(iii)

Omit “sections 82AAC, 82AAD, 82AADA and 82AAF of the *Income Tax Assessment Act 1936*”, substitute “section 290-60 of the *Income Tax Assessment Act 1997*”.

327 Paragraph 1207P(3)(b)

Omit “Part IX of the *Income Tax Assessment Act 1936*”, substitute “the *Income Tax Assessment Act 1997*”.

Superannuation Contributions Tax (Assessment and Collection) Act 1997

328 Subsection 16(6)

Omit “a lump sum, or a pension or annuity,”, substitute “a superannuation benefit (within the meaning of the *Income Tax Assessment Act 1997*)”.

329 Subsection 16(6)

Omit “the lump sum, or the first instalment of pension or annuity,”,
substitute “the superannuation benefit”.

330 Section 43 (definition of *annuity*)

Omit “a deferred annuity as defined in subsection 27A(1) of the Income
Tax Assessment Act”, substitute “such an annuity that is not presently
payable”.

***Superannuation Contributions Tax (Members of
Constitutionally Protected Superannuation Funds)
Assessment and Collection Act 1997***

331 Paragraph 12(6)(a)

Omit “a lump sum, or a pension,”, substitute “a superannuation benefit
(within the meaning of the *Income Tax Assessment Act 1997*)”.

332 Paragraph 12(6)(d)

Omit “the lump sum or pension”, substitute “the superannuation
benefit”.

333 Subsection 15(6)

Omit “a lump sum, or a pension,”, substitute “a superannuation benefit
(within the meaning of the *Income Tax Assessment Act 1997*)”.

334 Paragraph 15(8A)(b)

Omit “neither a lump sum nor a pension is payable”, substitute “a
superannuation benefit (within the meaning of the *Income Tax
Assessment Act 1997*) is not payable”.

335 Paragraph 17(4)(a)

Repeal the paragraph, substitute:

- (a) the Commissioner must debit the member’s surcharge debt
account for the amount of the increase if none of the
following has become payable by the relevant superannuation
provider for the benefit of the member:
 - (i) a lump sum;
 - (ii) a pension;
 - (iii) a superannuation benefit (within the meaning of the
Income Tax Assessment Act 1997); or

336 Paragraph 17(4)(b)

Omit “otherwise”, substitute “if paragraph (a) does not apply”.

337 Paragraph 17(5)(a)

Repeal the paragraph, substitute:

- (a) the Commissioner must credit the account with the amount by which the surcharge is reduced if none of the following has become payable by the relevant superannuation provider for the benefit of the member and the member’s surcharge debt account is in debit:
 - (i) a lump sum;
 - (ii) a pension;
 - (iii) a superannuation benefit (within the meaning of the *Income Tax Assessment Act 1997*); or

338 Paragraph 17(5)(b)

Omit “otherwise”, substitute “if paragraph (a) does not apply”.

339 Section 38 (definition of *constitutionally protected superannuation fund*)

Omit “Part IX of the Income Tax Assessment Act”, substitute “the *Income Tax Assessment Act 1997*”.

Superannuation (Government Co-contribution for Low Income Earners) Act 2003

340 Subsection 5(2)

Omit “(sections 26 to 45) tells you how the Commissioner of Taxation gathers the information needed for making decisions about Government co-contributions”, substitute “(sections 30 to 45) tells you how the Commissioner of Taxation gathers some of the information needed for making decisions about Government co-contributions”.

341 Paragraph 7(1)(b)

Repeal the paragraph, substitute:

- (b) the contribution was or is made for the purpose of providing superannuation benefits for the person (regardless whether the benefits are payable to the person’s dependants if the

person dies before or after becoming entitled to receive the benefits); and

342 Subparagraph 7(1)(c)(iii)

Omit “1997).”, substitute “1997);”.

343 At the end of paragraph 7(1)(c)

Add:

- (iv) an amount transferred from a scheme mentioned in paragraph 290-5(c) of the *Income Tax Assessment Act 1997*.

344 Section 56 (definition of *complying superannuation fund*)

Repeal the definition, substitute:

complying superannuation fund has the same meaning as in the *Income Tax Assessment Act 1997*.

345 Section 56 (definition of *constitutionally protected fund*)

Repeal the definition, substitute:

constitutionally protected fund has the same meaning as in the *Income Tax Assessment Act 1997*.

Superannuation Guarantee (Administration) Act 1992

346 Subsection 6(1) (sub-subparagraphs (a)(i)(B) and (C) of the definition of *ordinary time earnings*)

Repeal the sub-subparagraphs, substitute:

- (B) an unused annual leave payment, or unused long service leave payment, within the meaning of the *Income Tax Assessment Act 1997*; and

347 Section 7

Omit “Part IX of the *Income Tax Assessment Act 1936*”, substitute “the *Income Tax Assessment Act 1997*”.

348 Section 7A

Omit “complying ADF in relation to the year of income in which that time occurred for the purposes of Part IX of the *Income Tax Assessment Act 1936*”, substitute “complying approved deposit fund in relation to the year of income in which that time occurred for the purposes of the *Income Tax Assessment Act 1997*”.

349 Section 15A

Repeal the section.

350 Subsections 19(4), (5), (6) and (7)

Repeal the subsections.

Superannuation Industry (Supervision) Act 1993

351 Subsection 10(1) (subparagraph (a)(i) of the definition of approved purposes)

Repeal the subparagraph, substitute:

- (i) amounts of roll-over superannuation benefits (within the meaning of the *Income Tax Assessment Act 1997*); and
- (ia) amounts of directed termination payments (within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*); and

352 Subsection 10(1) (definition of resident regulated superannuation fund)

Omit “a resident superannuation fund within the meaning of subsection 6E(1) of the *Income Tax Assessment Act 1936*”, substitute “an Australian superannuation fund within the meaning of the *Income Tax Assessment Act 1997*”.

353 Subsection 10(1) (definition of unit trust)

Repeal the definition, substitute:

unit trust means:

- (a) a unit trust within the meaning of Division 6C of Part III of the *Income Tax Assessment Act 1936* (whether established by a law of the Commonwealth or of a State or Territory, by a government agency or otherwise); or
- (b) the trustee of such a trust;

as appropriate.

354 Sub-subparagraph 42(1A)(a)(ii)(A)

Omit “Part IX of the *Income Tax Assessment Act 1936*”, substitute “the *Income Tax Assessment Act 1997*”.

355 Subparagraph 42(1A)(b)(iii)

Omit “Part IX of the *Income Tax Assessment Act 1936*”, substitute “the *Income Tax Assessment Act 1997*”.

356 Sub-subparagraph 42(1A)(b)(iv)(A)

Omit “Part IX of the *Income Tax Assessment Act 1936*”, substitute “the *Income Tax Assessment Act 1997*”.

357 Subparagraph 42A(5)(b)(i)

Omit “Part IX of the *Income Tax Assessment Act 1936*”, substitute “the *Income Tax Assessment Act 1997*”.

358 Subsections 45(1) and (6)

Omit “Part IX of”.

359 Subsection 47(1)

Omit “Part IX of”.

360 Subsection 48(1)

Omit “Part IX of”.

361 After section 55

Insert:

55A Rules about cashing benefits after death of members

- (1) The governing rules of a regulated superannuation fund must not permit a fund member’s benefits to be cashed after the member’s death otherwise than in accordance with standards prescribed for the purposes of section 31.
- (2) If the governing rules of a fund are inconsistent with subsection (1):
 - (a) subsection (1) prevails; and

(b) the governing rules are invalid, to the extent of the inconsistency.

362 Subsection 117(1)

Repeal the subsection.

363 Subsection 117(10) (definition of *complying superannuation fund*)

Repeal the definition.

364 Subparagraph 355(2)(a)(i)

Omit “Part IX of”.

Superannuation (Productivity Benefit) Act 1988

365 Section 4D

Omit “complying fund within the meaning of Part IX of the *Income Tax Assessment Act 1936*”, substitute “complying superannuation fund within the meaning of the *Income Tax Assessment Act 1997*”.

Taxation Administration Act 1953

366 Subsection 8AAB(5) (after table item 2A)

Insert:

2B section 292-390 *Income Tax Assessment Act 1997*

367 Subsection 10-5(1) in Schedule 1 (table items 7, 8 and 9)

Repeal the table items, substitute:

7	A *superannuation income stream or an annuity	12-80
8	A *superannuation lump sum or an *employment termination payment	12-85
9	An unused leave payment	12-90

368 Subsection 12-5(2) in Schedule 1 (cell at table item 2, column headed “Which is about:”)

Repeal the cell, substitute:

a *superannuation benefit, an annuity, an *employment termination payment or an unused leave payment

369 Subdivision 12-C in Schedule 1

Repeal the Subdivision, substitute:

Subdivision 12-C—Superannuation payments, employment termination payments and unused leave payments

12-80 Superannuation income streams and annuities

An entity must withhold an amount from any of the following payments it makes to an individual:

- (a) a *superannuation income stream;
- (b) an *annuity.

For exceptions, see section 12-1.

12-85 Superannuation lump sums and employment termination payments

An entity must withhold an amount from any of the following payments it makes to an individual:

- (a) a *superannuation lump sum;
- (b) an *employment termination payment.

For exceptions, see section 12-1.

12-90 Unused leave payments

An entity must withhold an amount from any of the following payments it makes to an individual:

- (a) an *unused annual leave payment;
- (b) an *unused long service leave payment, to the extent that the payment is included in the individual's assessable income.

For exceptions, see section 12-1.

370 Section 12-305 in Schedule 1

Omit “departing Australia superannuation payment (within the meaning of Subdivision AA of Division 2 of Part III of the *Income Tax Assessment Act 1936*)”, substitute “*departing Australia superannuation payment”.

371 Paragraphs 12-310(a) and (b) in Schedule 1

Repeal the paragraphs, substitute:

- (a) to withhold an amount from a *departing Australia superannuation payment if no *withholding tax is payable in respect of the payment; or
- (b) to withhold from a departing Australia superannuation payment more than the withholding tax payable in respect of the payment (reduced by each amount already withheld from it under this Subdivision).

Note: Section 301-175 of the *Income Tax Assessment Act 1997* deals with the withholding tax liability.

372 Subparagraph 12-315(1)(c)(iv) in Schedule 1

Repeal the subparagraph, substitute:

- (iv) a *departing Australia superannuation payment; or

373 Section 16-165 in Schedule 1

Repeal the section, substitute:

16-165 Payment summaries for superannuation lump sums and employment termination payments

- (1) Within 14 days after an entity (the *payee*) makes a payment covered under subsection (2) to a person (the *recipient*), the entity must:
 - (a) give a *payment summary to the recipient that covers the payment (and no other payments); and
 - (b) give a copy of the summary to the Commissioner.
- (2) The following payments are covered under this subsection if they are *withholding payments:
 - (a) a *superannuation lump sum;
 - (b) an *employment termination payment, other than a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*.

374 Section 16-166 in Schedule 1

Omit “departing Australia superannuation payment (within the meaning of Subdivision AA of Division 2 of Part III of the *Income Tax Assessment Act 1936*)”, substitute “*departing Australia superannuation payment”.

375 Paragraph 16-170(1)(f) in Schedule 1

Repeal the paragraph.

376 Subsection 18-42(1) in Schedule 1

Omit “section 27GA of the *Income Tax Assessment Act 1936*”,
substitute “section 301-175 of the *Income Tax Assessment Act 1997*”.

377 Paragraph 18-65(3)(d) in Schedule 1

Repeal the paragraph, substitute:

- (d) the payment, *alienated personal services payment or non-cash benefit was in respect of any of the following provisions:
 - (i) Subdivision 12-B (payments for work or services);
 - (ii) Subdivision 12-C (*superannuation benefits, annuities, *employment termination payments and unused leave payments);
 - (iii) Subdivision 12-D (benefits and compensation payments);
 - (iv) section 12-140 or 12-145 (recipient does not quote tax file number or ABN); and

378 Paragraphs 45-120(2)(a), (b) and (c) in Schedule 1

Repeal the paragraphs, substitute:

- (a) a *complying approved deposit fund or a *non-complying approved deposit fund; or
- (b) a *complying superannuation fund or a *non-complying superannuation fund; or
- (c) a *pooled superannuation trust;

379 Paragraphs 45-290(2)(a), (b) and (c) in Schedule 1

Repeal the paragraphs, substitute:

- (a) a *complying approved deposit fund or a *non-complying approved deposit fund for the income year that is or includes the current period; or
- (b) a *complying superannuation fund or a *non-complying superannuation fund for that year; or
- (c) a *pooled superannuation trust for that year.

380 Paragraphs 45-330(2)(a), (b) and (c) in Schedule 1

Repeal the paragraphs, substitute:

- (a) a *complying approved deposit fund or a *non-complying approved deposit fund for the *base year; or
- (b) a *complying superannuation fund or a *non-complying superannuation fund for that year; or
- (c) a *pooled superannuation trust for that year.

381 Section 45-340 in Schedule 1 (method statement, step 1, paragraph (g))

Omit “section 159T of the *Income Tax Assessment Act 1936*”, substitute “section 290-230 of the *Income Tax Assessment Act 1997*”.

382 Paragraphs 45-370(2)(a), (b) and (c) in Schedule 1

Repeal the paragraphs, substitute:

- (a) a *complying approved deposit fund or a *non-complying approved deposit fund for the variation year; or
- (b) a *complying superannuation fund or a *non-complying superannuation fund for the variation year; or
- (c) a *pooled superannuation trust for the variation year.

383 Section 45-375 in Schedule 1 (method statement, step 1, paragraph (f))

Omit “section 159T of the *Income Tax Assessment Act 1936*”, substitute “section 290-230 of the *Income Tax Assessment Act 1997*”.

384 Subsection 250-10(2) in Schedule 1 (after table item 38)

Insert:

38A	excess concessional contributions tax	section 292-385	<i>Income Tax Assessment Act 1997</i>
38B	excess non-concessional contributions tax	section 292-385	<i>Income Tax Assessment Act 1997</i>

385 Subsection 250-10(2) in Schedule 1 (after table item 65)

Insert:

67	Superannuation (Self Managed Funds) Levy	section 15DB	<i>Superannuation (Self Managed Funds) Taxation Act 1987</i>
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386 Section 280-1 in Schedule 1

Omit “or petroleum resource rent tax”, substitute “, petroleum resource rent tax or excess contributions tax”.

387 Section 280-50 in Schedule 1

Omit “or *petroleum resource rent tax”, substitute “, *petroleum resource rent tax or *excess contributions tax”.

388 After section 280-102 in Schedule 1

Insert:

280-102A Liability to shortfall interest charge—excess contributions tax

- (1) You are liable to pay *shortfall interest charge on an additional amount of *excess contributions tax that you are liable to pay because the Commissioner amends your *excess contributions tax assessment for a financial year.
- (2) The liability is for each day in the period:
 - (a) beginning at the start of the day on which *excess contributions tax under your first *excess contributions tax assessment for that year was due to be paid; and
 - (b) ending at the end of the day before the day on which the Commissioner gave you notice of the amended assessment.
- (3) However, if an amended assessment reinstates all or part of a liability in relation to a particular that had been reduced by an earlier amended assessment, the period for the reinstated liability begins at the start of the day on which *excess contributions tax under the earlier amended assessment was due to be paid.

Note: See section 292-385 of the *Income Tax Assessment Act 1997* for when the amount of excess contributions tax and shortfall interest charge becomes due and payable. Section 292-390 of that Act provides for general interest charge on any part of the additional amount (plus any

shortfall interest charge) that remains unpaid after the additional amount is due and payable.

389 Paragraph 280-105(1)(a) in Schedule 1

Omit “or *petroleum resource rent tax”, substitute “, *petroleum resource rent tax or *excess contributions tax”.

390 Subsection 280-110(1) in Schedule 1

Omit “or 280-102”, substitute “, 280-102 or 280-102A”.

391 Section 280-170 in Schedule 1

Omit “or *petroleum resource rent tax”, substitute “*petroleum resource rent tax or *excess contributions tax”.

392 At the end of section 390-1 in Schedule 1

Add:

Note: For requirements for payment summaries in relation to superannuation lump sums and employment termination payments, see section 16-165.

393 At the end of section 390-10 in Schedule 1

Add:

- (10) The *approved form may require the statement to contain the *tax file number of:
- (a) the first provider; and
 - (b) the first plan; and
 - (c) the individual in respect of whom the benefit is paid if:
 - (i) the individual has quoted the individual’s tax file number to the first provider; or
 - (ii) a person who made at least some of the contributions mentioned in paragraph (4)(a) has quoted the individual’s tax file number to the first provider (and had authority to do so).

Taxation (Interest on Overpayments and Early Payments) Act 1983

394 Paragraph 8ZD(1)(b)

After “employer was required by”, insert “section 133 of the *Retirement Savings Accounts Act 1997* or”.

Veterans’ Entitlements Act 1986

395 Subsection 5J(1) (definition of *approved deposit fund*)

Repeal the definition, substitute:

approved deposit fund has the same meaning as in the *Income Tax Assessment Act 1997*.

396 Subsection 5J(1) (definition of *deferred annuity*)

Repeal the definition, substitute:

deferred annuity means an annuity, within the meaning of section 10 of the *Superannuation Industry (Supervision) Act 1993*, that is not presently payable.

397 Subsection 5J(1) (definition of *residual capital value*)

Repeal the definition, substitute:

residual capital value, in relation to an income stream, means the capital amount payable on the termination of the income stream.

Note: An account-based income stream does not have a residual capital value (see subsection (9) of this section).

398 Subsection 5J(1) (definition of *superannuation fund*)

Repeal the definition (not including the note), substitute:

superannuation fund means:

- (a) a fund that is or has been a complying superannuation fund within the meaning of section 45 of the *Superannuation Industry (Supervision) Act 1993* in relation to any tax year; or
- (b) an Australian superannuation fund (within the meaning of the *Income Tax Assessment Act 1997*) that is not a complying superannuation fund mentioned in paragraph (a) in relation to any tax year; or
- (c) a scheme for the payment of benefits upon retirement or death that is constituted by or under a law of the Commonwealth or of a State or Territory; or

- (d) an RSA within the meaning of the *Retirement Savings Accounts Act 1997*; or
- (e) any of the following funds (unless the fund is a foreign superannuation fund):
 - (i) a fund to which paragraph 23(jaa), or section 23FC, 121CC or 121DAB, of the *Income Tax Assessment Act 1936* (as in force at any time before the commencement of section 1 of the *Taxation Laws Amendment Act (No. 2) 1989*) has applied in relation to any tax year;
 - (ii) a fund to which paragraph 23(ja), or section 23F or 23FB, of the *Income Tax Assessment Act 1936* (as in force at any time before the commencement of paragraph (a) of the definition of **superannuation fund** in former subsection 27A(1) of the *Income Tax Assessment Act 1936*) has applied in relation to the tax year that started on 1 July 1985 or an earlier tax year;
 - (iii) a fund to which section 79 of the *Income Tax Assessment Act 1936* (as in force at any time before 25 June 1984) has applied in relation to the tax year that started on 1 July 1983 or an earlier tax year.

399 At the end of section 5J

Add:

- (9) To avoid doubt, for the purposes of this Act, an account-based income stream does not have a *residual capital value*.

400 Subsection 5L(1) (definition of *foreign superannuation fund*)

Repeal the definition, substitute:

foreign superannuation fund has the same meaning as in the *Income Tax Assessment Act 1997*.

401 Subsection 5L(1) (note to the definition of *foreign superannuation pension*)

Repeal the note.

402 Paragraph 46C(1)(c)

Omit “subsection 82AAC(1) of the *Income Tax Assessment Act 1936*”, substitute “section 290-60 of the *Income Tax Assessment Act 1997*”.

Schedule 1 Consequential amendments etc.

Part 2 Other consequential amendments etc.

403 Subparagraph 49Y(3)(f)(iii)

Omit “sections 82AAC, 82AAD, 82AADA and 82AAF of the *Income Tax Assessment Act 1936*”, substitute “section 290-60 of the *Income Tax Assessment Act 1997*”.

404 Paragraph 52ZZB(3)(b)

Omit “Part IX of the *Income Tax Assessment Act 1936*”, substitute “the *Income Tax Assessment Act 1997*”.

Part 3—Repeal of entire Act

Income Tax (Superannuation Payments Withholding Tax) Act 2002

405 The whole of the Act

Repeal the Act.

Part 4—Application

406 Application

- (1) The amendments made by this Schedule apply to the 2007-2008 income year and later years.
- (2) Despite subitem (1), those amendments apply to the 2007-2008 financial year and later years, to the extent that they relate to Division 292 of the *Income Tax Assessment Act 1997*.
- (3) Despite subitem (1), those amendments apply on and after 1 July 2007, to the extent that they relate to any of the following:
 - (a) Divisions 82 and 83 of the *Income Tax Assessment Act 1997*;
 - (b) Divisions 301 to 307 of that Act.
- (4) Despite subitem (1), the amendments in items 297 to 324 of this Schedule apply on and after 1 July 2007.
- (5) Despite subitem (1), the amendments in items 326 and 403 of this Schedule apply in relation to the 2007-2008 financial year and later years.

Schedule 2—Small business relief for CGT events

Income Tax Assessment Act 1997

1 Section 11-15 (after table item headed “life insurance companies”)

Insert:

small business retirement exemption

payment by company or trust, arising from CGT event 152-310(2)

2 After paragraph 82-135(f)

Insert:

(fa) a payment (or part of one) made by a company or trust as mentioned in subsection 152-310(2);

3 Paragraph 152-305(1)(b)

Repeal the paragraph, substitute:

(b) if you are under 55 just before you make the choice—you contribute an amount equal to the asset’s *CGT exempt amount to a *complying superannuation fund or an *RSA; and

Note: For the non-deductibility of the contribution, see subsection 290-150(4).

(c) the contribution is made:

- (i) if the relevant CGT event is CGT event J2, J5 or J6—when you made the choice; or
- (ii) otherwise—at the later of when you made the choice and when you received the proceeds.

4 Subsection 152-305(1) (note 2)

Repeal the note.

5 Subsection 152-310(2)

Repeal the subsection, substitute:

Additional consequences in relation to company or trust

- (2) Any payment or part of one the company or trust makes to comply with section 152-325:
- (a) is *exempt income of the *CGT concession stakeholder to whom it is made; and
 - (b) cannot be deducted from the company's or trust's assessable income.

6 Subsections 152-310(4) and (5)

Repeal the subsections.

7 After subsection 152-325(3)

Insert:

- (3A) If the *CGT concession stakeholder to whom the payment is made is an employee of the company or trust, the payment must not be of a kind mentioned in section 82-135 (disregarding paragraph (fa) of that section).

8 Subsections 152-325(7) and (8)

Repeal the subsections, substitute:

- (7) If a *CGT concession stakeholder is under 55 just before a payment is made under this section in relation to him or her:
- (a) the company or trust must make the payment to the CGT concession stakeholder by contributing it for the stakeholder to a *complying superannuation fund or an *RSA in respect of the stakeholder; and
 - (b) the company or trust must notify the trustee of the fund or the *RSA provider at the time the contribution is made that the contribution is made in accordance with this section.

Note: For the non-deductibility of the contribution, see subsection 290-150(4).

- (8) For the purposes of Part 3-30, treat a payment mentioned in paragraph (7)(a), made in accordance with this section, as a contribution made by the *CGT concession stakeholder.
- (9) If:

- (a) a payment is made to a *CGT concession stakeholder in accordance with this section (disregarding section 109 of the *Income Tax Assessment Act 1936*); and
- (b) the stakeholder is an employee of the company or trust; treat the payment, for the purposes of section 109 of that Act, as made in consequence of the termination of employment of the stakeholder.

9 At the end of section 290-150

Add:

- (4) If the contribution is attributable in whole or part to a *capital gain from a *CGT event:
 - (a) if you disregarded all or part of the capital gain from the CGT event under subsection 152-305(1) and you were under 55 just before you made the choice mentioned in that subsection—you cannot deduct the contribution to the extent that it is attributable to the capital gain; or
 - (b) if a company or trust disregarded all or part of the capital gain from the CGT event under subsection 152-305(2) and you were under 55 just before the contribution was made—you cannot deduct the contribution to the extent that it is attributable to the capital gain.

10 Paragraph 292-100(4)(c)

Omit “your stakeholder’s control percentage (within the meaning of subsection 152-125(3))”, substitute “your stakeholder’s participation percentage (within the meaning of subsection 152-125(2))”.

11 Subsection 292-100(6)

Omit “*controlling individual”, substitute “*significant individual”.

12 Application

- (1) The amendments made by this Schedule apply to CGT events happening in the 2007-08 income year or later income years.
- (2) For the purposes of section 292-80 of the *Income Tax (Transitional Provisions) Act 1997*, the previous 2 items of this Schedule also apply to CGT events happening in the period mentioned in subsection 292-80(1) of that Act.

Schedule 3—Other amendments

Bankruptcy Act 1966

1 Paragraph 116(2)(d)

Omit “subsection (5) of this section and”.

2 Subsections 116(5), (6), (7), (8), (8A) and (9)

Repeal the subsections.

3 Application

The amendments made by the previous 2 items of this Schedule apply on and after 1 July 2007.

Child Support (Registration and Collection) Act 1988

4 Subsection 4(1) (definition of *work and income support related withholding payments*)

Repeal the definition (not including the note), substitute:

work and income support related withholding payments means:

- (a) payments from which an amount must be withheld under a provision of Subdivision 12-B (other than section 12-55), 12-C or 12-D or Division 13 in Schedule 1 to the *Taxation Administration Act 1953* (even if the amount is not withheld);
or
- (b) payments from which an amount would be required to be withheld under a provision mentioned in paragraph (a) (other than section 12-55) apart from subsection 12-1(1A) in Schedule 1 to that Act.

5 Subsection 4(1) (note to definition of *work and income support related withholding payments*)

Omit “pensions and annuities, eligible termination payments”, substitute “annuities, payments of superannuation benefits, employment termination payments”.

Income Tax Assessment Act 1936

6 Subsection 6(1) (paragraph (a) of the definition of *work and income support related withholding payments and benefits*)

Repeal the paragraph, substitute:

- (a) payments from which an amount:
 - (i) must be withheld under a provision of Subdivision 12-B (other than section 12-55), 12-C or 12-D or Division 13 in Schedule 1 to the *Taxation Administration Act 1953* (even if the amount is not withheld); or
 - (ii) would be required to be withheld under a provision mentioned in subparagraph (i) (other than section 12-55) apart from subsection 12-1(1A) in Schedule 1 to that Act; and

7 Subsection 6(1) (note to definition of *work and income support related withholding payments and benefits*)

Omit “pensions and annuities, eligible termination payments”, substitute “annuities, superannuation benefits, employment termination payments”.

Income Tax Assessment Act 1997

8 Subsection 80-15(1)

After “can”, insert “be or”.

9 Subsection 80-15(2)

Repeal the subsection, substitute:

- (2) The amount of the payment is or includes the *market value of the property.

10 After Division 280

Insert:

Division 285—General concepts relating to superannuation

285-5 Transfers of property

- (1) Any of the following payments covered by this Part can be or include a transfer of property:
 - (a) a contribution;
 - (b) a *superannuation lump sum.
- (2) The amount of the payment is or includes the *market value of the property.
- (3) The *market value is reduced by the value of any consideration given for the transfer of the property.

11 Paragraph 290-85(1)(b)

Omit “employee.”, substitute “employee; or”.

12 At the end of subsection 290-85(1)

Add:

- (c) is a payment in lieu of salary or wages that relate to a period of service during which the other person was your employee, and is made within 2 months after the person stopped being your employee.

13 After subsection 290-85(1)

Insert:

- (1A) Section 290-60 also applies as modified by this section if:
 - (a) you make a contribution in respect of another person at a time; and
 - (b) the other person had been employed by a company or other entity before that time; and
 - (c) section 290-90 would apply in relation to the contribution if the other person were employed by the company or entity at that time; and
 - (d) the contribution:
 - (i) reduces the company’s or entity’s charge percentage under section 22 or 23 of the *Superannuation Guarantee*

(Administration) Act 1992 in respect of the other person because of section 15B of that Act; or

- (ii) is a one-off payment in lieu of salary or wages that relate to a period of service during which the other person was the company's or entity's employee; or
- (iii) is a payment in lieu of salary or wages that relate to a period of service during which the other person was the company's or entity's employee, and is made within 2 months after the person stopped being the company's or entity's employee.

14 Subsection 290-85(3)

Repeal the subsection, substitute:

- (3) Despite subsection 290-60(2):
 - (a) if subsection (1) applies—the condition in section 290-70 must be satisfied at the most recent time when the other person was your employee (apart from subsection (2) of this section); or
 - (b) if subsection (1A) applies:
 - (i) the condition in section 290-70 need not be satisfied; and
 - (ii) instead, the condition in subsection 290-90(4) must be satisfied at the most recent time when the other person was the company's or entity's employee.

15 After subsection 290-180(3)

Insert:

- (3A) The variation is not effective if, when you make it:
 - (a) you were not a member of the fund or the holder of the *RSA; or
 - (b) the trustee or *RSA provider no longer holds the contribution; or
 - (c) the trustee or RSA provider has begun to pay a *superannuation income stream based in whole or part on the contribution.

16 Subsection 292-25(3)

Repeal the subsection, substitute:

- (3) An amount in a *complying superannuation plan is covered under this subsection if it is allocated by the *superannuation provider in relation to the plan for you for the year in accordance with conditions specified in the regulations.

17 After paragraph 292-90(1)(a)

Insert:

- (aa) each amount covered under subsection (4); and

18 At the end of section 292-90

Add:

- (4) An amount is covered under this subsection if it is any of the following:
- (a) an amount in a *complying superannuation plan that is allocated by the *superannuation provider in relation to that plan for you for the year in accordance with conditions specified in the regulations;
 - (b) the amount of any contribution made to that plan in respect of you in the year that is covered by a valid and acknowledged notice under section 290-170, to the extent that it is not allowable as a deduction for the person making the contribution;
 - (c) the sum of each contribution made to that plan in respect of you at a time on or after 10 May 2006 when that plan was not a complying superannuation plan (other than a contribution covered under this paragraph in relation to a previous financial year).

19 Paragraph 292-100(2)(b)

Omit “no later than either of the following”, substitute “on or before the later of the following days”.

20 Paragraph 292-100(7)(b)

Omit “no later than either of the following”, substitute “on or before the later of the following days”.

21 Paragraph 292-170(6)(d)

Repeal the paragraph, substitute:

- (d) the conditions (if any) specified in the regulations are satisfied.

22 Paragraph 292-170(7)(c)

Repeal the paragraph, substitute:

- (c) the entire *value of the original interest:
 - (i) was transferred directly to the current interest after 5 September 2006; or
 - (ii) was transferred to another superannuation interest after 5 September 2006, and was later transferred to the current interest (whether directly or through a series of transfers between superannuation interests);

23 Paragraph 292-170(7)(d)

After “your rights” (wherever occurring), insert “to accrue future benefits”.

24 Paragraph 292-170(7)(e)

Repeal the paragraph, substitute:

- (e) either:
 - (i) the notional taxed contributions mentioned in paragraph (6)(b) do not exceed what they would have been if the transfer mentioned in paragraph (c) had not taken place; or
 - (ii) the conditions (if any) specified in the regulations are satisfied;

25 Paragraph 292-170(7)(f)

Omit “requirements”, substitute “conditions”.

26 Paragraph 292-330(b)

Omit “to reduce the assessment”.

27 Subsection 292-410(1)

After “for the person”, insert “in a *complying superannuation plan”.

28 Paragraph 292-410(2)(b)

After “for the person”, insert “in a *complying superannuation plan”.

29 Subsection 292-410(2)

After “a superannuation interest for the person”, insert “in a complying superannuation plan”.

30 Subparagraph 292-410(3)(c)(i)

After “for the person”, insert “in a *complying superannuation plan”.

31 Paragraph 292-415(1)(c)

Repeal the paragraph, substitute:

- (c) the sum of the *values of every *superannuation interest (other than a *defined benefit interest) held by the superannuation provider for the person in:
 - (i) for a release authority given under subsection 292-410(1)—*complying superannuation plans; or
 - (ii) for a release authority given under subsection 292-410(4)—*superannuation plans.

32 Subsection 292-415(2)

Repeal the subsection, substitute:

- (2) The payment must be made out of one or more *superannuation interests (other than a *defined benefit interest) held by the *superannuation provider for the person in:
 - (a) for a release authority given under subsection 292-410(1)—*complying superannuation plans; or
 - (b) for a release authority given under subsection 292-410(4)—*superannuation plans.

33 Subsection 295-180(1)

Omit “*complying superannuation fund”, substitute “*public sector superannuation scheme”.

34 Subsection 295-180(5)

Omit “*superannuation plan”, substitute “*public sector superannuation scheme”.

35 At the end of section 304-10

Add:

- (5) For the purposes of this section, treat your receipt of a benefit (other than a *superannuation benefit) out of, or attributable to, the assets of a *superannuation plan as your receipt of a superannuation benefit.

36 Paragraph 307-10(a)

Omit “perform normal employment duties”, substitute “engage in *gainful employment”.

37 After paragraph 307-10(a)

Insert:

- (aa) a benefit to which subsection 26AF(1) or 26AFA(1) of the *Income Tax Assessment Act 1936* applies;
- (ab) an amount required by the *Bankruptcy Act 1966* to be paid to a trustee;

38 Paragraph 307-285(1)(a)

Omit “*superannuation fund”, substitute “*public sector superannuation scheme”.

39 Paragraph 307-285(1)(b)

Omit “fund” (first occurring), substitute “scheme”.

40 Paragraph 307-285(1)(d)

Omit “superannuation fund”, substitute “scheme”.

41 Subsection 307-285(2)

Omit “fund”, substitute “scheme”.

42 Subsection 307-295(3) (method statement, step 1)

After “Subdivide the”, insert “*taxable component of the”.

43 Subsection 307-295(3) (method statement, step 1, paragraph (b))

After “of the”, insert “taxable component of the”.

44 After subsection 307-350(2)

Insert:

(2A) For the purposes of subsection (2), disregard subsection 307-5(8).

Income Tax (Transitional Provisions) Act 1997

45 At the end of Division 290

Add:

290-15 Early balancers—deduction limits from end of 2006-2007 income year to 1 July 2007

- (1) This section applies if a person's 2006-2007 income year ends before the end of the 2006-2007 financial year.
- (2) The object of this section is to apply (with modifications) provisions limiting deductibility in respect of certain contributions made during the period that:
 - (a) starts when the person's 2006-2007 income year ends; and
 - (b) ends just before 1 July 2007.
- (3) The provisions are as follows:
 - (a) Subdivisions AA and AB of Division 3 of Part III of the *Income Tax Assessment Act 1936*, as in force just before they were repealed by the *Superannuation Legislation Amendment (Simplification) Act 2007*;
 - (b) any other provision of the *Income Tax Assessment Act 1936*, or of any instrument made under that Act, to the extent that it relates to the operation of those Subdivisions;
 - (c) any other provision of any other Act, or of any instrument made under any other Act, to the extent that it relates to the operation of those Subdivisions.
- (4) Those provisions apply in relation to the period mentioned in subsection (2), and do so as if:
 - (a) that period were the 2007-2008 income year; and
 - (b) the deduction limit mentioned in section 82AAC for the 2006-2007 income year were the deduction limit for the income year mentioned in paragraph (a); and
 - (c) the deduction limit mentioned in section 82AAT for the 2006-2007 income year were the deduction limit for the income year mentioned in paragraph (a); and

(d) Division 290 of the *Income Tax Assessment Act 1997* did not apply to contributions made during the income year mentioned in paragraph (a).

46 After paragraph 292-80(3)(e)

Insert:

(ea) in a case where paragraph 292-95(1)(b) of that Act would have allowed the contribution mentioned in that paragraph to be made at a time within that period—that paragraph allowed the contribution to be made on or before 30 June 2007; and

47 After paragraph 292-80(3)(f)

Insert:

(fa) in a case where subsection 292-100(2), (4), (7) or (8) of that Act would have allowed the contribution mentioned in that subsection to be made at a time within that period—that subsection allowed the contribution to be made on or before 30 June 2007; and

48 Section 292-80B

After “for the person”, insert “in a complying superannuation plan”.

49 Paragraph 292-80C(1)(c)

After “for the person”, insert “in complying superannuation plans”.

50 Subsection 292-80C(2)

After “for the person”, insert “in complying superannuation plans”.

51 At the end of Subdivision 320-H

Add:

320-246 Exempt life insurance policy—extended meaning of roll-over superannuation benefit

For the purposes of paragraph 320-246(1)(e) of the *Income Tax Assessment Act 1997*, treat a payment as a *roll-over superannuation benefit* if:

(a) the payment was made before 1 July 2007; and

- (b) it was a rolled-over amount (within the meaning of section 27A of the *Income Tax Assessment Act 1936* as in force just before the commencement of Schedule 1 to the *Superannuation Legislation Amendment (Simplification) Act 2007*).

Superannuation Guarantee (Administration) Act 1992

52 After section 15B

Insert:

15C Certificates of coverage for international social security agreements

- (1) This section applies if a scheduled international social security agreement (within the meaning of section 5 of the *Social Security (International Agreements) Act 1999*) prevents double coverage of the compulsory retirement savings arrangements under the laws of the parties to the agreement.
- (2) An entity mentioned in subsection (3) may apply in writing to the Commissioner for a certificate under subsection (4) covering the employment of a particular employee.
- (3) For the purposes of subsection (2), the entity must be:
 - (a) if the employee's employer is not a resident of Australia—a related entity (within the meaning of the agreement) of the employer; or
 - (b) otherwise—the employer's employer.
- (4) The Commissioner may give the entity that made the application a certificate under this subsection if the Commissioner is satisfied that doing so is in accordance with the agreement mentioned in subsection (1).
- (5) The certificate must:
 - (a) state the name of the employer and the employee; and
 - (b) state the time at which, or the circumstances in which, the certificate stops covering the employment; and
 - (c) contain any other information that the Commissioner considers relevant.

- (6) The Commissioner may revoke or vary a certificate under subsection (4), if doing so would be in accordance with the administrative arrangements to the agreement mentioned in subsection (1) that are agreed between the parties to the agreement.
- (7) A person who is dissatisfied with a decision of the Commissioner under subsection (4) or (6) may object against the decision in the manner set out in Part IVC of the *Taxation Administration Act 1953*.
- (8) If the entity that made the application is not the employee's employer, this Part (apart from this section) applies to salary or wages relating to employment covered by the certificate that are paid to the employee as if the entity that made the application were the employee's employer.

53 At the end of paragraph 27(1)(b)

After "Australia", insert "(except to the extent that the salary or wages relate to employment covered by a certificate under section 15C)".

Superannuation Industry (Supervision) Act 1993

54 After section 104

Insert:

**104A Trustees etc. of self managed superannuation fund—
recognition of obligations and responsibilities**

- (1) This section applies to a person if:
 - (a) he or she becomes, after 30 June 2007:
 - (i) the trustee of a self managed superannuation fund; or
 - (ii) a director of a body corporate that is the trustee of a self managed superannuation fund; or
 - (b) he or she is a trustee of such a fund or a director of such a body corporate, and another person becomes, after 30 June 2007, a trustee of the fund or a director of the body corporate.
- (2) The person must:
 - (a) if paragraph (1)(a) applies—sign a declaration in the approved form that he or she understands his or her duties as trustee of a self managed superannuation fund (or as director

- of a body corporate that is such a trustee), no later than 21 days after becoming such a trustee or director; and
- (b) if paragraph (1)(b) applies—ensure that the other person signs a declaration in the approved form that he or she understands his or her duties as trustee of a self managed superannuation fund (or as director of a body corporate that is such a trustee), within 21 days after becoming such a trustee or director; and
 - (c) ensure that the declaration is retained so long as it is relevant, and in any case for at least 10 years; and
 - (d) make the declaration available for inspection by a member of the staff of the Regulator if requested to do so by a member of that staff.
- (3) A person is guilty of an offence if the person contravenes subsection (2). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

Superannuation (Self Managed Superannuation Funds) Taxation Act 1987

55 Section 15DD

Repeal the section.

56 Section 15DE

Repeal the section.

57 Application

The amendments made by the previous 2 items of this Schedule apply to the 2007-2008 income year and later years.

Superannuation (Unclaimed Money and Lost Members) Act 1999

58 Subsection 18(1)

Repeal the subsection, substitute:

- (1) This section applies to a superannuation provider if:
- (a) the superannuation provider is the trustee of a State or Territory public sector superannuation scheme; and
 - (b) a law of a State or Territory satisfies the requirements set out in subsections (4) and (5).

Note: The heading to section 18 is replaced by the heading “**Payment of unclaimed money—State or Territory public sector superannuation schemes**”.

59 At the end of section 18

Add:

- (7) In this section:

State or Territory public sector superannuation scheme means a scheme for the payment of superannuation, retirement or death benefits, where the scheme is established:

- (a) by or under a law of a State or a law of a Territory; or
- (b) under the authority of:
 - (i) the government of a State or Territory; or
 - (ii) a municipal corporation, another local governing body or a public authority constituted by or under a law of a State or a law of a Territory.

60 Application

The amendments made by the previous 2 items apply in relation to statements required to be given under section 16 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* in respect of the half-year ending on 30 June 2007 and later half-years.

Taxation Administration Act 1953

61 After paragraph 14ZW(1)(aaa)

Insert:

- (aab) if the taxation objection is made under section 292-245 of the *Income Tax Assessment Act 1997*—4 years after notice of the assessment concerned is given to the person; or

62 Paragraph 14ZW(1B)(b)

After “(1)(aaa),”, insert “(aab),”.

63 Subsection 12-1(1) in Schedule 1

After “12-80”, insert “, 12-85”.

64 After subsection 12-1(1) in Schedule 1

Insert:

Non-assessable non-exempt income of recipient

- (1A) An entity need not withhold an amount under Subdivision 12-B, Subdivision 12-C or section 12-120 or 12-190 from a payment if the whole of the payment is not assessable income and is not *exempt income of the entity receiving the payment.

65 Section 18-75 in Schedule 1

Repeal the section.

66 Application

- (1) The amendments made to the following Acts by this Schedule apply to the 2007-2008 income year and later years:
- (a) the *Child Support (Registration and Collection) Act 1988*;
and
 - (b) the *Income Tax Assessment Act 1997*; and
 - (c) the *Income Tax (Transitional Provisions) Act 1997*; and
 - (d) the *Taxation Administration Act 1953*.
- (2) Despite subitem (1), those amendments apply to the 2007-2008 financial year and later years, to the extent that they relate to Division 292 of the *Income Tax Assessment Act 1997*.
- (3) Despite subitem (1), those amendments apply on and after 1 July 2007, to the extent that they relate to any of the following:
- (a) Divisions 82 and 83 of the *Income Tax Assessment Act 1997*;
 - (b) Divisions 301 to 307 of that Act.

Schedule 4—Technical corrections

Income Tax Assessment Act 1997

1 Subsection 83-180(5)

Omit “*employment termination payment”, substitute “payment”.

2 Subsection 83-180(5)

Omit “employment termination payment”, substitute “payment”.

3 Subparagraph 290-170(2)(c)(iii)

Omit “contributions”, substitute “contribution”.

4 Section 302-5

Omit “are”.

5 Paragraph 302-5(a)

Before “paid”, insert “are”.

6 Paragraph 302-5(b)

Before “*superannuation guarantee payments”, insert “are”.

7 Paragraph 960-285(2)(a)

After “income year”, insert “or financial year”.

8 Subsection 960-285(4) (formula)

After “income year”, insert “or financial year”.

Income Tax (Transitional Provisions) Act 1997

9 Paragraph 82-10D(2)(b)

Omit “transitional”, substitute “termination”.

10 Part 3-10

Relocate the Part to immediately after Part 3-6.

11 Paragraphs 307-125(6)(b) and (c)

Omit “item”, substitute “section”.

Taxation Administration Act 1953

12 Paragraph 298-5(c) in Schedule 1

Omit “this Schedule; or”, substitute “this Schedule.”.

*[Minister’s second reading speech made in—
House of Representatives on 7 February 2007
Senate on 26 February 2007]*

(6/07)
