



# **Treasury Laws Amendment (2020 Measures No. 1) Act 2020**

**No. 49, 2020**

**An Act to amend the law relating to taxation and  
superannuation, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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# Treasury Laws Amendment (2020 Measures No. 1) Act 2020

No. 49, 2020

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## An Act to amend the law relating to taxation and superannuation, and for related purposes

[Assented to 25 May 2020]

The Parliament of Australia enacts:

### 1 Short title

This Act is the *Treasury Laws Amendment (2020 Measures No. 1) Act 2020*.

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## 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.

| <b>Commencement information</b> |  |                     |
|---------------------------------|--|---------------------|
| <b>Column 1</b>                 | <b>Column 2</b>  | <b>Column 3</b>     |
| <b>Provisions</b>               | <b>Commencement</b>  | <b>Date/Details</b> |
| 1. The whole of this Act        | The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent. | 1 July 2020         |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## **Schedule 1—Significant global entities**

### ***Income Tax Assessment Act 1997***

#### **1 Subdivision 815-E (heading)**

Repeal the heading, substitute:

#### **Subdivision 815-E—Reporting obligations for country by country reporting entities**

#### **2 Section 815-350**

Omit “Significant global entities”, substitute “CBC reporting entities”.

#### **3 Paragraph 815-355(1)(a)**

Omit “\*significant global entity during a period”, substitute “\*CBC reporting entity for a period”.

#### **4 Subparagraph 815-355(3)(a)(ii)**

Repeal the subparagraph, substitute:

- (ii) if you were a \*member of a \*CBC reporting group during the previous income year—the other members of that group;

#### **5 At the end of Subdivision 815-E**

Add:

#### **815-370 Meaning of *country by country reporting entity* (or *CBC reporting entity*)**

An entity is a *country by country reporting entity* (or *CBC reporting entity*) for a period if:

- (a) the entity is a \*CBC reporting parent for the period; or
- (b) the entity is a \*member of a \*CBC reporting group during the period and another member of that group is a CBC reporting parent for the period.

**815-375 Meaning of *country by country reporting parent* (or *CBC reporting parent*)**

- (1) An entity is a *country by country reporting parent* (or *CBC reporting parent*) for a period if:
  - (a) the entity is *not* an individual; and
  - (b) if the entity is a \*member of a \*CBC reporting group at the end of the period—it is an entity that, according to:
    - (i) \*accounting principles; or
    - (ii) if accounting principles do not apply in relation to the entity—commercially accepted principles related to accounting;is not controlled by any other member of the CBC reporting group at the end of the period; and
  - (c) the entity's \*annual global income for the period is \$1 billion or more.
- (2) For the purposes of paragraph (1)(c), in working out the entity's \*annual global income for the period, treat the reference in paragraph 960-565(1)(aa) to \*notional listed company group as instead being a reference to \*CBC reporting group.

**815-380 Meaning of *country by country reporting group* (or *CBC reporting group*)**

- (1) A group of entities is a *country by country reporting group* (or *CBC reporting group*) if:
  - (a) none of the entities is an individual; and
  - (b) any of the following requirements are satisfied:
    - (i) the group is consolidated for accounting purposes as a single group;
    - (ii) the group is a \*notional listed company group.
- (2) Each entity in the group is a *member* of the \*CBC reporting group.
- (3) Subsection (5) applies if:
  - (a) all the members of a group that is consolidated for accounting purposes as a single group (the *smaller group*) are members of:
    - (i) another such group; or



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- (ii) a \*notional listed company group; and
    - (b) at least one entity is a member of the group mentioned in subparagraph (a)(i) or (ii) but is not a member of the smaller group.
  - (4) Subsection (5) also applies if:
    - (a) all the \*members of a notional listed company group (the *smaller group*) are members of:
      - (i) another such group; or
      - (ii) a group that is consolidated for accounting purposes as a single group; and
    - (b) at least one entity is a member of the group mentioned in subparagraph (a)(i) or (ii) but is not a member of the smaller group.
  - (5) For the purposes of subsection (1), treat the smaller group as not being any of the following:
    - (a) a group that is consolidated for accounting purposes as a single group;
    - (b) a \*notional listed company group.
  - (6) For the purposes of this section, assume that paragraph 960-575(4)(a) were disregarded:
    - (a) in determining whether a \*notional listed company group exists; and
    - (b) in identifying the \*members of a notional listed company group.

Note: The effect of that assumption is that certain exceptions in accounting or other principles to requirements to consolidate for accounting purposes are taken into account in working out the membership of the country by country reporting group. Where such exceptions apply, a country by country reporting group may have fewer members than the equivalent notional listed company group.

## **6 Subsection 960-50(7A)**

Omit “a \*global parent entity”, substitute “an entity”.

## **7 After subsection 960-555(2)**

Insert:

- (2A) An entity is also a *significant global entity* for a period if:
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- (a) the entity is a \*member of a \*notional listed company group;  
and
- (b) one of the other members of the group is a \*global parent entity:
  - (i) whose \*annual global income for the period is \$1 billion or more; or
  - (ii) in relation to whom the Commissioner makes a determination under subsection (3) for the period.

**8 Section 960-565**

Before “The”, insert “(1)”.

**9 Section 960-565**

Omit “of a \*global parent entity”, substitute “of an entity”.

**10 Before paragraph 960-565(a)**

Insert:

- (aa) if the entity is a \*member of a \*notional listed company group—the total annual income of all the members of the group (worked out on the assumption that all members of the group were consolidated for accounting purposes as a single group); or

**11 Paragraph 960-565(a)**

Omit “if the entity”, substitute “if paragraph (aa) does not apply and the entity”.

**12 At the end of section 960-565**

Add:

- (2) Subsection (3) applies if:
  - (a) \*global financial statements have not been prepared for the entity for the period; or
  - (b) global financial statements have not been prepared for the entity for the period that show the total annual income mentioned in subsection (1).
- (3) Despite subsection (1), the *annual global income* of the \*entity for the period is the amount that would be, on the assumption that such

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statements had been prepared, the total annual income mentioned in subsection (1) shown in those statements.

### **13 Section 960-570**

Omit “for a \*global parent entity”, substitute “for an entity”.

### **14 At the end of Subdivision 960-U**

Add:

#### **960-575 Meaning of *notional listed company group***

- (1) A ***notional listed company group*** is a group of entities that would be required to be consolidated for accounting purposes as a single group, on the assumption that an entity (the ***test entity***) were a listed company (within the meaning of section 26BC of the *Income Tax Assessment Act 1936*).
- (2) Each entity in that group is a ***member*** of the \*notional listed company group.
- (3) For the purposes of subsection (1), determine whether a group of entities would be required to be consolidated for accounting purposes as a single group according to:
  - (a) \*accounting principles; or
  - (b) if accounting principles do not apply in relation to the test entity—commercially accepted principles related to accounting.
- (4) In applying the \*accounting principles or commercially accepted principles referred to in subsection (3):
  - (a) disregard any exceptions in those principles to requirements in those principles for entities to be consolidated as a single group; and
  - (b) without limiting paragraph (a), disregard any rule in those principles providing that one or more entities (the ***excepted entities***) are not required to be consolidated as a single group with one or more other entities because the effect of such consolidation would be immaterial as a result of:
    - (i) the size of the excepted entities; or
    - (ii) any other matter.

## 15 Subsection 995-1(1)

Insert:

*CBC reporting entity*: see *country by country reporting entity*.

*CBC reporting group*: see *country by country reporting group*.

*CBC reporting parent*: see *country by country reporting parent*.

*country by country reporting entity* has the meaning given by section 815-370.

*country by country reporting group* has the meaning given by section 815-380.

*country by country reporting parent* has the meaning given by section 815-375.

## 16 Subsection 995-1(1) (after paragraph (bb) of the definition of member)

Insert:

(bc) in relation to a \*country by country reporting group—has the meaning given by section 815-380; and

(bd) in relation to a \*notional listed company group—has the meaning given by section 960-575; and

## 17 Subsection 995-1(1)

Insert:

*notional listed company group* has the meaning given by section 960-575.

## *Taxation Administration Act 1953*

## 18 Section 3CA (heading)

Repeal the heading, substitute:

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**3CA Reporting of information by corporate country by country reporting entities****19 Paragraph 3CA(1)(a)**

Omit “significant global entity”, substitute “country by country reporting entity”.

**20 After subsection 3CA(1)**

Insert:

(1A) However, this section does not apply to a corporate tax entity for an income year if:

- (a) the entity is a government related entity (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*); and
- (b) the Commissioner has given notice to the entity for the income year under subsection (1B).

(1B) For the purposes of paragraph (1A)(b), the Commissioner may give notice in writing to a government related entity (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*) for one or more specified income years if the Commissioner considers that it is appropriate to do so.

**21 Application**

- (1) The amendments made by this Schedule apply in relation to income years or other periods starting on or after 1 July 2019.
- (2) To avoid doubt, the amendments made by this Schedule apply for the purposes of working out whether an entity was a CBC reporting entity for a period as mentioned in paragraph 815-355(1)(a) of the *Income Tax Assessment Act 1997* (as amended by this Schedule), even if that period started before 1 July 2019.
- (3) Subitem (4) applies if:
  - (a) an entity is a significant global entity for an income year or other period that starts:
    - (i) on or after 1 July 2019; and
    - (ii) before 1 July 2020; and

**Schedule 1** Significant global entities

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- (b) disregarding the amendments made by this Schedule, the entity would not be a significant global entity for that income year or other period.
- (4) For the purposes of Divisions 284 and 286 in Schedule 1 to the *Taxation Administration Act 1953*, treat the entity as not being a significant global entity for that income year or other period.

## **Schedule 2—Merging superannuation funds**

### ***Income Tax Assessment Act 1997***

#### **1 Section 310-1 (notes 1 and 2)**

Repeal the notes, substitute:

Note: This Division applies to mergers happening between 24 December 2008 and 30 June 2011 (or, in certain cases, 30 September 2011), or mergers happening on or after 1 October 2011 (see Part 3 of Schedule 2 to the *Tax Laws Amendment (2009 Measures No. 6) Act 2010*).

### ***Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012***

#### **2 Item 19 of Schedule 1**

Omit “during the period starting on 1 October 2011 and ending at the end of 1 July 2020”, substitute “on or after 1 October 2011”.

### ***Tax Laws Amendment (2009 Measures No. 6) Act 2010***

#### **3 Subsection 2(1) (table item 4)**

Repeal the item.

#### **4 Subitem 11(1) of Schedule 2**

Omit “during the period starting on 1 October 2011 and ending at the end of 1 July 2020”, substitute “on or after 1 October 2011”.

#### **5 Subitem 11(1) of Schedule 2 (notes 1 and 2)**

Omit “this period”, substitute “the period or on or after 1 October 2011”.

#### **6 Parts 4 and 5 of Schedule 2**

Repeal the Parts.

#### **7 Application of amendments**

The amendments made by items 1, 2, 4 and 5 of this Schedule apply in relation to a transferring entity and a receiving entity if:

**Schedule 2** Merging superannuation funds

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- (a) the condition in subsection 310-10(3), 310-15(3) or 310-20(3) of the *Income Tax Assessment Act 1997* for those entities is satisfied on or after 1 October 2011; and
- (b) all of the transfer events (if any) referred to in subsection 310-45(2) of that Act for those entities happen on or after 1 October 2011.

Note 1: The effect of paragraph (a) is that all of the members of the original fund will need to become members of a continuing fund on or after 1 October 2011.

Note 2: The effect of paragraph (b) is that the transferring entity needs to cease to hold all relevant assets on or after 1 October 2011.

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*[Minister's second reading speech made in—  
House of Representatives on 12 February 2020  
Senate on 14 May 2020]*

(8/20)

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