



# **Income Tax Assessment Regulations 1997**

**Statutory Rules No. 198, 1997**

made under the

*Income Tax Assessment Act 1997*

## **Compilation No. 84**

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## About this compilation

### This compilation

This is a compilation of the *Income Tax Assessment Regulations 1997* that shows the text of the law as amended and in force on 18 December 2019 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

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

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## **Part 1—Preliminary**

### **1 Name of Regulations**

These Regulations are the *Income Tax Assessment Regulations 1997*.

**Part 2** Liability rules of general application

**Division 26** Some amounts you cannot deduct, or cannot deduct in full

Regulation 26-85.01

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**Part 2—Liability rules of general application**

**Division 26—Some amounts you cannot deduct, or cannot deduct in full**

**26-85.01 Borrowing costs on loans to pay life insurance premiums—term insurance policy**

The risk component of a premium received in respect of:

- (a) a term insurance policy; or
  - (b) a rider or supplementary benefit attached to another policy where the sum insured is payable on death within a specified term;
- is the whole of the premium.

## **Division 30—Valuation of particular gifts of property**

### **30-212.01 Valuation of gifts**

For section 30-212 of the Act, this Division sets out:

- (a) the procedure for seeking a valuation of a gift mentioned in that section; and
- (b) the fees that may be payable for the valuation; and
- (c) arrangements for payment of fees.

Note: Subsection 30-212(1) of the Act applies to a person who makes a gift that is covered by a provision of Division 30 of Part 2-5 of the Act that refers to the value of property as determined by the Commissioner.

The effect of subsection 30-212(1) is that the person must seek the valuation from the Commissioner.

Under subsection 30-212(2), the Commissioner may charge the person the amount worked out in accordance with the regulations for making the valuation.

### **30-212.02 Application for valuation**

An application for a valuation under subsection 30-212(1) of the Act must:

- (a) be in the approved form; and
- (b) be lodged with the Commissioner; and
- (c) include the application fee required by the approved form, which must not be more than \$1 000.

Note: Section 995-1 of the Act provides that **approved form** has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*. That section provides that an application under a taxation law is in the approved form if, and only if:

- (a) it is in the form approved in writing by the Commissioner for that kind of application; and
- (b) it contains a declaration signed by a person or persons as the form requires; and
- (c) it contains the information that the form requires, and any further information, statement or document as the Commissioner requires, whether in the form or otherwise.

### **30-212.05 Certificates of authenticity**

- (1) An application for a valuation of property other than real property must include a certificate of the authenticity of the property.
- (2) If the Commissioner is not satisfied that a certificate of authenticity is adequate, the Commissioner may:
  - (a) make arrangements to obtain 1 or more certificates of authenticity; and
  - (b) charge the applicant a fee that is not greater than the cost of obtaining the certificate.

Regulation 30-212.06

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**30-212.06 Estimates of fees**

- (1) An applicant for a valuation may ask the Commissioner for an estimate of the likely fee for the valuation.
- (2) If the Commissioner is asked for an estimate:
  - (a) the Commissioner must comply with the request as soon as practicable; but
  - (b) the Commissioner is not bound by the estimate.

**30-212.07 Advance payment of fees**

- (1) The Commissioner may require an applicant for a valuation to give the Commissioner an advance payment of the fee that may be payable for the valuation.
- (2) If the Commissioner requires an advance payment, the Commissioner must give the applicant a written statement:
  - (a) requiring the payment; and
  - (b) stating the amount of the payment; and
  - (c) explaining how the amount was worked out.
- (3) The Commissioner:
  - (a) may require an advance payment only within 14 days after receiving an application; and
  - (b) may require more than 1 advance payment during that period from the same applicant.
- (4) The applicant must give the Commissioner the advance payment within 14 days after receiving the statement requiring the payment.

**30-212.08 Commissioner not required to consider certain applications**

- (1) If the Commissioner decides to obtain a certificate of authenticity under regulation 30-212.05, the Commissioner is not required to consider the application to which the certificate relates until the Commissioner receives the certificate.
- (2) If the Commissioner is preparing an estimate of a fee under regulation 30-212.06, the Commissioner is not required to consider the application to which the estimate relates until the Commissioner has given the estimate to the applicant.
- (3) If the Commissioner has required the advance payment of a fee under regulation 30-212.07, the Commissioner is not required to consider the application to which the payment relates until the fee is paid.

**30-212.09 Applications treated as having no effect**

- (1) If an application for a valuation does not comply with regulation 30-212.02:
  - (a) the Commissioner must treat the application as having no effect; and

Regulation 30-212.10

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- (b) the Commissioner must give the applicant a written statement that the application is being treated that way.
- (2) If an application for a valuation does not include all of the application fee:
  - (a) the Commissioner must treat the application as having no effect; and
  - (b) the Commissioner must give the applicant a written statement that the application is being treated that way.
- (3) If the Commissioner has required the advance payment of a fee under regulation 30-212.07, and the fee is not paid within the time mentioned in subregulation 30-212.07(4):
  - (a) the Commissioner must treat the application to which the payment relates as having no effect after that time; and
  - (b) the Commissioner must give the applicant a written statement that the application is being treated that way.

Note: Subregulation 30-212.10(2) is relevant to an application that is treated as having no effect under subregulation (3).

**30-212.10 Fees for carrying out valuations**

- (1) The fee for carrying out a valuation is the actual cost of the valuation, including all costs of the Commissioner in obtaining the valuation.
- (2) If the Commissioner starts a valuation but the application for the valuation is withdrawn or treated as having no effect under subregulation 30-212.09(3), a fee representing the cost of the incomplete valuation is payable.

**30-212.11 Crediting and repaying valuation fees**

- (1) The application fee paid under regulation 30-212.02 is to be credited against the fee for the valuation.
- (2) An advance payment of a fee paid under regulation 30-212.07 is to be credited against the fee for the valuation.
- (3) The fee payable for the valuation is a debt due to the Commonwealth and recoverable in a court of competent jurisdiction.
- (4) However, if the total of advance payments of fees is more than the fee payable for the valuation, the Commissioner must pay the difference to the applicant as soon as practicable.

**30-212.12 Valuation certificates**

- (1) If the Commissioner completes a valuation, the Commissioner must give a valuation certificate to the applicant for the valuation.
- (2) The Commissioner must approve, in writing, 1 or more forms of a certificate.
- (3) The certificate must include the following information:
  - (a) the date on which the valuation was completed;

**Part 2** Liability rules of general application

**Division 30** Valuation of particular gifts of property

**Regulation 30-212.12**

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- (b) a description of any real property (including a lot and plan number, title reference and the location of the property);
  - (c) a full description of property other than real property;
  - (d) the period for which the valuation is in force;
  - (e) a statement of the valuation.
- (4) The certificate may include other information.
- (5) The Commissioner must not give a valuation certificate to the applicant until:
- (a) the valuation has been completed; and
  - (b) the Commissioner has received the full amount of the fees payable for the valuation.



## **Division 31—Conservation covenants**

### **31-15.01 Valuation of land**

For section 31-15 of the Act, this Division sets out:

- (a) the procedure for seeking a valuation of the change in the market value of the land mentioned in that section; and
- (b) the fees that may be payable for the valuation; and
- (c) arrangements for the payment of fees.

Note: Section 31-15 of the Act applies to a person who enters into a conservation covenant over land owned by the person, if the conditions mentioned in subsection 31-5(2) of the Act are met. Subsection 31-15(1) provides that the person must seek a valuation of the change in the market value of the land from the Commissioner. Subsection 31-15(2) provides that the Commissioner may charge the person the amount worked out in accordance with the regulations for making the valuation.

### **31-15.02 Application for valuation**

An application for a valuation under subsection 31-15(1) of the Act must:

- (a) be in the approved form; and
- (b) be lodged with the Commissioner; and
- (c) include a copy of the conservation covenant; and
- (d) include the application fee required by the approved form, which must not be more \$1 000.

Note: Section 995-1 of the Act provides that **approved form** has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*. That section provides that an application under a taxation law is in the approved form if, and only if:

- (a) it is in the form approved in writing by the Commissioner for that kind of application; and
- (b) it contains a declaration signed by a person or persons as the form requires; and
- (c) it contains the information that the form requires, and any further information, statement or document as the Commissioner requires, whether in the form or otherwise.

### **31-15.03 Estimates of fees—request by applicant**

- (1) An applicant may ask the Commissioner for an estimate of the likely fee for the valuation.
- (2) If the Commissioner is asked for an estimate:
  - (a) the Commissioner must give the estimate as soon as practicable; and
  - (b) the Commissioner is not bound by the estimate.

### **31-15.04 Advance payment of fees**

- (1) The Commissioner may, within 14 days after receiving an application, give to the applicant a written statement:

### Regulation 31-15.05

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- (a) requiring the applicant to give to the Commissioner an advance payment of the fee that may be payable for the valuation; and
  - (b) stating the amount of the payment; and
  - (c) explaining how the amount was worked out.
- (2) The Commissioner may ask for more than 1 advance payment during the period mentioned in subregulation (1) from the same applicant.
- (3) The applicant must give to the Commissioner the advance payment within 14 days after receiving the statement asking for the payment.

#### **31-15.05 Commissioner not required to consider certain applications**

- (1) If the Commissioner is preparing an estimate of a fee under regulation 31-15.03, the Commissioner is not required to consider the application to which the estimate relates until the Commissioner has given the estimate to the applicant.
- (2) If the Commissioner has required the advance payment of a fee under regulation 31-15.04, the Commissioner is not required to consider the application to which the payment relates until the fee is paid.

#### **31-15.06 Applications treated as having no effect**

- (1) If an application for a valuation does not comply with regulation 31-15.02, the Commissioner must:
  - (a) treat the application as having no effect; and
  - (b) give to the applicant a written statement that the application is being treated that way.
- (2) If an application for a valuation does not include all of the application fee, the Commissioner must:
  - (a) treat the application as having no effect; and
  - (b) give to the applicant a written statement that the application is being treated that way.
- (3) If the Commissioner has required the advance payment of a fee under regulation 31-15.04, and the fee is not paid within the time mentioned in subregulation 31-15.04(3), the Commissioner must:
  - (a) treat the application to which the payment relates as having no effect after that time; and
  - (b) give to the applicant a written statement that the application is being treated that way.

Note: Subregulation 31-15.07(2) is relevant to an application that is treated as having no effect under subregulation (3).

#### **31-15.07 Fees for carrying out valuations**

- (1) The fee for carrying out a valuation is the actual cost of the valuation, including all costs of the Commissioner in obtaining the valuation.

Regulation 31-15.08

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- (2) If the Commissioner starts a valuation but the application for the valuation is withdrawn or treated as having no effect under subregulation 31-15.06(3), a fee representing the cost of the incomplete valuation is payable.

**31-15.08 Crediting and repaying valuation fees**

- (1) The application fee paid under regulation 31-15.02 is to be credited against the fee for the valuation.
- (2) An advance payment of a fee paid under regulation 31-15.04 is to be credited against the fee for the valuation.
- (3) The fee payable for the valuation is a debt due to the Commonwealth and recoverable in a court of competent jurisdiction.
- (4) However, if the total of advance payments of fees is more than the fee payable for the valuation, the Commissioner must pay the difference to the applicant as soon as practicable.

**31-15.09 Valuation certificates**

- (1) If the Commissioner completes a valuation, the Commissioner must give a valuation certificate to the applicant for the valuation.
- (2) The Commissioner must approve, in writing, 1 or more forms of a certificate.
- (3) The certificate must include the following information:
  - (a) the date on which the valuation was completed;
  - (b) a description of the land (including a lot and plan number, title reference and the location of the land);
  - (c) a statement of the market value of the land immediately before the conservation covenant was entered into;
  - (d) a statement of the market value of the land immediately after the conservation covenant was entered into;
  - (e) a statement of the difference between the market value mentioned in paragraph (c) and the market value mentioned in paragraph (d);
  - (f) a statement of the extent to which the difference mentioned in paragraph (e) is attributable to the conservation covenant being entered into.
- (4) The certificate may include other information.
- (5) The Commissioner must not give a valuation certificate to the applicant until:
  - (a) the valuation has been completed; and
  - (b) the Commissioner has received the full amount of the fees payable for the valuation.

## Regulation 50-50.01

**Division 50—Exempt entities****50-50.01 Prescribed institutions located outside Australia**

For the purposes of paragraph 50-50(1)(c) of the Act, each institution mentioned in an item in the following table is a prescribed institution on and after the date mentioned in the item:

<b>Item</b>	<b>Name of institution</b>	<b>Date of effect</b>
1	Catholic Bishops' Conference of the Pacific (Fiji)	1 July 1997
2	Catholic Diocese of Rarotonga (Cook Islands)	1 July 1997
3	Catholic Diocese of Bougainville (Papua New Guinea)	1 July 1997
4	Catholic Diocese of Port Vila (Vanuatu)	1 July 1997
5	Catholic Diocese of Suva (Fiji)	1 July 1997
6	Catholic Diocese of Noumea (New Caledonia)	1 July 1997
7	Catholic Diocese of Tonga	1 July 1997
8	Catholic Diocese of Auki (Solomon Islands)	1 July 1997
9	Catholic Archdiocese of Rabaul (Papua New Guinea)	18 August 2003
10	Diocese of Honiara Registered Trustees (Incorporated)	10 June 2005

**50-50.02 Prescribed institutions pursuing objectives principally outside Australia**

For the purposes of paragraph 50-50(1)(d) of the Act, each institution mentioned in an item in the following table, and each institution that is a member of that institution, is a prescribed institution for the period:

- (a) starting on the date specified in column 2 for the item; and
- (b) ending on the date specified (if any) in column 3 for the item.

<b>Prescribed institutions pursuing objectives principally outside Australia</b>			
<b>Item</b>	<b>Column 1 Name of institution</b>	<b>Column 2 Starting date</b>	<b>Column 3 Ending date</b>
1	Alkitab Inc	1 July 1997	
2	Asia-Pacific Christadelphian Bible Mission Incorporated	1 July 1997	
3	Australian Advisory Council of the Christian Leaders' Training College of Papua New Guinea	1 July 1997	
4	Australian Evangelical Alliance Incorporated (Missions Interlink)	1 July 1997	
5	Steer Incorporated	1 July 1997	
6	The Trustees of the Marist Missions of the Pacific	1 July 1997	
7	Zebedee Investments Limited	1 July 1997	

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<b>Prescribed institutions pursuing objectives principally outside Australia</b>			
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
	<b>Name of institution</b>	<b>Starting date</b>	<b>Ending date</b>
8	Millennium Relief and Development Services Incorporated	3 September 2001	
9	The MITRE Corporation	1 July 2016	30 June 2022

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**50-50.03 Prescribed sporting society, association or club**

For the purposes of paragraph 50-70(1)(c) of the Act, International Cricket Council Development (International) Limited is prescribed for the period that starts on 1 July 2013 and ends on 30 June 2018.

**50-55.01 Prescribed institutions for items 1.3, 1.4, 6.1 and 6.2 in Division 50**

For the purposes of paragraph 50-55(1)(c) of the Act, each institution mentioned in an item in the following table is a prescribed institution for the period:

- (a) starting on the date specified in column 2 for the item; and
- (b) ending on the date specified (if any) in column 3 for the item.

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<b>Prescribed institutions for items 1.3, 1.4, 6.1 and 6.2 in Division 50</b>			
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
	<b>Name of institution</b>	<b>Starting date</b>	<b>Ending date</b>
1	Kiribati Phoenix Islands Protected Area Conservation Trust	1 July 2015	30 June 2023

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## Division 51—Exempt amounts

### 51-5.01 Defence allowances

- (1) For the purposes of items 1.1 and 1.2 of section 51-5 of the Act, the following allowances are prescribed:
- (a) separation allowance paid on or after 28 June 2007 under the 2006 allowances determination;
  - (b) an allowance specified in an item of the following table and either:
    - (i) paid on or after 12 September 2013 under the specified provision of the 2013 allowances determination; or
    - (ii) paid on or after 1 July 2016 under the specified provision of the conditions determination.

Prescribed allowances		
Item	Column 1 Allowance	Column 2 Provision
1	Separation allowance	Division B.3 of the 2013 allowances determination
2	Disturbance allowance	Division 1 of Part 1 of Chapter 6 of the conditions determination
3	Rent allowance paid to a member without dependants or to a member with dependants (unaccompanied)	Division 1 of Part 8 of Chapter 7 of the conditions determination
4	Education assistance	Part 4 of Chapter 8 of the conditions determination
5	Transfer allowance	Division 3 of Part 3 of Chapter 14 of the conditions determination
6	Reimbursement of education costs for a child educated at the location of a member's long-term posting overseas	Part 6 of Chapter 15 of the conditions determination
7	Reimbursement of education costs for a child educated in Australia while the member is on a long-term posting overseas	Division 5 of Part 6 of Chapter 15 of the conditions determination
8	Deployment allowance	Division 1 of Part 7 of Chapter 17 of the conditions determination

- (2) In this regulation:

**2006 allowances determination** means *DFRT Determination No. 21 of 2006, Separation Allowance*, made under section 58H of the *Defence Act 1903*.

**2013 allowances determination** means *DFRT Determination No. 11 of 2013, ADF Allowances*, made under section 58H of the *Defence Act 1903*.

*conditions determination* means *Defence Determination 2016/19, Conditions of service*, made under section 58B of the *Defence Act 1903*.

### **51-42.01 Bonuses for early completion of an apprenticeship**

- (1) In this regulation:

*expected completion date* means the date on which an apprentice for a trade, occupation or kind of work would ordinarily be expected to complete an apprenticeship for that trade, occupation or kind of work.

*full-time apprentice* means an apprentice whose ordinary hours of employment in a trade, occupation or kind of work, incorporating both work and training components, are at least equal to those hours which are regarded as full-time for an apprentice in that trade, occupation or kind of work.

*part-time apprentice* means an apprentice whose ordinary hours of employment in a trade, occupation or kind of work, incorporating both work and training components, are less than those hours worked by a full-time apprentice in that industry, trade, occupation or kind of work.

- (2) For section 51-42 of the Act, the early completion bonus program administered by the Government of the State of Queensland is specified.

Note: Information about the early completion bonus program can be found at the following website <http://www.trainandemploy.qld.gov.au>.

- (3) For paragraph 51-42(2)(a) of the Act, version 3 of the eligible skill shortage occupation list dated 17 March 2008, which is administered by the Government of the State of Queensland and set out at <http://www.trainandemploy.qld.gov.au>, is specified.
- (4) For paragraph 51-42(2)(b) of the Act, the following timeframe is specified:
- (a) for a full-time apprentice—at least 6 months before the expected completion date;
  - (b) for a part-time apprentice—at least 12 months before the expected completion date.

## Division 61—Generally applicable tax offsets

### Subdivision 61-G—Private health insurance offset complementary to Part 2-2 of the Private Health Insurance Act 2007

#### 61-220.01 Definitions for Subdivision 61-G

In this Subdivision:

*complying health insurance policy* has the meaning given by the *Private Health Insurance Act 2007*.

*PHIIB* (short for *Private Health Insurance Incentive Beneficiary*) has the meaning given by the *Private Health Insurance Act 2007*.

*private health insurer* has the meaning given by the *Private Health Insurance Act 2007*.

#### 61-220.02 Private health insurer to provide annual statement to PHIIB if requested

- (1) If, during a financial year, a PHIIB insured during an earlier financial year under a complying health insurance policy by a private health insurer requests a statement about that policy for that earlier year, the private health insurer must provide a statement in accordance with this regulation.
- (1A) The statement must be in the approved form, and provided to the PHIIB within 14 days after the day the request is given.

Note: For *approved form*, see section 995-1 of the Act.

- (2) The statement may include information in relation to the following:
  - (a) the complying health insurance policy held by the PHIIB and payments made under the policy;
  - (b) the premium, or amounts in respect of the premium, paid during the earlier financial year in relation to the policy;
  - (c) any reductions of the premium payable, or an amount payable, during the earlier financial year.



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**Division 70—Trading stock**

**70-55.01 Cost of natural increase of live stock—paragraph 70-55(1)(b) of Act**

For paragraph 70-55(1)(b) of the Act, the cost prescribed for each animal in a class of live stock set out in column 1 of the following table is the amount applicable to that class in column 2 of the table.

<b>Column 1</b> <b>Class of live stock</b>	<b>Column 2</b> <b>Cost</b> <b>\$</b>
cattle	20.00
deer	20.00
emus	8.00
goats	4.00
horses	20.00
pigs	12.00
poultry	0.35
sheep	4.00

## Division 83A—Employee share schemes

### 83A-5.01 Object of Division 83A

For Division 83A of the Act, this Division preserves rules under the former Division 13A of Part III of the *Income Tax Assessment Act 1936* about valuing unlisted rights to acquire shares under an employee share scheme.

#### 83A-315.01 Determining the value of a right

- (1) For subsection 83A-315 of the Act, the amount, in relation to an unlisted right that must be exercised within 15 years after the day when the beneficial interest in the right was acquired is, at the choice of the individual:
  - (a) the market value of the right; or
  - (b) the amount determined by the application of regulations 83A-315.02 to 83A-315.09.
- (2) However, if the ESS deferred taxing point for an ESS interest is:
  - (a) the day when the individual disposes of the interest (other than by exercising the right); or
  - (b) if the individual exercises the right—the day when the individual disposes of the beneficial interest in the share;the amount is the market value of the right or share.

#### 83A-315.02 Valuing unlisted rights

- (1) If a right is not quoted on an approved stock exchange on a particular day, the value of the right is the greater of:
  - (a) the market value, on the day, of the share that may be acquired by exercising the right, less the lowest amount that must be paid to exercise the right to acquire the beneficial interest in the share; and
  - (b) subject to regulation 83A-315.03, the value determined in accordance with regulations 83A-315.05 to 83A-315.09.
- (2) In determining the value of a right, anything that would prevent or restrict conversion of the right to money is to be disregarded.

#### 83A-315.03 Exercise price of right nil or can not be determined

If the lowest amount that must be paid to exercise a right to acquire a beneficial interest in a share is nil or can not be determined, the value of the right on a particular day is the same as the market value of the share on that day.

#### 83A-315.04 Value of beneficial interests

To avoid doubt, if an individual acquires the beneficial interest in a share or right, the value that is applicable for the purposes of this Division is the value of the share or right, not the value of the interest in the share or right.

### 83A-315.05 Outline of remainder of Division

The remainder of this Division sets out the method of calculating, for the purposes of paragraph 83A-315.02(1)(b) the value, on a particular day, of a right to acquire the beneficial interest in a share.

### 83A-315.06 Step 1—calculate the calculation percentage

Apply the following formula. The result is the *calculation percentage*.

$$\frac{\text{Market value, on the particular day, of the share that is the subject of the right}}{\text{Amount, or lowest amount, that must be paid to exercise the right}} \times 100\%$$

### 83A-315.07 Step 2—how to use calculation percentage

- (1) If the calculation percentage is less than 50%, the *value of the right* is nil.
- (2) If the calculation percentage is equal to, or greater than, 50% but less than 110%, go to the instructions for using Table 1 in regulation 83A-315.08 that are set out below that Table.
- (3) If the calculation percentage is equal to, or greater than, 110%, go to the instructions for using Table 2 in regulation 83A-315.09 that are set out below that Table.

### 83A-315.08 Table 1 and instructions

- (1) The following table sets out the Table 1 percentages for calculation percentages of 50% or more and less than 110%.

<b>Table 1—Table 1 percentages</b>							
<b>Calculation percentage 50% to 92.5%</b>							
<b>Exercise period (months)</b>	<b>Calculation percentage (%)</b>						
	<b>50 to 60</b>	<b>60 to 70</b>	<b>70 to 75</b>	<b>75 to 80</b>	<b>80 to 85</b>	<b>85 to 90</b>	<b>90 to 92.5</b>
168 to 180	0.5%	1.3%	2.6%	3.5%	4.6%	5.8%	7.1%
156 to 168	0.4%	1.2%	2.5%	3.4%	4.4%	5.7%	7.1%
144 to 156	0.4%	1.0%	2.3%	3.2%	4.3%	5.5%	7.0%
132 to 144	0.3%	0.9%	2.2%	3.0%	4.1%	5.4%	6.8%
120 to 132	0.2%	0.8%	2.0%	2.8%	3.9%	5.2%	6.6%
108 to 120	0.2%	0.7%	1.8%	2.6%	3.7%	4.9%	6.4%
96 to 108	0.1%	0.6%	1.6%	2.4%	3.4%	4.6%	6.1%
84 to 96	0.1%	0.4%	1.3%	2.1%	3.0%	4.3%	5.8%
72 to 84	0.1%	0.3%	1.1%	1.7%	2.7%	3.9%	5.4%
60 to 72	0.0%	0.2%	0.8%	1.4%	2.2%	3.4%	4.9%

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**Table 1—Table 1 percentages**

**Calculation percentage 50% to 92.5%**

Exercise period (months)	Calculation percentage (%)						
	50 to 60	60 to 70	70 to 75	75 to 80	80 to 85	85 to 90	90 to 92.5
48 to 60	0.0%	0.1%	0.5%	1.0%	1.7%	2.8%	4.2%
36 to 48	0.0%	0.0%	0.3%	0.6%	1.2%	2.1%	3.4%
24 to 36	0.0%	0.0%	0.1%	0.3%	0.6%	1.3%	2.4%
18 to 24	0.0%	0.0%	0.0%	0.1%	0.3%	0.9%	1.8%
12 to 18	0.0%	0.0%	0.0%	0.0%	0.1%	0.4%	1.1%
9 to 12	0.0%	0.0%	0.0%	0.0%	0.1%	0.2%	0.8%
6 to 9	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.4%
3 to 6	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%
0 to 3	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

**Calculation percentage 92.5% to less than 110%**

Exercise period (months)	Calculation percentage (%)						
	92.5 to 95	95 to 97.5	97.5 to 100	100 to 102.5	102.5 to 105	105 to 107.5	107.5 to less than 110
168 to 180	7.9%	8.6%	9.4%	10.3%	11.2%	12.2%	13.3%
156 to 168	7.8%	8.6%	9.4%	10.3%	11.2%	12.2%	13.3%
144 to 156	7.7%	8.5%	9.4%	10.3%	11.2%	12.2%	13.3%
132 to 144	7.6%	8.4%	9.3%	10.2%	11.2%	12.2%	13.3%
120 to 132	7.5%	8.3%	9.2%	10.2%	11.2%	12.2%	13.3%
108 to 120	7.2%	8.1%	9.1%	10.0%	11.1%	12.1%	13.3%
96 to 108	7.0%	7.9%	8.8%	9.8%	10.9%	12.0%	13.2%
84 to 96	6.6%	7.6%	8.5%	9.6%	10.7%	11.8%	13.0%
72 to 84	6.2%	7.2%	8.2%	9.2%	10.4%	11.6%	12.8%
60 to 72	5.7%	6.7%	7.7%	8.8%	9.9%	11.2%	12.5%
48 to 60	5.1%	6.0%	7.0%	8.2%	9.4%	10.7%	12.1%
36 to 48	4.2%	5.2%	6.2%	7.4%	8.6%	10.0%	11.4%
24 to 36	3.2%	4.1%	5.1%	6.3%	7.6%	9.0%	10.5%
18 to 24	2.5%	3.4%	4.4%	5.5%	6.8%	8.3%	9.9%
12 to 18	1.7%	2.5%	3.4%	4.6%	6.0%	7.5%	9.2%
9 to 12	1.3%	2.0%	2.9%	4.0%	5.4%	7.0%	8.8%
6 to 9	0.8%	1.4%	2.2%	3.3%	4.7%	6.4%	8.3%
3 to 6	0.3%	0.6%	1.3%	2.4%	3.8%	5.7%	7.8%
0 to 3	0.0%	0.1%	0.5%	1.4%	3.0%	5.1%	7.5%

- (2) From Table 1, select the percentage (the *Table 1 percentage*) that corresponds to:
- (a) the period, in months, from the particular day until the last day on which the right may be exercised (the *exercise period*); and

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(b) the calculation percentage;  
and then multiply the amount, or lowest amount, that must be paid to exercise the right by the Table 1 percentage. The result is the **value of the right**.

Note: The following assumptions were used to work out the Table 1 percentages:

- (a) a risk-free interest rate of 4%;
- (b) a dividend yield of 4%;
- (c) volatility of 12%.

(3) If, in relation to a particular right:  
(a) the exercise period; or  
(b) the calculation percentage;  
is the top of one range in Table 1 and is also the bottom of another range in the table, it is taken to be in the lower range and not in the higher range.

**83A-315.09 Table 2 and instructions**

(1) The following table sets out the base percentages for calculation percentages of 110% or more.

<b>Table 2—Base percentages</b>		
<b>Exercise period (months)</b>	<b>Column 1</b>	<b>Column 2</b>
168 to 180	13.3%	0.5%
156 to 168	13.3%	0.5%
144 to 156	13.3%	0.5%
132 to 144	13.3%	0.6%
120 to 132	13.3%	0.6%
108 to 120	13.3%	0.6%
96 to 108	13.2%	0.6%
84 to 96	13.0%	0.6%
72 to 84	12.8%	0.7%
60 to 72	12.5%	0.7%
48 to 60	12.1%	0.7%
36 to 48	11.4%	0.8%
24 to 36	10.5%	0.8%
18 to 24	9.9%	0.8%
12 to 18	9.2%	0.9%
9 to 12	8.8%	0.9%
6 to 9	8.3%	0.9%
3 to 6	7.8%	0.9%
0 to 3	7.5%	1.0%

(2) From column 1 of Table 2, select the percentage that corresponds to the period, in months, from the particular day until the last day on which the right may be exercised (the **exercise period**). This percentage is called the **base percentage**.

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Note: The following assumptions were used to work out the base percentages:

- (a) a risk-free interest rate of 4%;
- (b) a dividend yield of 4%;
- (c) volatility of 12%.

- (3) From column 2 of Table 2, select the percentage that corresponds to the exercise period. This percentage is called *the additional percentage*.
- (4) Work out the result of the following formula. Disregard any fraction. The result is called the *excess*.

$$100 \times \left[ \frac{\text{Calculation}}{\text{percentage}} - 110\% \right]$$

- (5) The value of the right is the amount worked out using the following formula:

$$\frac{\text{Amount or lowest amount that must be paid to exercise the right}}{\text{percentage}} \times \left[ \frac{\text{Base}}{\text{percentage}} + \left( \text{Excess} \times \frac{\text{Additional}}{\text{percentage}} \right) \right]$$

- (6) If the exercise period is the top of one range in Table 2 and is also the bottom of another range in the table, it is taken to be in the lower range and not in the higher range.

## **Part 2A—Specialist liability rules**

### **Division 230—Taxation of financial arrangements**

#### **230-355.01 Recording requirements**

For paragraph 230-355(3)(b) of the Act, the record mentioned in paragraph 230-355(1)(c) of the Act must be made or in place by the later of:

- (a) the time, or soon after the time, the hedging financial arrangement is created, acquired or applied; and
- (b) 30 June 2011.

## **Division 290—Contributions to superannuation funds**

### **Subdivision 290-C—Deducting personal contributions**

#### **290-155.01 Complying superannuation fund condition—prescribed superannuation funds**

A superannuation fund is prescribed for the purposes of subparagraph 290-155(1)(a)(iii) of the Act if:

- (a) the fund has one or more members that have a superannuation interest in the fund that is a defined benefit interest; and
- (b) the trustee of the fund elects to have this regulation apply to the fund; and
- (c) the election:
  - (i) is made before the start of the income year of the fund in which the contribution is made; and
  - (ii) is not revoked before the start of that year; and
  - (iii) is made by notifying the Commissioner in the approved form.

#### **290-155.05 Complying superannuation fund condition—prescribed contributions and superannuation funds**

For the purposes of paragraph 290-155(1)(b) of the Act, a contribution to a superannuation fund is a prescribed kind of contribution to a prescribed kind of fund if:

- (a) the contribution is made to a defined benefit interest in the fund; and
- (b) the trustee of the fund elects to have this regulation apply to the fund; and
- (c) the election:
  - (i) is made before the start of the income year of the fund in which the contribution is made; and
  - (ii) is not revoked before the start of that year; and
  - (iii) is made by notifying the Commissioner in the approved form.

#### **290-170.01 Notice of intent to deduct contributions—contributions-splitting applications**

For subparagraph 290-170(2)(d)(i) of the Act, each of the following is a contributions-splitting application:

- (a) an application under regulation 6.44 of the SIS Regulations;
- (b) an application under regulation 4.41 of the RSA Regulations;
- (c) an application to deal with an amount in a way that would result in the amount becoming a contributions-splitting superannuation benefit in accordance with the SIS Regulations or the RSA Regulations.



## **Division 291—Excess concessional contributions**

### **Subdivision 291-B—Excess concessional contributions**

#### **291-25.01 Concessional contributions for a financial year**

- (1) For subsection 291-25(3) of the Act, this regulation sets out conditions for the purpose of allocating an amount in a complying superannuation plan.
- (2) Subject to subregulation (3), an amount that is:
  - (a) allocated under Division 7.2 of the SIS Regulations; and
  - (b) an assessable contribution under Subdivision 295-C of the Act;is to be treated as having been allocated by the superannuation provider in a way that is covered by subsection 291-25(3) of the Act.
- (3) Each of the following amounts is to be treated as not having been allocated by the superannuation provider in a way that is covered by subsection 291-25(3) of the Act, even if subregulation (2) would also apply to the amount:
  - (a) an amount mentioned in item 2 of the table in subsection 295-190(1) of the Act;
  - (b) an amount mentioned in subsection 295-200(2) of the Act.
- (4) An amount that is allocated from a reserve, other than an amount that is covered by subregulation (2), is to be treated as having been allocated by the superannuation provider in a way that is covered by subsection 291-25(3) of the Act:
  - (a) unless:
    - (i) the amount is allocated, in a fair and reasonable manner:
      - (A) to an account for every member of the complying superannuation plan; or
      - (B) if the member is a member of a class of members of the complying superannuation plan, and the amount in the reserve relates only to that class of members—to an account for every member of the class; and
    - (ii) the amount that is allocated for the financial year is less than 5% of the value of the member's interest in the complying superannuation plan at the time of allocation; or
  - (b) unless:
    - (i) the amount is allocated from a reserve used solely for the purpose of enabling the fund to discharge all or part of its liabilities (contingent or not), as soon as they become due, in respect of superannuation income stream benefits that are payable by the fund at that time; and
    - (ii) any of the following applies:
      - (A) the amount has been allocated to satisfy a pension liability of the plan paid during the financial year;

**Part 2A** Specialist liability rules

**Division 291** Excess concessional contributions

**Regulation 291-25.01**

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- (B) on the commutation of the income stream, except as a result of the death of the primary beneficiary, the amount is allocated to the recipient of the income stream, to commence another income stream, as soon as practicable;
  - (C) on the commutation of the income stream as a result of the death of the primary beneficiary, the amount:
    - (I) is allocated to a death benefits dependant to discharge liabilities in respect of a superannuation income stream benefit that is payable by the plan as a result of the death; or
    - (II) if sub-sub-subparagraph (I) does not apply—is paid as a superannuation lump sum and as a superannuation death benefit;  
as soon as practicable.
- (5) Paragraph (4)(a) does not apply to an amount that:
- (a) is required to be allocated under subregulation (2); or
  - (b) would be assessable income of the plan if it were made as a contribution.
- (6) If the amount has been allocated from a reserve in lieu of a contribution to the fund (less any allowance for tax) which would have been assessable income of the fund, the amount that is allocated is to be multiplied by 1.176.

*Example:* An employer has an obligation to make a \$1 000 contribution. Instead of the employer making a contribution to the fund, the trustee allocates \$850 to the member's account (which is an amount equivalent to the amount that would be credited to the account after tax was paid).

For subregulation (6), the amount of \$850 is to be multiplied by 1.176 to work out the amount that is taken to be allocated.

## **Division 292—Excess non-concessional contributions**

### **Subdivision 292-C—Excess non-concessional contributions tax**

#### **292-90.01 Non-concessional contributions for a financial year**

- (1) For paragraph 292-90(4)(a) of the Act, this regulation sets out conditions for the purpose of allocating an amount in a complying superannuation plan.

Note: The effect of paragraph 292-90(4)(a) of the Act is that an amount is covered under that subsection if it is an amount in a complying superannuation plan that is allocated by the superannuation provider in relation to the plan for the year in accordance with conditions specified in the Regulations.

- (2) Subject to subregulation (3), an amount that:
- (a) is allocated under Division 7.2 of the SIS Regulations; and
  - (b) is not assessable contributions under Subdivision 295-C of the Act;
- is to be treated as having been allocated by the superannuation provider in a way that is covered by paragraph 292-90(4)(a) of the Act.
- (3) Each of the following amounts is to be treated as not having been allocated by the superannuation provider in a way that is covered by paragraph 292-90(4)(a) of the Act, even if subregulation (2) would also apply to the amount:
- (a) a Government co-contribution made under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;
  - (b) a contribution covered under section 292-95 of the Act;
  - (c) a contribution covered under section 292-100 of the Act, to the extent that it does not exceed the CGT cap amount when it is made;
  - (d) a contribution made to a constitutionally protected fund (other than a contribution included in the contributions segment of the member's superannuation interest in the fund);
  - (e) contributions not included in the assessable income of the superannuation provider in relation to the superannuation plan because of a choice made under section 295-180 of the Act;
  - (f) a contribution that is a roll-over superannuation benefit;
  - (g) the tax free component of a directed termination payment (within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*) made in the financial year on behalf of the member.

### **Subdivision 292-D—Modifications for defined benefit interests**

#### **292-170.01 Definitions**

In this Subdivision:

***employer-sponsor*** has the meaning given by subsection 16(1) of the SIS Act.

***RSE licensee*** has the same meaning as in the SIS Act.

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**sub-fund**, in relation to a defined benefit member of a superannuation fund, means an arrangement in the fund which satisfies the following conditions:

- (a) there are separately identifiable assets and separately identifiable beneficiaries;
- (b) the interest of each beneficiary is determined by reference only to the conditions governing that arrangement;
- (c) all defined benefit members have the same employer-sponsor;
- (d) the employer-sponsor deals with each of the defined benefit members at arm's length.

**superannuation fund** includes a reference to a sub-fund relating to a defined benefit member or defined benefit members of the fund.

**292-170.02 Notional taxed contributions—contributions for funds with 5 or more defined benefit members**

- (1) For subsection 292-170(1) of the Act, this regulation explains the meaning of **notional taxed contributions** for a financial year in respect of the defined benefit interest of a member of a superannuation fund:
  - (a) that has 5 or more defined benefit members; or
  - (b) to which subregulation (3), (4), (5) or (6) applies.
- (2) The notional taxed contributions are the contributions that are determined by the trustee to be notional taxed contributions, using the method set out in Schedule 1A.
- (3) If a superannuation fund has 5 or more defined benefit members on 1 July 2007, subregulation (2) is taken to continue to apply in relation to the fund even if the number of defined benefit members of the fund becomes less than 5 at any time on or after 1 July 2007.
- (4) If:
  - (a) a superannuation fund had 5 or more defined benefit members at any time before 1 July 2007; and
  - (b) the fund had fewer than 5 defined benefit members on 1 July 2007; and
  - (c) the fund had been in existence for 5 or more years at 1 July 2007; and
  - (d) the trustee of the fund is an RSE licensee; and
  - (e) the employer-sponsor deals with each of the defined benefit members at arm's length;subregulation (2) is taken to apply in relation to the fund.
- (5) If:
  - (a) a superannuation fund (**fund 1**) satisfies the conditions in subregulation (3) or (4); and
  - (b) the defined benefit members of the fund are transferred to another fund (**fund 2**) on or after 1 July 2007 (whether directly or through a series of transfers between superannuation funds); and
  - (c) the trustee of fund 2 is an RSE licensee; and

- (d) the employer-sponsor deals with each of the defined benefit members of fund 2 at arm's length;
- subregulation (2) is taken to apply in relation to fund 2.
- (6) If:
- (a) a superannuation fund has no defined benefit members on 30 June 2007; and
  - (b) a person becomes a defined benefit member of the fund after that date;
- subregulation (2) is taken not to apply in relation to the fund unless the number of defined benefit members (including the person) is at least 50 and the employer-sponsor of the fund deals with each of the defined benefit members at arm's length.

**292-170.03 Notional taxed contributions—contributions for funds where regulation 292-170.02 does not apply**

- (1) For subsection 292-170(1) of the Act, this regulation explains the meaning of ***notional taxed contributions*** for a financial year in respect of the defined benefit interest of a member of a superannuation fund if regulation 292-170.02 does not apply.
- (2) If the trustee receives a contribution in a month, the trustee must allocate the contribution to a member of the fund:
  - (a) within 28 days after the end of the month; or
  - (b) if it is not reasonably practicable to comply with paragraph (a)—within a longer period that is reasonable in the circumstances.
- (3) For subregulation (2), the trustee must allocate the contribution having regard to the present and prospective liabilities of the fund to its members.
- (4) The notional taxed contributions are the amounts of assessable contributions under Subdivision 295-C of the Act which have been allocated to the member in the financial year.
- (5) An amount that is allocated from a reserve is to be treated as having been allocated by the superannuation provider in a way that is covered by subsection 291-25(3) of the Act unless:
  - (a) the amount is allocated from a reserve used solely for the purpose of enabling the fund to discharge all or part of its liabilities (contingent or not), as soon as they become due, in respect of superannuation income stream benefits that are payable by the fund at that time; and
  - (b) any of the following applies:
    - (i) the amount has been allocated to satisfy a pension liability of the plan paid during the financial year;
    - (ii) on the commutation of the income stream, except as a result of the death of the primary beneficiary, the amount is allocated to the recipient of the income stream, to commence another income stream, as soon as practicable;

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- (iii) on the commutation of the income stream as a result of the death of the primary beneficiary, the amount:
  - (A) is allocated to a death benefits dependant to discharge liabilities in respect of a superannuation income stream benefit that is payable by the plan as a result of the death; or
  - (B) if sub-subparagraph (A) does not apply—is paid as a superannuation lump sum and as a superannuation death benefit;as soon as practicable.

- (6) If the amount has been allocated from a reserve in lieu of a contribution to the fund (less any allowance for tax) which would have been assessable income of the fund, the amount that is allocated is to be multiplied by 1.176.

Example: An employer has an obligation to make a \$1 000 contribution. Instead of the employer making a contribution to the fund, the trustee allocates \$850 to the member's account (which is an amount equivalent to the amount that would be credited to the account after tax was paid).

For subregulation (6), the amount of \$850 is to be multiplied by 1.176 to work out the amount that is taken to be allocated.

**292-170.04 Notional taxed contributions—nil amount**

- (1) For subsection 292-170(4) of the Act, this regulation sets out circumstances in which the amount of the notional taxed contributions for a financial year in respect of the defined benefit interest of a member of a superannuation fund is nil.
- (2) A circumstance is that:
  - (a) the defined benefit interest is held in a public sector superannuation scheme; and
  - (b) none of the interest is sourced to any extent from:
    - (i) contributions made into a superannuation fund; or
    - (ii) earnings on such contributions;unless the interest is an element taxed in the fund that is attributable to 1 or more roll-over superannuation benefits.
- (3) A circumstance is that, for the whole of the financial year:
  - (a) subregulation 292-170.02(2) applied, or was taken to have applied, in relation to the superannuation fund; and
  - (b) the member was a non-accruing member of the fund for the financial year (see subregulations (4) to (6)).
- (4) The member was a non-accruing member of the fund for the financial year if the member had no membership of the fund during the financial year other than membership as:
  - (a) an on-hold member; or
  - (b) a pensioned member.

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Note: A person could be an on-hold member of a fund for part of a financial year, and a pensioned member of the fund for another part of the financial year.

- (5) The member was an ***on-hold member*** of the fund if:
- (a) the member had a benefit entitlement in the fund, but no employer-provided benefits accrued to the member; and
  - (b) the rules of the fund provided that the benefit:
    - (i) was not to increase in nominal terms; or
    - (ii) was to increase at a rate reflecting general price increases (for example, in accordance with the Consumer Price Index); or
    - (iii) was to increase at a rate reflecting the general level of salary growth or salary growth for relevant fund membership (for example, in accordance with average weekly earnings, or average weekly ordinary time earnings, published by the Australian Statistician); or
    - (iv) was to increase at the rate (if any) at which the salary on which the member's benefit was based increased; or
    - (v) was to increase at a rate reflecting the earning rate of the assets of the fund or the part of the fund to which the member belonged; or
    - (vi) in the case of a deferred benefit—was to increase at a rate reflecting any reduction in the expected period in which pension payments were to be made and any deferral of the date when payments would start; or
    - (vii) was to increase at a regular rate, or a rate worked out using a formula, that an actuary considered would not result in an increase that was more than the greatest of the increases mentioned in subparagraphs (i) to (vi).
- (5A) The member was a ***pensioned member*** of the fund if:
- (a) the member's membership of the fund consisted only of the member receiving pension payments from the superannuation fund; and
  - (b) any of the following applied:
    - (i) the pension payments were always the same amount;
    - (ii) the pension payments were paid from an account that related only to the member, and no employer contributions were paid to the account for the benefit of the member;
    - (iii) the pension payments increased at rates that were consistent with the rates prescribed under the rules of the fund that applied when the pension commenced to be paid.
- (6) For the purposes of determining whether a defined benefit member is a non-accruing member of the fund for a period, any employer contributions paid to the fund for the period to meet partially, or wholly, unfunded benefit liabilities of the fund are not to be treated as employer contributions for the benefit of the member for the period.

**292-170.05 Notional taxed contributions—other conditions  
(paragraph 292-170(6)(d) of the Act)**

- (1) For paragraph 292-170(6)(d) of the Act, this regulation:
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- (a) applies in relation to a superannuation fund in relation to which subregulation 292-170.02(2) applies, or is taken to apply; and
- (b) sets out the conditions that are to be satisfied in relation to establishing whether notional taxed contributions for a financial year in respect of a defined benefit interest are equal to the concessional contributions cap for the financial year.

Note: Subsection 292-170(6) of the Act explains when a member's notional taxed contributions for the financial year in respect of a defined benefit interest are equal to the concessional contributions cap for the financial year. This includes satisfying conditions specified in the Regulations.

- (2) A condition is that between 5 September 2006 and the time at which the new entrant rate for the defined benefit member is worked out using Schedule 1A:
  - (a) the rules of the superannuation fund have not changed to improve the member's benefit; and
  - (b) either:
    - (i) the member has not moved to a new benefit category; or
    - (ii) if the member has moved to a new benefit category, the new benefit category does not provide the member with an improved level of benefit.
- (3) A condition is that the new entrant rate for the defined benefit member, as worked out using Schedule 1A:
  - (a) has not increased since it was first worked out using Schedule 1A; or
  - (b) has increased since it was first worked out using Schedule 1A only as a result of a change to the rules of the superannuation fund that increases a benefit as a result of a change that is made to satisfy the requirements of the *Superannuation Guarantee (Administration) Act 1992*.
- (4) A condition is that the method of calculating superannuation salary:
  - (a) has not been changed, in a way that would increase the salary, since 5 September 2006; or
  - (b) has changed since 5 September 2006 only as a result of a change to the rules of the superannuation fund that increases a benefit as a result of a change that is made to satisfy the requirements of the *Superannuation Guarantee (Administration) Act 1992*.
- (5) If the rate of superannuation salary has increased, since 5 September 2006, by:
  - (a) more than 50% in 1 year; or
  - (b) more than 75% over 3 years;a condition is that the employer-sponsor advises the trustee that the increase in the rate is on an arm's length basis.
- (6) A condition is that the trustee or employer-sponsor of the superannuation fund has not exercised a discretion to pay a benefit that is greater than the benefit that was assumed for the purpose of calculating the new entrant rate since 5 September 2006.



- (7) For subregulation (5), a trustee must notify the Commissioner, in writing, of an increase in the rate of superannuation salary that exceeds the rate specified in paragraph (5)(a) or (b) as soon as practicable after the increase occurs.
- (8) If:
- (a) a condition mentioned in paragraph (2)(b) or subregulation (3) is not satisfied; and
  - (b) the condition was not satisfied only because:
    - (i) the defined benefit member moved to a new benefit category; and
    - (ii) the move was caused by the necessary application of the rules of the superannuation fund that were, or of legislation that was, in force on 5 September 2006; and
    - (iii) the member had no control over the application of the rules or legislation;
- the failure to satisfy the condition is to be disregarded in determining if the conditions of this regulation have been satisfied.

**292-170.06 Notional taxed contributions—other conditions  
(subparagraph 292-170(7)(e)(ii) of the Act)**

- (1) For subparagraph 292-170(7)(e)(ii) of the Act, this regulation:
- (a) applies in relation to a superannuation fund in relation to which subregulation 292-170.02(2) applies, or is taken to apply; and
  - (b) sets out the conditions that are to be satisfied in relation to establishing whether notional taxed contributions for a financial year in respect of a defined benefit interest are equal to the concessional contributions cap for the financial year.

Note: Subsection 292-170(7) of the Act explains when a member's notional taxed contributions for the financial year in respect of a defined benefit interest that has been transferred to another fund are equal to the concessional contributions cap for the financial year. This includes satisfying conditions specified in the Regulations.

- (2) A condition is that between 5 September 2006 and the time at which the new entrant rate for the defined benefit member is worked out using Schedule 1A:
- (a) the rules of the superannuation fund have not changed to improve the member's benefit; and
  - (b) either:
    - (i) the member has not moved to a new benefit category; or
    - (ii) if the member has moved to a new benefit category, the new benefit category does not provide the member with an improved level of benefit.
- (3) A condition is that the new entrant rate for the defined benefit member, as worked out using Schedule 1A:
- (a) has not increased since it was first worked out using Schedule 1A; or
  - (b) has increased since it was first worked out using Schedule 1A only as a result of a change to the rules of the superannuation fund that increases a

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benefit as a result of a change that is made to satisfy the requirements of the *Superannuation Guarantee (Administration) Act 1992*.

- (4) A condition is that the method of calculating superannuation salary:
- (a) has not been changed, in a way that would increase the salary, since 5 September 2006; or
  - (b) has changed since 5 September 2006 only as a result of a change to the rules of the superannuation fund that increases a benefit as a result of a change that is made to satisfy the requirements of the *Superannuation Guarantee (Administration) Act 1992*.
- (5) If the rate of superannuation salary has increased, since 5 September 2006, by:
- (a) more than 50% in 1 year; or
  - (b) more than 75% over 3 years;
- a condition is that the employer-sponsor advises the trustee that the increase in the rate is on an arm's length basis.
- (6) A condition is that the trustee or employer-sponsor of the superannuation fund has not exercised a discretion to pay a benefit that is greater than the benefit that was assumed for the purpose of calculating the new entrant rate since 5 September 2006.
- (7) For subregulation (5), a trustee must notify the Commissioner, in writing, of an increase in the rate of superannuation salary that exceeds the rate specified in paragraph (5)(a) or (b) as soon as practicable after the increase occurs.
- (8) If:
- (a) a condition mentioned in paragraph (2) b) or subregulation (3) is not satisfied; and
  - (b) the condition was not satisfied only because:
    - (i) the defined benefit member moved to a new benefit category; and
    - (ii) the move was caused by the necessary application of the rules of the superannuation fund that were, or of legislation that was, in force on 5 September 2006; and
    - (iii) the member had no control over the application of the rules or legislation;
- the failure to satisfy the condition is to be disregarded in determining if the conditions of this regulation have been satisfied.

**292-170.07 Notional taxed contributions—other conditions  
(paragraph 292-170(8)(d) of the Act)**

- (1) For paragraph 292-170(8)(d) of the Act, this regulation:
- (a) applies to a superannuation fund if a defined benefit member of the fund is a person to whom subregulation 292-170.02(2) applies, or is taken to apply; and
  - (b) sets out the conditions that are to be satisfied in relation to establishing whether the defined benefit member's notional taxed contributions for a

financial year for a defined benefit interest are equal to the concessional contributions cap for the financial year.

Note: Subsection 292-170(8) of the Act explains when a member's notional taxed contributions for the financial year, in respect of a defined benefit interest, are equal to the concessional contributions cap for the financial year. This includes satisfying conditions specified in the Regulations.

- (2) A condition is that the new entrant rate for the defined benefit member, as worked out using Schedule 1A:
  - (a) has not increased since 12 May 2009; or
  - (b) has increased since 12 May 2009 only as a result of a change to the rules of the superannuation fund that increases a benefit as a result of a change made to satisfy the requirements of the *Superannuation Guarantee (Administration) Act 1992*.
- (3) A condition is that the method of calculating superannuation salary:
  - (a) has not been changed, in a way that would increase the member's salary, since 12 May 2009; or
  - (b) has changed since 12 May 2009 only as a result of a change to the rules of the superannuation fund that increases a benefit as a result of a change made to satisfy the requirements of the *Superannuation Guarantee (Administration) Act 1992*.
- (4) If the rate of superannuation salary has increased, since 12 May 2009, by:
  - (a) more than 50% in 1 year; or
  - (b) more than 75% over 3 years;a condition is that the employer-sponsor advises the trustee that the increase in the rate is on an arm's length basis.
- (5) A condition is that the trustee or employer-sponsor of the superannuation fund has not exercised a discretion to pay a benefit that is greater than the benefit that was assumed for the purpose of calculating the new entrant rate since 12 May 2009.
- (6) For subregulation (4), a trustee must notify the Commissioner, in writing, of an increase in the rate of superannuation salary that exceeds the rate specified in paragraph (4)(a) or (b) as soon as practicable after the increase occurs.
- (7) If:
  - (a) a condition mentioned in subregulation (2) is not satisfied; and
  - (b) the condition was not satisfied only because:
    - (i) the defined benefit member moved to a new benefit category; and
    - (ii) the move was caused by the necessary application of the rules of the superannuation fund that were, or of legislation that was, in force on 5 September 2006; and
    - (iii) the member had no control over the application of the rules or legislation;

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the failure to satisfy the condition is to be disregarded in determining if the conditions of this regulation have been satisfied for the 2009–2010 financial year and subsequent financial years.

**292-170.08 Notional taxed contributions—other conditions  
(subparagraph 292-170(9)(e)(ii) of the Act)**

- (1) For subparagraph 292-170(9)(e)(ii) of the Act, this regulation:
- (a) applies to a superannuation fund if a defined benefit member of the fund is a person to whom subregulation 292-170.02(2) applies, or is taken to apply; and
  - (b) sets out the conditions that are to be satisfied in relation to establishing whether notional taxed contributions for a financial year for a defined benefit interest are equal to the concessional contributions cap for the financial year.

Note: Subsection 292-170(9) of the Act explains when a member's notional taxed contributions for the financial year, in respect of a defined benefit interest that has been transferred to another fund, are equal to the concessional contributions cap for the financial year. This includes satisfying conditions specified in the Regulations.

- (2) A condition is that the new entrant rate for the defined benefit member, as worked out using Schedule 1A:
- (a) has not increased since 12 May 2009; or
  - (b) has increased since 12 May 2009 only as a result of a change to the rules of the superannuation fund that increases a benefit as a result of a change made to satisfy the requirements of the *Superannuation Guarantee (Administration) Act 1992*.
- (3) A condition is that the method of calculating superannuation salary:
- (a) has not been changed, in a way that would increase the salary, since 12 May 2009 or
  - (b) has changed since 12 May 2009 only as a result of a change to the rules of the superannuation fund that increases a benefit as a result of a change made to satisfy the requirements of the *Superannuation Guarantee (Administration) Act 1992*.
- (4) If the rate of superannuation salary has increased, since 12 May 2009, by:
- (a) more than 50% in 1 year; or
  - (b) more than 75% over 3 years;
- a condition is that the employer-sponsor advises the trustee that the increase in the rate is on an arm's length basis.
- (5) A condition is that the trustee or employer-sponsor of the superannuation fund has not exercised a discretion to pay a benefit that is greater than the benefit that was assumed for the purpose of calculating the new entrant rate since 12 May 2009.

(6) For subregulation (4), a trustee must notify the Commissioner, in writing, of an increase in the rate of superannuation salary that exceeds the rate specified in paragraph (4)(a) or (b) as soon as practicable after the increase occurs.

(7) If:

(a) a condition mentioned in subregulation (2) is not satisfied; and

(b) the condition was not satisfied only because:

(i) the defined benefit member moved to a new benefit category; and

(ii) the move was caused by the necessary application of the rules of the superannuation fund that were, or of legislation that was, in force on 5 September 2006; and

(iii) the member had no control over the application of the rules or legislation;

the failure to satisfy the condition is to be disregarded in determining if the conditions of this regulation have been satisfied for the 2009–2010 financial year and subsequent financial years.

## **Division 293—Sustaining the superannuation contribution concession**

### **Subdivision 293-D—Modifications for defined benefit interests**

#### **293-115.01 Method of determining amount of defined benefit contributions**

For subsection 293-115(1) of the Act, the amount of defined benefit contributions for an individual in the 2012-2013 financial year in respect of a defined benefit interest is the individual's notional taxed contributions for the defined benefit interest for that financial year.

Note: The amount of defined benefit contributions in respect of a defined benefit interest in a constitutionally protected fund is nil for the 2012-2013 financial year.

### **Subdivision 293-DA—Further modifications for defined benefit interests**

#### **293-115.05 Preliminary**

- (1) This Subdivision:
  - (a) is made for subsection 293-115(1) of the Act; and
  - (b) applies in relation to the 2013-14 financial year and later financial years.
- (2) In this Subdivision:

**accruing member**, of a superannuation fund for a financial year, means a defined benefit member of the fund who is not a non-accruing member of the fund for the financial year.

**non-accruing member**, of a superannuation fund for a financial year, means:

- (a) a defined benefit member who is a non-accruing member of the fund for the financial year within the meaning of subregulations 292-170.04(4) to (5A) as if a reference in those subregulations to a member included a reference to a member of a constitutionally protected fund; or
- (b) a member of the Governor-General Pension Scheme for the financial year, unless (for a member who is the Governor-General) the member commenced office in the financial year.

#### **293-115.10 Defined benefit contributions—non-accruing members**

- (1) This regulation applies if you are a non-accruing member of a superannuation fund for a financial year.
- (2) Your **defined benefit contributions** for the financial year in respect of your defined benefit interest in the fund is nil.

#### **293-115.15 Defined benefit contributions—accruing members with funded benefit interests**

- (1) This regulation applies if:
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- (a) you are an accruing member of a superannuation fund for the financial year; and
  - (b) your defined benefit interest in the fund for the financial year is a funded benefit interest.
- (2) The interest is a ***funded benefit interest*** if:
- (a) the interest is in a complying superannuation fund that is not a constitutionally protected fund; and
  - (b) if the interest is in a public sector superannuation scheme:
    - (i) the fund trustee has certified, for the financial year, that the fund trustee considers that the scheme will only ever pay superannuation benefits from contributions made to the scheme or earnings from the contributions; and
    - (ii) the fund trustee has not chosen, under section 295-180 of the Act, to have contributions made by you, or on your behalf, excluded from the assessable income of the scheme for the financial year.
- (3) Your ***defined benefit contributions*** for the financial year in respect of the interest is your notional taxed contributions for the year in respect of the interest.
- Note: For ***notional taxed contributions***, see section 291-170 of the Act and Subdivision 292-D of these regulations.
- (4) In working out your notional taxed contributions for the purposes of subregulation (3), disregard Subdivision 291-C of the *Income Tax (Transitional Provisions) Act 1997*.

### **293-115.20 Defined benefit contributions—accruing members with other interests**

- (1) This regulation applies if:
- (a) you are an accruing member of a superannuation fund for the financial year; and
  - (b) your defined benefit interest in the fund for the financial year is an interest other than a funded benefit interest.
- (2) Your ***defined benefit contributions*** for the financial year in respect of the interest is the amount worked out using the method in Schedule 1AA.

### **Subdivision 293-E—Modifications for constitutionally protected State higher level office holders**

#### **293-145.01 Constitutionally protected State higher level office holders**

For paragraph 293-145(1)(b) of the Act, the following individuals are declared:

- (a) a Minister of the government of a State;
- (b) a member of the staff of a Minister of the government of a State;
- (c) the Governor of a State;
- (d) a member of staff of the Governor of a State;

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- (e) a member of the Parliament of a State;
- (f) the Clerk of a house of the Parliament of a State;
- (g) the head of a Department of the Public Service of a State or a statutory office holder of equivalent seniority, including a statutory office holder who is the head of an instrumentality or agency of a State;
- (h) a judge, justice or magistrate of the court of a State.



## **Division 294—Transfer balance cap**

### **Subdivision 294-B—Transfer balance account**

#### **294-25.01 Credit in transfer balance account—payment of consideration for interest supporting deferred superannuation income stream**

- (1) For the purposes of item 5 of the table in subsection 294-25(1) of the Act, a transfer balance credit arises under this regulation in your transfer balance account if:
  - (a) you are the retirement phase recipient of a superannuation income stream; and
  - (b) the superannuation income stream is a deferred superannuation income stream; and
  - (c) after you start to be the retirement phase recipient of the superannuation income stream, you pay an amount of consideration for the superannuation interest that supports the superannuation income stream.
- (2) The amount of the credit is the amount of the consideration.
- (3) The credit arises at the time you pay the consideration.

### **Subdivision 294-C—Transfer balance debits**

#### **294-80.01 Debit in transfer balance account—reduction in amount of superannuation income stream benefit**

- (1) For the purposes of item 8 of the table in subsection 294-80(1) of the Act, a transfer balance debit arises under this regulation in your transfer balance account if:
  - (a) you are the retirement phase recipient of a superannuation income stream; and
  - (b) the superannuation income stream is a capped defined benefit income stream that:
    - (i) is covered by item 1 or 2 of the table in subsection 294-130(1) of the Act; or
    - (ii) is prescribed by regulation 294-130.01 (but is not a superannuation income stream to which subregulation 294-130.01(3B) applies); and
  - (c) you are entitled to receive a superannuation income stream benefit (the *earlier benefit*) from the superannuation income stream at a time (the *earlier time*); and
  - (d) the amount of the next superannuation income stream benefit (the *later benefit*) that you are entitled to receive from the superannuation income stream falls short of the amount of the earlier benefit; and
  - (e) that shortfall is not attributable to any of the following:

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- (i) circumstances that cause a transfer balance debit to arise in your transfer balance account (other than because of this regulation);
  - (ii) a CPI adjustment in the amount of superannuation income stream benefits that you are entitled to receive from the superannuation income stream.
- (2) The amount of the debit is:
- (a) the special value, just before the earlier time, of the superannuation interest that supports the superannuation income stream; less
  - (b) the special value, just before the time (the *later time*) at which you are entitled to receive the later benefit, of that superannuation interest.
- (3) The debit arises at the later time.

**294-80.02 Debit in transfer balance account—reduction in amount of superannuation income stream benefit**

- (1) For the purposes of item 8 of the table in subsection 294-80(1) of the Act, a transfer balance debit arises under this regulation in your transfer balance account if:
- (a) you are or were a retirement phase recipient of a deferred superannuation income stream to which subregulation 307-205.02C(1) applies (see subregulation 307-205.02C(3)) supported by a superannuation interest; and
  - (b) but for regulation 294-80.03, a transfer balance debit would arise at a time under item 5 or 6 of the table in subsection 294-80(1) of the Act in your transfer balance account because of the superannuation income stream.
- (2) The amount of the debit is the total amount of the superannuation benefits that would be payable if you voluntarily caused the superannuation interest to cease at that time.
- (3) The debit arises at that time.

**294-80.03 Debit in transfer balance account—certain items of table in subsection 294-80(1) of the Act do not apply to certain superannuation income streams**

For the purposes of subsection 294-80(3) of the Act, items 5 and 6 of the table in subsection 294-80(1) of the Act do not apply to deferred superannuation income streams to which subregulation 307-205.02C(1) applies (see subregulation 307-205.02C(3)).

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**Subdivision 294-D—Modifications for certain defined benefit income streams**

**294-130.01 Meaning of capped defined benefit income stream**

- (1) For the purposes of subsection 294-130(2) of the Act, a superannuation income stream is prescribed if subregulation (2), (3), (3A), (3B) or (4) applies to the income stream.
- (2) This subregulation applies to a superannuation income stream if it is a pension for the purposes of the SIS Act that is provided under rules:
  - (a) that are in existence at the date of registration of the *Superannuation Industry (Supervision) Amendment Regulations 2007 (No. 3)*; and
  - (b) that would meet the standards of subregulation 1.06(2) of the SIS Regulations except for the circumstances in which those rules allow for either or both of the following:
    - (i) the pension to be commuted;
    - (ii) the variation or cessation of pension payments in respect of a child of the deceased primary or reversionary beneficiary.
- (3) This subregulation applies to a superannuation income stream if:
  - (a) it is a pension for the purposes of the SIS Act that is paid from a successor fund; and
  - (b) the rules of the original fund satisfied subregulation (2); and
  - (c) the rules of the successor fund satisfy paragraph (2)(b).
- (3A) This subregulation applies to a superannuation income stream if:
  - (a) it is covered by item 2 of the table in subsection 294-130(1) of the Act; and
  - (b) it starts to be in the retirement phase on or after 1 July 2017; and
  - (c) it arises as a direct result of the payment of an involuntary roll-over superannuation benefit to a successor fund.
- (3B) This subregulation applies to a superannuation income stream if:
  - (a) it is covered by any of items 3 to 7 of the table in subsection 294-130(1) of the Act; and
  - (b) it starts to be in the retirement phase on or after 1 July 2017; and
  - (c) it arises as a direct result of the payment of an involuntary roll-over superannuation benefit to a successor fund.
- (4) This subregulation applies to a superannuation income stream if it is a pension for the purposes of the SIS Act that is provided:
  - (a) on the grounds of invalidity under a public sector superannuation scheme; and
  - (b) under rules that would meet the standards of subregulation 1.06(2) of the SIS Regulations except to the extent that those rules allow for the variation, suspension or cessation of pension payments due to any of the following:
    - (i) the primary beneficiary's level of incapacity being reclassified;

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- (ii) the primary beneficiary's personal earnings changing;
- (iii) the primary beneficiary being employed by a participating employer of the relevant superannuation scheme;
- (iv) the primary beneficiary failing to provide information as required by the rules;
- (v) the primary beneficiary reaching a particular age.

**294-135.01 Transfer balance credit—determining special value of a superannuation interest**

- (1) For the purposes of subsection 294-135(4) of the Act, the *special value*, at a particular time, of a superannuation interest that supports an income stream that is, or was at any time, a superannuation income stream prescribed by regulation 294-130.01, is the amount worked out using the formula:

Annual entitlement × 16

where:

*annual entitlement* means the amount worked out by:

- (a) dividing the amount of the first superannuation income stream benefit you are entitled to receive from the income stream just after that time by the number of whole days to which that benefit relates; and
  - (b) multiplying the result by 365.
- (2) Subregulation (1) does not apply to a superannuation interest covered by subregulation (3).
- (3) This subregulation covers a superannuation interest that supports an income stream that is, or was at any time, a superannuation income stream prescribed by regulation 294-130.01 to which subregulation 294-130.01(3B) applies.
- (4) For the purposes of subsection 294-135(4) of the Act, the *special value*, at a particular time, of a superannuation interest covered by subregulation (3) is the amount worked out in respect of that time under subsection 294-135(3) of the Act.
- (5) For the purposes of subregulation (4), treat the reference in subsection 294-135(3) of the Act to a capped defined benefit income stream covered by any of items 3 to 7 of the table in subsection 294-130(1) as instead being a reference to the income stream mentioned in subregulation (3).

**294-145.01 Transfer balance debits—determining debit value of a superannuation interest**

- (1) For the purposes of subsection 294-145(7) of the Act, the *debit value*, at a particular time, of a superannuation interest that supports an income stream that is, or was at any time, a superannuation income stream prescribed by regulation 294-130.01, is:

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- (a) the amount of the transfer balance credit that arose in your transfer balance account in respect of the income stream; less
  - (b) the amount of any transfer balance debits (apart from debits arising under item 4 of the table in subsection 294-80(1) of the Act) that have arisen in your transfer balance account in respect of the income stream before that time.
- (2) Subregulation (1) does not apply to a superannuation interest covered by subregulation (3).
  - (3) This subregulation covers a superannuation interest that supports an income stream that is, or was at any time, a superannuation income stream prescribed by regulation 294-130.01 to which subregulation 294-130.01(3B) applies.
  - (4) For the purposes of subsection 294-145(7) of the Act, the *debit value*, at a particular time, of a superannuation interest covered by subregulation (3) is the amount worked out in respect of that time under subsection 294-145(6) of the Act.
  - (5) For the purposes of subregulation (4), treat the reference in subsection 294-145(6) of the Act to a capped defined benefit income stream covered by any of items 3 to 7 of the table in subsection 294-130(1) as instead being a reference to the income stream mentioned in subregulation (3).

## Division 295—Taxation of superannuation entities

### Subdivision 295-D—Contributions excluded

#### 295-265.01 Application of pre-1 July 1988 funding credits—limit on choice

- (1) For paragraph 295-265(7)(a) of the Act, this regulation prescribes the manner in which a superannuation provider in relation to a superannuation fund is to work out the amount applicable to the fund, under subsection 295-265(6) of the Act, for an income year where the superannuation provider chooses, after 9 May 2006, to specify an amount for the purposes of subsection 295-265(1) of the Act.

##### *Method 1—Funding credit valuation process*

- (2) Method 1 must be used for an income year, unless:
  - (a) the conditions mentioned in subregulation (7) for the use of method 2 are met; and
  - (b) the actuary decides that the use of method 2 is appropriate.
- (3) The amount applicable to the fund for an income year is the least of the following amounts:
  - (a) the amount of pre-1 July 1988 funding credits unused at the end of the previous income year;
  - (b) the value of unfunded pre-1 July 1988 liabilities at the first day of the income year, determined by an actuary in accordance with step 3 of method 1 or method 2;
  - (c) the pre-1 July 1988 taxable contributions for the income year, worked out in accordance with step 4 of method 1 or method 2;
  - (d) for an income year that ended before 9 May 2006—the amount that the superannuation provider could specify under subsection 295-265(1) of the Act under the legislation that applied to the income year.
- (4) The amount identified in accordance with subregulation (3) must then be adjusted for all transfers of funding credits and relevant liabilities into or out of the fund.
- (5) The procedure in method 1 for determining an amount applicable to a fund is referred to in this regulation as a **funding credit valuation process**.
- (6) The amounts mentioned in paragraphs (3)(a), (b), (c) and (d), and the amount as adjusted under subregulation (4), must be certified by an actuary.

##### *Method 2—Notionally updated funding credit valuation process*

- (7) The actuary may use method 2 for an income year if:
  - (a) the actuary can identify, at the start of the income year, that the value of unfunded pre-1 July 1988 liabilities exceeds the amount that the superannuation provider wishes to specify for subsection 295-265(1) of the Act; and

- (b) the income year is the first year after, or the second year after, an income year for which method 1 was used to calculate the amount applicable to the fund.
- (8) The procedure in method 2 for calculating an amount applicable to a fund is referred to in this regulation as a ***notionally updated funding credit valuation process***.

### **Method 1 Funding credit valuation process**

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#### **Step 1** *(value liabilities)*

- 1.1 For any income year in which funding credits are claimed, calculate the discounted present value of liabilities as at the first day of that income year that relates to membership completed.
- 1.2 The basis for the calculations in item 1.1 must be the actuarial valuation basis relevant to the income year in question which the superannuation fund's actuary would consider appropriate for a valuation under Part 9 of the SIS Regulations.
- 1.3 In making the calculation in item 1.1 exclude the following liabilities that are not provided from taxable contributions:
- (a) liabilities representing benefits financed by undeducted contributions;
  - (b) liabilities representing benefits or components that are expected to be treated as paid from an untaxed source;  
Example: Pensions provided on an emerging cost or pay as you go basis, with corresponding elections being made under subsection 295-180(1) of the Act.
  - (c) liabilities for entitlements relating to membership and for which corresponding assets can be identified;  
Example: Fully funded productivity, superannuation guarantee or salary sacrifice account balances.
  - (d) liabilities representing death and disability benefits for which costs are claimed as deductible under section 295-465 or 295-470 of the Act.
- 1.4 Apportion the discounted present value of the liabilities, between:
- (a) the period of superannuation fund membership completed before 1 July 1988; and
  - (b) the period of superannuation fund membership completed on and after 1 July 1988;
- for each superannuation fund member or former member for whom a liability is being valued.
- 1.5 The apportionment in item 1.4 must be made having regard to the following requirements and principles:
- (a) superannuation fund membership must be consistent with the definition used by the fund to determine the benefit being valued;
  - (b) the actuary of the superannuation fund may use an alternative method for apportioning the discounted present value of liabilities only if the actuary certifies that the method will provide a reasonable approximation of the apportionment;
  - (c) the actuary will generally use a linear apportionment method, but may use an apportionment method that reflects non-linear accrual of entitlements, provided the actuary considers that such an approach achieves an outcome that is consistent with the principle that funding credits can only be used
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against contributions intended to provide for entitlements relating to membership completed before 1 July 1988.

- 1.6 The actuary must retain documentation of the liability and valuation apportionment calculations for not less than 5 years.
  - 1.7 The discounted present value of liabilities for all members apportioned to pre-1 July 1988 membership is the value of pre-1 July 1988 liabilities.
- 

**Step 2**  
(*apportion assets*)

- 2.1 Calculate the total amount of superannuation fund assets at their market value at the start of the income year, on the basis on which the superannuation fund's actuary would consider appropriate for a valuation under Part 9 of the SIS Regulations.
  - 2.2 Allow deductions for realisation costs and charges incurred in the normal course of operation of the superannuation fund.
  - 2.3 Deduct the amount of assets that relate to excluded liabilities mentioned in item 1.3 of step 1 of this method.
  - 2.4 All remaining assets should be treated as available to provide for the value of pre-1 July 1988 liabilities unless the superannuation provider can provide the actuary with written evidence to support exclusion of both an amount of assets and a corresponding value of liabilities.
  - 2.5 The actuary must retain documentation to support calculations made for the asset apportionment for not less than 5 years.
  - 2.6 The result is the assets available to fund pre-1 July 1988 liabilities for the income year.
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**Step 3**  
(*unfunded pre-1 July 1988 liabilities*)

- 3.1 Deduct the assets available to fund pre-1 July 1988 liabilities from the value of pre-1 July 1988 liabilities.
  - 3.2 The result is the value of unfunded pre-1 July 1988 liabilities.
- 

**Step 4**  
(*pre-1 July 1988 taxable contributions*)

- 4.1 The superannuation provider must notify to the actuary the amount of taxable contributions that are used to fund pre-1 July 1988 liabilities for the income year.
  - 4.2 The superannuation provider must retain documentation to support calculations of pre-1 July 1988 taxable contributions for not less than 5 years.
  - 4.3 The result is the ***pre-1 July 1988 taxable contributions***.
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**Method 2 Notionally updated funding credit valuation process**

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**Step 1**  
(*notionally update value of liabilities*)

- 1.1 The actuary must notionally adjust the value of pre-1 July 1988 liabilities from the start of the previous year to the start of the current income year, taking into account any factors likely to affect the value of the pre-1 July 1988 liabilities.
  - 1.2 In making a calculation under item 1.1 the actuary must have regard to the valuation basis that would be used by the fund if method 1 were being used.
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- 1.3 In making a calculation under item 1.1 the actuary must have regard to actual experience gained from the operation of the fund if the experience is materially different from valuation assumptions used in the calculation of the previous pre-1 July 1988 liabilities.
- 1.4 The actuary must retain documentation of the notional updating of the pre-1 July 1988 liability valuation calculations for not less than 5 years.
- 1.5 The result is the **notionally updated value of pre-1 July 1988** liabilities for the income year.

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**Step 2**  
*(notionally  
update  
apportionment of  
assets)*

- 2.1 The actuary must notionally adjust the amount of the assets available to fund pre-1 July 1988 liabilities, from the start of the previous year to the start of the current income year, taking into account any factors likely to affect the amount of the assets available to fund pre-1 July 1988 liabilities.
- 2.2 Add taxable contributions allocated to fund pre-1 July 1988 taxed liabilities in the previous income year.
- 2.3 Deduct the employer financed component of pre-1 July 1988 taxed benefits paid out during the previous income year.
- 2.4 Add actual investment earnings net of the tax and expenses relating to investment income for the previous income year using a basis that is consistent with the underlying investment earnings achieved and normal practices of the superannuation fund.
- 2.5 The actuary must retain documentation to support notional updating of the amount of assets available to fund pre-1 July 1988 liabilities for not less than 5 years.
- 2.6 The result is the notionally **updated amount of assets available to fund pre-1 July 1988 liabilities**.

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**Step 3**  
*(unfunded  
pre-1 July 1988  
liabilities)*

- 3.1 Deduct the notionally updated amount of assets available to fund pre-1 July 1988 liabilities from the notionally updated value of pre-1 July 1988 liabilities.
- 3.2 The result is the **value of unfunded pre-1 July 1988 liabilities** for the income year.

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**Step 4**  
*(pre-1 July 1988  
taxable  
contributions)*

- 4.1 The superannuation provider must notify to the actuary the amount of taxable contributions that are allocated to fund pre-1 July 1988 liabilities for the income year.
- 4.2 The superannuation provider must retain documentation to support calculations of pre-1 July 1988 taxable contributions for not less than 5 years.
- 4.3 The result is the **pre-1 July 1988 taxable contributions**.

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(9) If an actuary certifies an amount under subregulation (6) the actuary must, if requested by a superannuation provider, provide sufficient information to enable another actuary to check the certification.

- (10) An actuary must, in making a calculation under or applying method 1 or 2:
- (a) follow any professional standards prepared by the Institute of Actuaries of Australia; and

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(b) have regard to any professional guidance notes prepared by the Institute of Actuaries of Australia;

that relate to the determination of accrued benefits mentioned in method 1 or 2.

(11) A superannuation provider must, if requested to do so, provide sufficient information to support a funding credit claim under subsection 295-265(1) of the Act, including any relevant information that relates to an income year for which a claim was not made.

(12) In this regulation:

**method 1** means the method described in the table, Method 1—Funding credit valuation process.

**method 2** means the method described in the table, Method 2—Notionally updated funding credit valuation process.

Note: **actuary** is defined in section 995-1 of the Act.

### Subdivision 295-F—Exempt income

#### 295-385.01 Segregated current pension assets—prescribed superannuation income stream benefits

For section 295-385 of the Act, the following superannuation income stream benefits are prescribed:

- (a) an RP superannuation income stream benefit of a superannuation fund payable from:
  - (i) an allocated pension within the meaning of the SIS Regulations; or
  - (ii) a market linked pension within the meaning of the SIS Regulations; or
  - (iii) an account-based pension within the meaning of the SIS Regulations;
- (b) an amount taken to be the amount of a superannuation income stream benefit under subregulation 995-1.01(3) or (4), where the superannuation income stream that was payable to the deceased mentioned in that subregulation was a pension mentioned in subparagraph (a)(i), (ii) or (iii) of which the deceased was a retirement phase recipient.

Note: This regulation is also mentioned in regulation 307-205.02 to identify superannuation income streams to which that regulation does not apply.

### Subdivision 295-G—Deductions

#### 295-465.01 Deductible portion of premiums

- (1) For subsections 295-465(1B) and (2A) of the Act, the proportion specified in an item in the table in relation to the insurance policy specified in the item may be treated:
  - (a) as being attributable to the complying superannuation fund's liability to provide benefits referred to in section 295-460 of the Act; and

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- (b) as being the amount the fund could reasonably be expected to pay, in an arm's length transaction, to obtain an insurance policy to cover it for its current or contingent liabilities to provide benefits referred to in section 295-460 of the Act.

Item	Insurance policy	Specified proportion %
1	TPD any occupation	100
2	TPD any occupation with one or more of the following inclusions: (a) activities of daily living; (b) cognitive loss; (c) loss of limb; (d) domestic (home) duties	100
3	TPD own occupation	67
4	TPD own occupation with one or more of the following inclusions: (a) activities of daily living; (b) cognitive loss; (c) loss of limb; (d) domestic (home) duties	67
5	TPD own occupation bundled with death (life) cover	80
6	TPD own occupation bundled with death (life) cover with one or more of the following inclusions: (a) activities of daily living; (b) cognitive loss; (c) loss of limb; (d) domestic (home) duties	80

- (2) A specified proportion mentioned in the table in subregulation (1) will be deductible only if the conditions to which the insurance policy that relates to the proportion is subject are either more restrictive than or have substantially the same meaning as the conditions described in the definition of the policy in subregulation (5).
- (3) If a member is required to meet a criterion to be eligible for a benefit under an insurance policy in addition to the criteria that are essential to the matters identified in the definition of the policy in subregulation (5), the additional criterion may be disregarded.
- (4) The use of a specified proportion in the table in subregulation (1) in respect of a particular insurance policy is not affected by the inclusion in the insurance policy of a benefit payable to a member because a terminal medical condition exists in relation to the member.
- (5) In this regulation:

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**activities of daily living** means a component of a disability insurance policy that insures against a disability that results in a member's total and permanent inability to perform at least 2 of the following activities of daily living without the assistance of another person:

- (a) bathing and showering;
- (b) dressing and undressing;
- (c) eating and drinking;
- (d) mobility, to the extent of being able to get in and out of bed or a chair, and move from place to place without using a wheelchair;
- (e) the ability to use a toilet.

**bundled** means a situation in which:

- (a) the TPD and death (life) components of the combined insurance premium are not separately identified; and
- (b) the amount payable to the insured person in relation to the TPD component does not exceed the amount payable in relation to the insured person in relation to the death (life) component.

**cognitive loss** means a component of a disability insurance policy that insures against a member suffering a permanent deterioration or loss of cognitive functioning or intellectual capacity that requires the person to be under the continuous care and supervision of another person.

**death (life) cover** means insurance against the liability to provide a superannuation death benefit within the meaning of the Act.

**domestic (home) duties** means a component of a disability insurance policy that insures against a disability that results in a member being:

- (a) unable to perform the member's normal domestic duties; and
- (b) unable to leave the member's home unaided; and
- (c) incapacitated to such an extent that the member is unlikely to ever engage in normal domestic duties or any gainful employment.

**loss of limb** means a component of a disability insurance policy that insures against the permanent loss of:

- (a) the sight in both the member's eyes resulting in blindness; or
- (b) the use of two or more of the member's limbs, feet or hands; or
- (c) the sight in one of the member's eyes resulting in blindness in that eye and the use of one of the member's limbs, feet or hands.

**normal domestic duties** means the tasks performed by an individual whose sole occupation is to maintain the individual's family home, including;

- (a) unassisted cleaning of the individual's home; and
- (b) cooking of meals for the individual's family; and
- (c) doing the laundry for the individual's family; and
- (d) shopping for food for the individual's family; and
- (e) taking care of any dependent children.

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***TPD any occupation*** means insurance against the member suffering an illness or injury that is likely to result in the member's permanent inability to engage in gainful employment for which the member is reasonably qualified by education, training or experience.

***TPD own occupation*** means insurance against the member suffering an illness or injury that is likely to result in the member's permanent inability to engage in gainful employment in the member's own occupation, where inability to engage in gainful employment includes the inability to work otherwise than in a substantially reduced capacity to that in which the member worked before suffering the illness or injury.

## **Part 3—Superannuation benefits paid from complying plans etc**

### **Division 301—Superannuation member benefits paid from complying plans etc**

#### **Subdivision 301-D—Departing Australia superannuation payments**

##### **301-170.01 Departing Australia superannuation payments**

For subparagraph (b)(i) of the definition of *departing Australia superannuation payment* in section 301-170 of the Act, the following regulations are prescribed:

- (a) regulations 6.20A, 6.20B and 6.24A of the SIS Regulations;
- (b) regulation 4.23A of the RSA Regulations.

#### **Subdivision 301-E—Superannuation lump sum member benefits less than \$200**

##### **301-225.01 Superannuation lump sum member benefits less than \$200 are tax free**

- (1) For paragraph 301-225(d) of the Act, this regulation sets out requirements in relation to a superannuation member benefit.

Note: The effect of section 301-225 of the Act is that a superannuation member benefit is not assessable income and is not exempt income in specified circumstances. One of the circumstances is that the requirements (if any) specified in the Regulations in relation to the benefit are satisfied.

- (2) A requirement is that the member's benefit must be released under:
  - (a) item 104 or 111 of Part 1 of Schedule 1 to the SIS Regulations; or
  - (b) item 211 of Part 2 of Schedule 1 to the SIS Regulations; or
  - (c) item 111 of Schedule 2 to the RSA Regulations.

## **Division 302—Superannuation death benefits paid from complying plans etc**

### **Subdivision 302-D—Definitions relating to dependants**

#### **302-195 Circumstances in which a person died in the line of duty**

- (1) For subsection 302-195(3) of the Act, the following subregulations sets out circumstances in which a deceased person mentioned in subsection 302-195(2) of the Act (a *military or police person*) died in the line of duty:
- (a) in Australia or on overseas service—subregulations (2), (3), (4), (5), (9) or (10);
  - (b) on overseas service—subregulations (6), (7) and (8).

- Note: When this regulation was made, subsection 302-195(2) of the Act mentioned the following persons:
- (a) a member of the Defence Force;
  - (b) a member of the Australian Federal Police;
  - (c) a protective service officer within the meaning of the *Australian Federal Police Act 1979*;
  - (d) a member of a State or Territory police force.

#### *Performance of duties*

- (2) A circumstance is that the military or police person died while performing the duties of a military or police person.
- (3) A circumstance is that:
- (a) the military or police person was off duty at the time of his or her death; and
  - (b) his or her death occurred:
    - (i) in the course of an attempt to arrest a suspected offender; or
    - (ii) in the course of an attempt to prevent an offence; or
    - (iii) in the course of an attempt to rescue a person; or
    - (iv) while he or she was travelling to a place of work as a result of being recalled to duty.

#### *Injury*

- (4) A circumstance is that the military or police person:
- (a) died within 12 months after sustaining an injury; and
  - (b) died as a result of sustaining the injury; and
  - (c) sustained the injury while performing the duties of a military or police person.
- (5) A circumstance is that the military or police person:
- (a) was off duty at the time of sustaining an injury; and
  - (b) sustained the injury:

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- (i) in the course of an attempt to arrest a suspected offender; or
  - (ii) in the course of an attempt to prevent an offence; or
  - (iii) in the course of an attempt to rescue a person; or
  - (iv) while he or she was travelling to a place of work as a result of being recalled to duty; and
- (c) died within 12 months after sustaining the injury; and
- (d) died as a result of sustaining the injury.

*Overseas service*

- (6) A circumstance is that the military or police person:
- (a) was a member of the Defence Force; and
  - (b) died while serving overseas, if the service was:
    - (i) warlike service mentioned in paragraph 6(1)(a) of the *Military Rehabilitation and Compensation Act 2004*; or
    - (ii) non-warlike service mentioned in paragraph 6(1)(b) of the *Military Rehabilitation and Compensation Act 2004*.
- (7) A circumstance is that the military or police person:
- (a) was a member of the Australian Federal Police or a protective service officer within the meaning of the *Australian Federal Police Act 1979*; and
  - (b) died while serving overseas, if the service was:
    - (i) at a place specified in a determination under subsection 40H(1) of the *Australian Federal Police Act 1979*; and
    - (ii) on a peace-keeping or capacity-building mission.
- (8) A circumstance is that the military or police person:
- (a) was a member of a State or Territory police force; and
  - (b) died while serving overseas, if the service was:
    - (i) undertaken as a special member of the Australian Federal Police under section 40E of the *Australian Federal Police Act 1979*; and
    - (ii) on a peace-keeping or capacity-building mission.

*Consequences of duties*

- (9) A circumstance is that, as a result of action taken because the person was a military or police person, the military or police person sustained an injury from which he or she died:
- (a) immediately; or
  - (b) within 12 months after sustaining the injury.

Example: The person was killed in retaliation for an action taken in his or her capacity as a military or police person.

*Uncertainty about circumstances of death*

- (10) A circumstance is that:
- (a) the military or police person has died; and



- (b) it is not certain, after reasonable inquiry, whether the person died in a circumstance described in regulation 302-195A.

Note: If it is uncertain whether the death falls within regulation 302-195A, the person will be taken to have died in the line of duty.

*Interpretation*

- (11) For this regulation, the time when a military or police person is off duty includes a time when he or she is:
- (a) travelling to or from his or her place of work; or
  - (b) on a rostered day off work; or
  - (c) on leave from work.

**302-195A Circumstances in which a person is taken not to have died in the line of duty**

- (1) This regulation sets out circumstances in which a person (a ***military or police person***) mentioned in subsection 302-195(2) of the Act is taken not to have died in the line of duty.

Note: When this regulation was made, subsection 302-195(2) of the Act mentioned the following persons:

- (a) a member of the Defence Force;
- (b) a member of the Australian Federal Police;
- (c) a protective service officer within the meaning of the *Australian Federal Police Act 1979*;
- (d) a member of a State or Territory police force.

*Off duty*

- (2) A circumstance is that:
- (a) the military or police person was off duty at the time of his or her death; and
  - (b) none of subregulations 302-195(3), (6), (7), (8) and (9) applies.
- (3) A circumstance is that:
- (a) the military or police person died as a result of sustaining an injury; and
  - (b) the military or police person was off duty at the time of sustaining the injury; and
  - (c) none of subregulations 302-195(5), (6), (7), (8) and (9) applies.

*Incidental activity*

- (4) A circumstance is that:
- (a) the military or police person's death related to an activity that was not directly related to the performance of his or her duties; and
  - (b) none of subregulations 302-195(6), (7) and (8) applies.

Example: Undertaking a sporting activity.

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*Death after retirement*

- (5) A circumstance is that:
- (a) the military or police person died after he or she retired as a military or police person; and
  - (b) none of subregulations 302-195(4), (5) and (9) applies.

*Suicide*

- (6) A circumstance is that the military or police person died as a result of committing suicide.

*Natural causes or disease*

- (7) A circumstance is that:
- (a) the military or police person died as a result of:
    - (i) natural causes; or
    - (ii) an illness or disease; and
  - (b) none of subregulations 302-195(6), (7) and (8) applies.

*Interpretation*

- (8) For this regulation, the time when a military or police person is off duty includes a time when he or she is:
- (a) travelling to or from his or her place of work; or
  - (b) on a rostered day off work; or
  - (c) on leave from work.

**302-200.01 What is an *interdependency relationship*—matters to be taken into account**

- (1) For paragraph 302-200(3)(a) of the Act, this regulation sets out matters that are to be taken into account in determining whether 2 persons have an interdependency relationship.
- (2) The matters are:
- (a) all of the circumstances of the relationship between the persons, including (where relevant):
    - (i) the duration of the relationship; and
    - (ii) whether or not a sexual relationship exists; and
    - (iii) the ownership, use and acquisition of property; and
    - (iv) the degree of mutual commitment to a shared life; and
    - (v) the care and support of children; and
    - (vi) the reputation and public aspects of the relationship; and
    - (vii) the degree of emotional support; and
    - (viii) the extent to which the relationship is one of mere convenience; and

- (ix) any evidence suggesting that the parties intend the relationship to be permanent; and
- (b) the existence of a statutory declaration signed by 1 of the persons to the effect that the person is, or (in the case of a statutory declaration made after the end of the relationship) was, in an interdependency relationship with the other person.

### **302-200.02 What is an *interdependency relationship*—existence of relationship**

- (1) For paragraph 302-200(3)(b) of the Act, this regulation sets out circumstances in which 2 persons have, or do not have, an interdependency relationship under section 302-200 of the Act.

#### *Interdependency relationship*

- (2) 2 persons have an interdependency relationship if:
- (a) they satisfy the requirements of paragraphs 302-200(1)(a) to (c) of the Act; and
  - (b) 1 or each of them provides the other with support and care of a type and quality normally provided in a close personal relationship, rather than by a mere friend or flatmate.

Examples of care normally provided in a close personal relationship rather than by a friend or flatmate:

- 1 Significant care provided for the other person when he or she is unwell.
- 2 Significant care provided for the other person when he or she is suffering emotionally.

- (3) 2 persons have an interdependency relationship if:
- (a) they have a close personal relationship; and
  - (b) they do not satisfy the other requirements set out in subsection 302-200(1) of the Act; and
  - (c) the reason they do not satisfy the other requirements is that they are temporarily living apart.

Example for paragraph (3)(c): One of the persons is temporarily working overseas or is in gaol.

- (4) 2 persons have an interdependency relationship if:
- (a) they have a close personal relationship; and
  - (b) they do not satisfy the other requirements set out in subsection 302-200(1) of the Act; and
  - (c) the reason they do not satisfy the other requirements is that either or both of them suffer from a disability.

#### *No interdependency relationship*

- (5) 2 persons do not have an interdependency relationship if 1 of them provides domestic support and personal care to the other:
- (a) under an employment contract or a contract for services; or
  - (b) on behalf of another person or organisation such as a government agency, a body corporate or a benevolent or charitable organisation.

## **Division 303—Superannuation benefits paid in special circumstances**

### **303-10.01 Meaning of *terminal medical condition***

For section 303-10 of the Act, a *terminal medical condition* exists in relation to a person at a particular time if the following circumstances exist:

- (a) two registered medical practitioners have certified, jointly or separately, that the person suffers from an illness, or has incurred an injury, that is likely to result in the death of the person within a period (the *certification period*) that ends not more than 24 months after the date of the certification;
- (b) at least one of the registered medical practitioners is a specialist practising in an area related to the illness or injury suffered by the person;
- (c) for each of the certificates, the certification period has not ended.

## **Division 306—Roll-overs etc**

### **306-10.01 Roll-over superannuation benefit**

For the purposes of paragraph 306-10(b) of the Act, each of the following kinds of superannuation benefit is specified:

- (a) a superannuation death benefit, unless it is paid to a person covered by subregulation 6.21(2A) of the SIS Regulations or subregulation 4.24(3A) of the RSA Regulations in relation to the deceased member;
- (b) a benefit to which section 303-10 of the Act, or section 303-10 of the *Income Tax (Transitional Provisions) Act 1997*, applies.

## **Division 307—Key concepts relating to superannuation benefits**

### **Subdivision 307-B—Superannuation lump sums and superannuation income stream benefits**

#### **307-70.01 Superannuation income stream benefits**

- (1) For the purposes of subsection 307-70(1) of the Act (definition of *superannuation income stream benefit*), all superannuation benefits are specified, apart from a superannuation benefit covered by subregulation (2).
- (2) A superannuation benefit is covered by this subregulation if:
  - (a) the superannuation benefit was paid:
    - (i) on or after 1 July 2007; and
    - (ii) before 1 July 2017; and
  - (b) the superannuation benefit was paid from a superannuation interest that supported a superannuation income stream; and
  - (c) the superannuation income stream met the requirement in paragraph 995-1.03(a) (as in force before the commencement of Schedule 6 to the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017*) when the superannuation benefit was paid; and
  - (d) the person to whom the superannuation benefit was paid made an election in relation to that payment under paragraph 995-1.03(b) (as in force before the commencement of that Schedule).

#### **Subdivision 307-C—Components of a superannuation benefit**

##### **307-125.01 Components of member benefits accruing before 1 July 1999 paid from the Military Superannuation and Benefits Scheme**

- (1) For paragraph 307-125(4)(a) of the Act, a member of the Military Superannuation and Benefits Scheme who is below preservation age may, subject to subregulation (2), determine the amount of the components of his or her member benefits accruing before 1 July 1999 paid from the Military Superannuation and Benefits Scheme in respect of the member.
- (2) For subregulation (1), the maximum amount that a member may determine as a component of his or her member benefits accruing before 1 July 1999, whether by a single choice or cumulatively, may not exceed:
  - (a) for the tax free component of his or her member benefits accruing before 1 July 1999—the amount worked out under section 307-210 of the Act for the interest; and
  - (b) for the taxable component of his or her member benefits accruing before 1 July 1999—the amount worked out under section 307-215 of the Act for the interest.

Example: A member of the Military Superannuation and Benefits Scheme has an amount of his or her member benefits accruing before 1 July 1999 of \$1 000. Just before the benefit is

paid, the value of the tax free component is \$800 and the taxable component is \$200. Before reaching preservation age, the member takes a lump sum benefit of \$900.

Under subregulation (1), the member is able to determine the amount of the benefit that will be the tax free component and the amount that will be the taxable component of the benefit. However, subregulation (2) prevents the member from treating more than \$800 of the superannuation benefit as tax free.

Note: A preserved superannuation benefit paid in respect of a member of the Military Superannuation and Benefits Scheme is paid in accordance with subsection 307-125(2) of the Act.

- (3) This regulation applies to a superannuation benefit paid from the Military Superannuation and Benefits Scheme on or after 1 July 2007.
- (4) In this regulation:

*Military Superannuation and Benefits Scheme* is the scheme that is established by clause 2 of the Military Superannuation and Benefits Trust Deed.

### **307-125.02 Components of superannuation benefits after death of recipient of superannuation income stream**

- (1) For paragraph 307-125(4)(a) of the Act, subregulation (2) specifies an alternative method for determining the components of a superannuation benefit to which that subregulation applies if:
- (a) immediately before the death of a person (the *deceased*), a superannuation interest (the *relevant superannuation interest*) was supporting a superannuation income stream (the *original superannuation income stream*) payable to the deceased; and
  - (b) the original superannuation income stream did not automatically revert to another person on the deceased's death; and
  - (c) no amounts, other than investment earnings, have been added to the relevant superannuation interest on or after the deceased's death; and
  - (d) one or both of the following occurs after the deceased's death:
    - (i) a superannuation death benefit that is a superannuation lump sum is paid using only an amount from the relevant superannuation interest;
    - (ii) a superannuation income stream (the *new superannuation income stream*) is commenced using only an amount applied from the relevant superannuation interest.
- (2) The method statement sets out how to work out the tax free component and taxable component of:
- (a) a superannuation death benefit mentioned in subparagraph (1)(d)(i); or
  - (b) a superannuation benefit paid from a superannuation interest that supports the new superannuation income stream mentioned in subparagraph (1)(d)(ii).

*Method statement*

Step 1. Reduce the amount of the benefit by the extent, if any, to which the benefit is attributable to any of the following:

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<p>(b) an amount paid on or after the death of the deceased under a policy of insurance on the life of the deceased;</p> <p>(c) an amount arising on or after the death of the deceased from self-insurance.</p> <p>Step 2. The tax free component of the benefit is the amount that represents the same proportion of the amount resulting from step 1 as the tax free component of the relevant superannuation interest bore to the value of the relevant superannuation interest when the original superannuation income stream commenced.</p> <p>Step 3. The taxable component of the benefit is the amount of the benefit less the tax free component of the benefit worked out under step 2.</p>
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(3) In this regulation:

*investment earnings* includes:

- (a) an amount paid under a policy of insurance on the life of the deceased; or
- (b) an amount arising from self-insurance.

### **Subdivision 307-D—Superannuation interests**

#### **307-200.01 Application of Subdivision 307-D to Subdivisions 291-C and 293-D of the Act**

This Subdivision does not apply for the purposes of:

- (a) calculating an amount of contributions under Subdivision 291-C of the Act; or
- (b) calculating low tax contributions under Subdivision 293-D of the Act.

#### **307-200.02 Meaning of superannuation interests**

For subsection 307-200(2) of the Act, every amount, benefit or entitlement that a member holds in a self-managed superannuation fund is to be treated as 1 superannuation interest in the superannuation fund unless the amount, benefit or entitlement is to be treated as 2 or more superannuation interests in accordance with 1 of the other arrangements in this Subdivision.

#### **307-200.03 Meaning of superannuation interests—treating a superannuation interest as 2 or more superannuation interests (public sector schemes)**

- (1) For subsection 307-200(1) of the Act, this regulation explains how to treat a superannuation interest in a public sector superannuation scheme as 2 or more superannuation interests.
- (2) The interest is to be treated as 2 interests if:
  - (a) the superannuation benefit that is to be paid from the scheme is sourced:



- (i) partly from contributions made into the scheme or earnings on those contributions; and
  - (ii) partly from 1 or more other sources; or
- (b) the superannuation benefits that are to be paid from the scheme are sourced:
  - (i) partly from contributions made into the scheme or earnings on those contributions; and
  - (ii) partly from 1 or more other sources.
- (3) For subregulation (2), the interests are:
  - (a) an interest that consists of the contributions made into the scheme and the earnings on those contributions; and
  - (b) an interest that consists of the remainder of the amount sourced from the other source or sources.
- (4) For this regulation, an amount specified in a notice given under subsection 307-285(1) of the Act by the trustee of a scheme is not included as contributions made into the scheme or earnings on those contributions.

**307-200.05 Meaning of superannuation interests—treating a superannuation interest as 2 or more superannuation interests (superannuation income streams)**

If a superannuation income stream:

- (a) is payable; or
- (b) will be payable, and it is a deferred superannuation income stream covered by paragraph (c) of the definition of *superannuation income stream* in subregulation 995-1.01(1);

an amount that supports the superannuation income stream is always to be treated as a separate superannuation interest.

**307-205.01 Value of superannuation interest for calculating pre-July 1983 amount for members in the contributions and investment phase**

- (1) For paragraph 307-205(1)(a) of the Act, this regulation specifies methods for determining the value of a superannuation interest at a particular time for the purposes of calculating the pre-July 1983 amount of the crystallised segment of a tax-free component under section 307-225 of the Act.

Note: Calculating the pre-July 1983 amount of the crystallised segment of the tax-free component will require the superannuation interest to be valued before 1 July 2007. This calculation will only be performed for a superannuation interest in the accumulation phase, and only for a superannuation interest in which part of the taxable component is comprised of an element taxed in the fund.

*Defined benefit interest*

- (2) For a defined benefit interest, the method is as follows.

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- Step 1**
- 1 Calculate the value of the retirement benefit that would have been payable if the member:
    - (a) had been eligible to retire immediately before 1 July 2007; and
    - (b) had elected to do so.

Note: If a member is no longer in the employment which gave rise to the interest, but the interest is preserved in the scheme, retirement is taken to be the point at which the benefit is payable without penalty to the member.
  - 2 If the retirement benefit depends upon the member's age, service or salary, or upon the employer's consent, the value is to be calculated on the assumption that:
    - (a) the member's service was his or her actual service immediately before 1 July 2007; and
    - (b) the member's age was the greater of:
      - (i) the minimum age at which a retirement benefit could be taken without requiring the employer's consent; and
      - (ii) the member's actual age immediately before 1 July 2007; and
    - (c) the member's salary was his or her salary for superannuation purposes immediately before 1 July 2007; and
    - (d) the employer consents to the retirement.
  - 3 If part or all of the retirement benefit can be paid as a superannuation income stream, then the value of that income stream is determined as the product of:
    - (a) the annual rate of the superannuation income stream that would have been paid had the maximum proportion of the benefit possible been taken as an income stream; and
    - (b) the applicable factor set out in clause 1 of Schedule 1B.

The total value of the retirement benefit is the sum of the value of the superannuation income stream so determined and any lump sum that would have been payable under the assumptions described above had the member taken the maximum possible proportion of his or her benefit as an income stream.
  - 4 If the superannuation benefit can only be paid as a lump sum then the value of the retirement benefit is the amount of that lump sum.
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**Step 2** If a superannuation lump sum benefit, including a roll-over superannuation benefit, would have been payable had the member resigned, or withdrawn his or her benefit, immediately before 1 July 2007, calculate the amount of that benefit.

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- Step 3**
- 1 The value of the superannuation interest is the greater of the values worked out using steps 1 and 2.
  - 2 If no value can be determined under step 2, the value of the superannuation interest is the value determined under step 1.
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*Interest other than defined benefit interest*

- (3) For a superannuation interest that is not a defined benefit interest, the method is as follows.

**Step 1** Assume that the member was eligible to retire immediately before 1 July 2007, and work out the total amount of all the superannuation lump sums that could be payable from the interest at that time.

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**Step 2** If the total amount worked out under step 1 is less than the total amount actually or

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notionally allocated to the member (other than because of superannuation contributions surcharge liabilities, insurance costs or other fees, taxes and charges), the value of the interest is the amount actually or notionally allocated to the member.

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### **307-205.02 Value of superannuation interest**

- (1) For paragraph 307-205(1)(a) of the Act, this regulation:
- (a) applies to a superannuation income stream or a superannuation annuity, other than:
    - (i) a superannuation income stream that is a pension mentioned in subparagraph 295-385.01(a)(i), (ii) or (iii); or
    - (ii) a superannuation income stream or a superannuation annuity for which the rules providing for the income stream or annuity are based on:
      - (A) an identifiable lump sum amount; or
      - (B) the amount available in the member's account; or
    - (iii) a superannuation income stream that is supported by a superannuation interest that can be valued under paragraph 307-205.02B(a); or
    - (iv) a superannuation income stream that is supported by a superannuation interest that can be valued under regulation 307-205.02C, 307-205.02D or 307-205.02E; and
  - (b) specifies a method for determining the value of a superannuation interest at a particular time if the interest supports a superannuation income stream to which this regulation applies.

Note: The proportioning rule requires the tax-free and taxable components of superannuation to be paid out as benefits in the same proportion as they make up of the underlying interest. A value of a superannuation interest is required to ensure that the proportioning rule operates appropriately.

- (2) The value of the interest at a particular time is the sum of:
- (a) the product of:
    - (i) the annual amount of the superannuation income stream payable in respect of the superannuation interest at that time; and
    - (ii) the applicable factor set out in clause 1 of Schedule 1B; and
  - (b) the product of:
    - (i) the nominal value of the superannuation lump sum, if any, which is payable in respect of the interest at a time in the future, other than a future lump sum which is a commutation of the income stream included in subparagraph (a)(i); and
    - (ii) the applicable factor set out in clause 2 of Schedule 1B.

### **307-205.02A Superannuation income streams or superannuation annuities based on identifiable amounts—value of an interest**

For a superannuation income stream or a superannuation annuity mentioned in subparagraph 307-205.02(1)(a)(ii) but not in subparagraph 307-205.02(1)(a)(iv),

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the value of the superannuation interest that supports the income stream or annuity is:

- (a) the identifiable lump sum amount; or
- (b) the amount available in the member's account.

**307-205.02B Public sector superannuation schemes—value of an interest**

A superannuation interest in a public sector superannuation scheme is to be valued:

- (a) by using the practice for valuing a superannuation interest (other than an interest that supports a superannuation income stream mentioned in subparagraph 307-205.02(1)(a)(i)) that was used by the scheme immediately before 28 June 2007; or
- (b) if there was not a practice for valuing an interest at that time—by using the method in subregulation 307-205.02(2).

**307-205.02C Deferred superannuation income streams—value of an interest**

- (1) For the purposes of paragraph 307-205(1)(a) of the Act, the value at a particular time of an individual's superannuation interest that supports a deferred superannuation income stream referred to in subregulation (3) is the greater of:
  - (a) the sum of each amount of consideration paid for the interest for the income stream, and that amount's associated notional earnings, as worked out under subregulation (2) for the day that includes that time; and
  - (b) the total amount of the superannuation benefits that would become payable if the individual voluntarily caused the interest to cease at that time.

Note: For paragraph (a), subregulation (2) works out a total amount made up of the amount of consideration and its associated notional earnings.

- (2) An amount of consideration paid for the interest for the income stream, and that amount's associated notional earnings, for a particular day (the **valuing day**) is worked out by applying the following formula for each adjustment day (from the earliest to the latest):

$$\text{Compounded amount of consideration just before the adjustment day} \times \left( 1 + \frac{\text{Applicable above threshold rate for the adjustment day}}{\text{for the adjustment day}} \right)$$

where:

**above threshold rate**, for a particular day, means the rate determined for that day under subsection 1082(2) of the *Social Security Act 1991*.

**adjustment day** means each of the following:

- (a) each 12-month anniversary of the consideration payment day that happens before the valuing day;
- (b) the valuing day.

**applicable above threshold rate**, for a particular day, means:

- (a) if that day is a 12-month anniversary of the consideration payment day—the above threshold rate for that day; or
- (b) if that day is the valuing day—the proportion of the above threshold rate for that day equal to the number of days that the valuing day is in the 12 months starting on the day after:
  - (i) if the valuing day is at least 12 months after the consideration payment day—the most recent 12-month anniversary of the consideration payment day; or
  - (ii) otherwise—the consideration payment day.

***compounded amount of consideration just before the adjustment day*** means:

- (a) for the earliest adjustment day—the amount of consideration; or
- (b) for each later adjustment day—the result of applying the formula for the most recent earlier adjustment day.

***consideration payment day*** means the day the amount of consideration was paid.

- (3) Subregulation (1) applies to a deferred superannuation income stream that:
  - (a) is covered by paragraph (c) of the definition of ***superannuation income stream*** in subregulation 995-1.01(1); and
  - (b) is neither a pooled investment pension nor a pooled investment annuity.

### **307-205.02D Pooled investment pensions—value of an interest**

- (1) For the purposes of paragraph 307-205(1)(a) of the Act, the value at a particular time of an individual's superannuation interest that supports a pooled investment pension is the value of so much of the collective pool of assets in the fund at that time as is:
  - (a) attributed to the individual under the rules of the fund; and
  - (b) specified in an actuary's certificate.
- (2) A ***pooled investment pension*** is a superannuation income stream supported by an individual's superannuation interest if:
  - (a) the interest is in a superannuation fund; and
  - (b) the rules for the provision of the income stream ensure that, once payments of the income stream start, the income stream is to continue for the remainder of the individual's life; and
  - (c) the rules for the provision of the income stream ensure that the amounts of those payments are determined by having regard to:
    - (i) the age, life expectancy or other factors relevant to the mortality of each individual who has that kind of superannuation interest in the fund; and
    - (ii) the pool of assets in the fund held for the collective benefit of those individuals.

**307-205.02E Pooled investment annuities—value of an interest**

- (1) For the purposes of paragraph 307-205(1)(a) of the Act, the value at a particular time of an individual's superannuation interest that supports a pooled investment annuity is the value of so much of the collective pool of assets held by the life insurance company at that time as is:
  - (a) attributed to the individual under the contract for the provision of the pooled investment annuity; and
  - (b) specified in an actuary's certificate.
- (2) A **pooled investment annuity** is a superannuation income stream supported by an individual's superannuation interest if:
  - (a) the superannuation income stream is a superannuation annuity provided by a life insurance company; and
  - (b) the contract for the provision of the income stream ensures that, once payments of the income stream start, the income stream is to continue for the remainder of the individual's life; and
  - (c) the contract for the provision of the income stream ensures that the amounts of those payments are determined by having regard to:
    - (i) the age, life expectancy or other factors relevant to the mortality of each individual who has that kind of superannuation interest with the life insurance company; and
    - (ii) the pool of assets held by the life insurance company for the collective benefit of those individuals; and
  - (d) at least 50 entities have superannuation interests (of any kind) with the life insurance company.

## **Part 3A—Rules for particular industries and occupations**

### **Division 393—Farm management deposits**

#### **393-1 Simplified outline of the farm management deposits scheme**

Division 393 of the Act establishes the farm management deposits scheme, which are deposits made with FMD providers in the circumstances described in that Division.

You can deduct a farm management deposit you make if:

- (a) you are an individual carrying on a primary production business (including a primary production business you carry on as a partner in a partnership or as a beneficiary of a trust); and
- (b) you hold the deposit for at least 12 months; and
- (c) you meet some other requirements.

The amount of the deposit repaid is included in your assessable income in the income year in which it is repaid. Special rules apply if the deposit is repaid in the event of a severe drought or an applicable natural disaster.

Farm management deposits allow you to carry over income from years of good cash flow and to draw down on that income in years when you need the cash. This enables you to defer the income tax on your taxable primary production income from the income year in which you make the deposit until the income year in which the deposit is repaid.

#### **393-5 Application form for a farm management deposit: information given by depositor**

For paragraph 393-20(2)(b) of the Act, the following information is to be provided by a depositor to an FMD provider:

- (a) the depositor's name, address, date of birth and telephone number;
- (b) the amount of the deposit;
- (c) a description of the major commodity or commodities produced in the year of the deposit;
- (d) if the depositor is not the owner of the deposit—the owner's name, address and date of birth.

**Note:** Subsection 393-20(2) of the Act requires a depositor to apply to an FMD provider to make a farm management deposit with the FMD provider.

Under paragraph 393-20(2)(b) of the Act, the application form must require the depositor to provide any information required by regulations.

Under paragraph 393-20(2)(a) of the Act, the application form must also permit the depositor to state the owner's tax file number in the form.

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**393-10 Application form for a farm management deposit: information given to depositor**

For paragraph 393-20(2)(c) of the Act, the form used to apply to an FMD provider to make a farm management deposit must contain:

- (a) either of the statements set out in Part 1 of Schedule 1C; and
- (b) the statements set out in Part 2 of Schedule 1C; and
- (c) the additional information required by Part 3 of Schedule 1C.

Note: Subsection 393-20(2) of the Act requires a depositor to apply to an FMD provider to make a farm management deposit with the FMD provider.

Under paragraph 393-20(2)(c) of the Act, the application form must include any statements, required by regulations, that are to be read by the depositor when completing the form.

**393-15 Repayment of farm management deposit in the event of a natural disaster**

- (1) For paragraphs 393-40(3A)(a) and (b) of the Act, the circumstances that are to be satisfied in relation to a repayment of the whole or a part of a farm management deposit are:
  - (a) recovery assistance has been provided as a Category C measure, in the form of a recovery grant for a primary producer, in accordance with a determination mentioned in subregulation (2); and
  - (b) the recovery assistance was first provided during the 12 month period mentioned in subsection 393-40(1) of the Act; and
  - (c) the farm management deposit was repaid after the recovery assistance was first provided.

Note: Paragraph 393-40(3A)(b) of the Act relates to a repayment if natural disaster relief and recovery arrangements made by or on behalf of the Commonwealth apply.

- (2) For the purposes of paragraph (1)(a), the determinations are the following:
  - (a) Natural Disaster Relief and Recovery Arrangements Determination 2012 Version 2.0, determined by the Minister for Justice on 29 October 2015;
  - (b) Natural Disaster Relief and Recovery Arrangements Determination 2017, determined by the Minister for Justice and Minister Assisting the Prime Minister for Counter-Terrorism on 1 June 2017;
  - (c) Disaster Recovery Funding Arrangements 2018, determined by the Minister for Law Enforcement and Cyber Security on 5 June 2018.



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## Part 4—International aspects of income tax

### Subdivision 775-B—Realisation of forex gains or losses

#### 775-145.01 Application of forex events to currency and fungible rights and obligations

- (1) For subsection 775-145(2) of the Act, forex realisation event 1 applies to foreign currency, on a weighted average basis, in the circumstances that an election to use a weighted average basis:
  - (a) has been made in writing; and
  - (b) complies with subregulation (4); and
  - (c) has not been withdrawn in accordance with subregulation (6).
- (2) For subsection 775-145(2) of the Act, both of forex realisation events 1 and 2 apply to a fungible right, or a part of a fungible right, to receive foreign currency, on a weighted average basis, in the circumstances that an election to use a weighted average basis:
  - (a) has been made in writing; and
  - (b) complies with subregulation (4); and
  - (c) has not been withdrawn in accordance with subregulation (6).
- (3) For subsection 775-145(2) of the Act, forex realisation event 4 applies to a fungible obligation, or a part of a fungible obligation, to pay foreign currency, on a weighted average basis, in the circumstances that an election to use a weighted average basis:
  - (a) has been made in writing; and
  - (b) complies with subregulation (4); and
  - (c) has not been withdrawn in accordance with subregulation (6).
- (4) An election complies with this subregulation if it includes:
  - (a) a commencement date of:
    - (i) the date on which it is made; or
    - (ii) if the election is made not later than 90 days after the day on which the *Income Tax Assessment Amendment Regulations 2005 (No. 2)* are registered in accordance with the *Legislative Instruments Act 2003*—the applicable commencement date mentioned in section 775-155 of the Act; or
    - (iii) 1 July 2004; and
  - (b) a statement that the election is for all of the forex realisation events that are applicable to the fungible thing to which the election relates to apply, on a weighted average basis, to:
    - (i) all fungible things (other than a fungible thing in relation to which a choice under Subdivision 775-E of the Act is in effect); or

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- (ii) 1 or more specified classes of fungible things, other than a fungible thing in relation to which a choice under Subdivision 775-E of the Act is in effect, in circumstances (explained in the statement) in which the effect of the election would reasonably be expected to be the reduction of the costs of compliance with the income tax law; or
- (iii) 1 or more specified fungible things in circumstances (explained in the statement) in which the effect of the election would be consistent with the treatment of those fungible things in the accounting records of the entity making the election, if those records were prepared in accordance with generally accepted accounting principles.

Note: The *applicable commencement date* is explained in section 775-155 of the Act.

- (5) An election that complies with subregulation (4) takes effect in accordance with subregulation (4).
- (6) An entity may withdraw an election only if:
  - (a) it does not appear on reasonable grounds that the election is being withdrawn for a principal purpose of obtaining a tax benefit; and

Note: A tax benefit may be an incidental consequence of the withdrawal of an election.

- (b) either:
  - (i) if accounting records in relation to the treatment of fungible things to which the election applies are being kept by the entity and prepared in accordance with generally accepted accounting principles—the election is being withdrawn because there has been a change to the entity's accounting practices; or
  - (ii) if:
    - (A) accounting records in relation to the treatment of fungible things to which the election applies by the entity are not being kept by the entity and prepared in accordance with generally accepted accounting principles; and
    - (B) the election includes the statement mentioned in subparagraph (4)(b)(ii);there has been a change in the entity's circumstances that makes the statement mentioned in subparagraph (4)(b)(ii) incorrect.

Note: A *weighted average basis*, which is mentioned in section 775-145 of the Act, is used to allow:

- the cost of a fungible amount; or
  - the cost of a part of a fungible amount; or
  - in the case of a fungible obligation, or a part of a fungible obligation—the proceeds of assuming the obligation or the part of the fungible obligation;
- at a particular time to be determined by the weighted average cost of the amounts that were previously added to the fungible amount.

Example demonstrating the use of the weighted average basis to a foreign currency bank account

John deposits amounts of US dollars (*US\$*) into his bank account at times T<sub>1</sub>, T<sub>2</sub>, T<sub>3</sub> and T<sub>7</sub>. At times T<sub>4</sub>, T<sub>5</sub> and T<sub>6</sub>, John either withdraws some of the US dollars or draws on the account's credit facility.

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In this example, a weighted average calculation is made at the time of each transaction, where applicable. An alternative method would be to make 1 calculation for the entire income year (although this alternative method is not appropriate in this example because the account balance changes from credit to debit). Generally, either method is suitable as long as it is used consistently.

The weighted average cost (*WAC*) of the US\$ which John holds from times T<sub>1</sub> to T<sub>7</sub> is shown in the table.

Time	US\$ deposit or withdrawal	Exchange rate US\$ : A\$	Exchange rate A\$ : US\$	A\$ amount	US\$ balance	A\$ equivalent balance (WAC)	WAC per US\$
T <sub>1</sub>	1 000	1.3889	0.7200	1 388.89	1 000	1 388.89	1.3889
T <sub>2</sub>	2 500	1.4286	0.7000	3 571.43	3 500	4 960.32	1.4172
T <sub>3</sub>	1 750	1.3699	0.7300	2 397.26	5 250	7 357.58	1.4014
T <sub>4</sub>	-2 800	1.3333	0.7500	-3 733.33	2 450	3 433.54	1.4014
T <sub>5</sub>	-4 000	1.2821	0.7800	-5 128.21	-1 550	-1 987.18	1.2821
T <sub>6</sub>	-1 000	1.3158	0.7600	-1 315.79	-2 550	-3 302.97	1.2953
T <sub>7</sub>	1 200	1.3699	0.7300	1 643.84	-1 350	-1 748.63	1.2953

Note: The WAC per US\$ does not change upon a withdrawal while (and to the extent that) the account balance remains in credit. Also, when a deposit is made, the WAC per \$US does not change while (and to the extent that) the account remains in debit.

### Subdivision 830-A—Meaning of foreign hybrid

#### 830-15.01 Foreign hybrid company

For paragraph 830-15(3)(c) of the Act, it is a requirement for a company in relation to an income year, that the company be a limited liability partnership for the purposes of the Limited Liability Partnerships Act 2000 (UK).

## Part 5—Administration

### Division 910—Transitional and application arrangements

#### 910-1.01 Transitional arrangements arising out of the *Income Tax Assessment Amendment (Superannuation Measures No. 1) Regulation 2013*

- (1) The amendments made by items 1 and 3 to 6 of Schedule 1 to the *Income Tax Assessment Amendment (Superannuation Measures No. 1) Regulation 2013* apply in relation to the 2012—13 income year and later income years.
- (2) The amendment made by item 2 of Schedule 1 to the *Income Tax Assessment Amendment (Superannuation Measures No. 1) Regulation 2013* applies to a superannuation benefit to which subregulation 307-125.02(2) applies that is paid on or after the commencement of that regulation.

#### 910-1.02 Transitional arrangements arising out of the *Tax Laws Amendment (2013 Measures No. 1) Regulation 2013*

The amendment of these Regulations made by item 17 of Schedule 1 to the *Tax Laws Amendment (2013 Measures No. 1) Regulation 2013* applies on and after 17 February 2001.

#### 910-1.03 Transitional arrangements arising out of the *Tax Laws Amendment (2013 Measures No. 1) Regulation 2013*

The amendments of these Regulations made by items 19 and 20 of Schedule 1 to the *Tax Laws Amendment (2013 Measures No. 1) Regulation 2013* apply on and after 1 July 2012.

#### 910-1.04 Transitional arrangements arising out of the *Tax and Superannuation Laws Amendment (2014 Measures No. 1) Regulation 2014*

The amendment of these Regulations made by item 1 of Schedule 1 to the *Tax and Superannuation Laws Amendment (2014 Measures No. 1) Regulation 2014* applies on and after 1 July 2012.

#### 910-1.05 Transitional arrangements arising out of the *Tax and Superannuation Laws Amendment (2014 Measures No. 2) Regulation 2014*

The amendment of these Regulations made by item 1 of Schedule 3 to the *Tax and Superannuation Laws Amendment (2014 Measures No. 2) Regulation 2014* applies in relation to the 2013-14 financial year and later financial years.

**910-1.07 Transitional arrangements arising out of the *Income Tax Assessment Amendment (Governor-General Pension Scheme) Regulation 2015***

The amendments of these Regulations made by Schedule 1 to the *Income Tax Assessment Amendment (Governor-General Pension Scheme) Regulation 2015* apply in relation to the 2013-14 financial year and later financial years.

**910-1.08 Transitional arrangements arising out of the *Treasury Laws Amendment (2016 Measures No. 1) Regulation 2016***

The amendments of these Regulations made by Schedule 1 to the *Treasury Laws Amendment (2016 Measures No. 1) Regulation 2016* apply in relation to the 2015-16 income year and later income years.

**910-1.09 Transitional arrangements arising out of the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017***

- (1) The amendments made by items 2 and 3 of Schedule 1 to the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017* apply in relation to the 2017-18 income year and later income years.
- (2) The amendment made by item 4 of Schedule 1 to the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017* applies in relation to superannuation benefits paid on or after 1 July 2017.
- (3) The amendments made by items 8 and 9 of Schedule 2 to the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017* apply in relation to 2017-2018 financial year and later financial years.
- (4) The amendments made by Schedule 5 to the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017* apply in relation to contributions made in the 2017-18 income year and later income years.
- (5) The amendments made by Schedule 6 to the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017* apply to payments from an interest that supports a superannuation income stream made on or after 1 July 2017.
- (6) The amendments made by items 1 to 3 of Schedule 7 to the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017* apply in relation to a superannuation benefit that is:
  - (a) paid because of the death of a person that occurred on or after 1 July 2017;  
or
  - (b) paid on or after 1 July 2019.

Note: For paragraph (b), it doesn't matter when the person, in relation to whom the benefit is payable, died.

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**910-1.10 Transitional arrangements arising out of the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2018***

- (1) The amendment made by item 5 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2018* applies on and after 1 July 2007.
- (2) The amendments made by items 7 and 8 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2018* apply in relation to the 2012-13 income year and later income years.

**910-1.11 Transitional arrangements arising out of the *Treasury Laws Amendment (Mutual Equity Interests) Regulations 2019***

The amendment of these Regulations made by Schedule 1 to the *Treasury Laws Amendment (Mutual Equity Interests) Regulations 2019* applies in relation to a relevant term subordinated note that is issued on or after the commencement of the *Treasury Laws Amendment (Mutual Equity Interests) Regulations 2019*.

**910-1.12 Transitional arrangements arising out of the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019***

- (1) Subject to subregulation (2), the amendments made by Parts 1 and 3 of Schedule 5 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019* apply on and after 1 July 2017.
- (2) Regulation 294-25.01, as inserted by item 1 of Schedule 5 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019*, applies on and after the commencement of that item.
- (3) The amendment made by Part 2 of Schedule 5 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019* applies on and after the commencement of that Part.

## Part 6—The Dictionary

### Division 960—General

#### Subdivision 960-C—Foreign currency

#### 960-50.01 Translation of foreign currency amounts into Australian currency— modification of special translation rules

- (1) The table in subsection 960-50(6) of the Act is modified by adding after item 11 the following items:

11A	an amount (other than an amount of a receipt or a payment) to which none of the above items applies	the amount is to be translated into Australian currency at an exchange rate that is reasonable having regard to the circumstances.
12	an amount to which any of items 1 to 11A (inclusive) applies	as an alternative to the result mentioned in the item, the amount may be translated into Australian currency using any of the rules set out in Schedule 2 to the <i>Income Tax Assessment Regulations 1997</i> .

- (2) For subsection 960-50(8) of the Act, Schedule 2 sets out requirements in relation to the translation of amounts into Australian currency.

- (3) For subsection 960-50(7) of the Act, the table in subsection 960-50(6) of the Act is modified by omitting item 8 and substituting the following items:

8	an amount that you deduct (other than under section 25-35 or Division 40)	(a) if the amount is paid at or before the time when it became deductible—the amount is to be translated to Australian currency at the exchange rate applicable at the time of payment; or (b) in any other case—the amount is to be translated to Australian currency at the exchange rate applicable at the time when it became deductible.
8A	an amount that you deduct under section 25-35	(a) if the debt was included in your assessable income—the amount is to be translated to Australian currency at the exchange rate applicable at the time of translating the income; or (b) if the debt was in respect of money that you lent—the amount is to be translated to Australian currency at the exchange rate applicable at the time of translating the money that was lent; or (c) if you bought the debt—the amount is to be translated to Australian currency at the exchange rate applicable at the time of translating the debt that you bought.
8B	the value of an amount to which a contract (a <i>spot foreign exchange contract</i> ) for the exchange of amounts in	the value of the amount to which the contract relates is to be translated to Australian currency at the exchange rate applicable at the tax recognition time (within the meaning of Division 775) referred to in the forex realisation event that

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	different currencies relates if: (a) the spot foreign exchange contract includes a requirement that consideration be provided within 2 business days after the contract is entered into; and (b) that requirement is satisfied	happens on payment or receipt of that amount, unless the entity's usual business practice is not to translate the amount at the exchange rate applicable at the tax recognition time for the purpose of recording the transaction in the entity's accounting records.  Note: An entity's usual business practice may be to translate amounts into Australian currency at a different exchange rate because the entity recognises gains and losses under spot foreign exchange contracts in the entity's accounting records.
8C	the value of an amount to which a contract (a <i>spot contract</i> ) for the exchange of an amount in a foreign currency and a security relates if: (a) the spot contract includes a requirement that consideration be provided within 2 business days after the contract is entered into; and (b) that requirement is satisfied	the value of the amount to which the contract relates is to be translated to Australian currency at the exchange rate applicable at the tax recognition time (within the meaning of Division 775) referred to in the forex realisation event that happens on payment or receipt of that amount, unless the entity's usual business practice is not to translate the amount at the exchange rate applicable at the tax recognition time for the purpose of recording the transaction in the entity's accounting records.  Note: An entity's usual business practice may be to translate amounts into Australian currency at a different exchange rate because the entity recognises gains and losses under spot contracts in the entity's accounting records.

**Subdivision 960-D—Functional currency**

**960-80.01 Translation rules—translation into applicable functional currency**

For subsection 960-80(7) of the Act, the requirements set out in Schedule 2 in relation to the translation of amounts into Australian currency have effect in relation to the translation of amounts into the applicable functional currency as if:

- (a) each reference in that Schedule to Australian currency were a reference to the applicable functional currency; and
- (b) the modifications set out in the following table were made:

Item	Provision	After	Insert
1	Subclause 1.2(2)	year	(or, if the entity is an attributable taxpayer in relation to a CFC (within the meaning of Part X of the <i>Income Tax Assessment Act 1936</i> )—each subsequent day in the CFC's statutory accounting period (within the meaning of that Part))
2	Paragraph 1.2(3)(a)	activities	(or, if the entity is an attributable taxpayer in relation to a CFC (within the meaning of Part X of the <i>Income Tax Assessment Act 1936</i> ), the use of the rate would not be appropriate having regard to the CFC's business or activities)



**960-80.02 Translation rules for an attributable taxpayer of a CFC—translation into applicable functional currency**

- (1) For subsection 960-80(7) of the Act, if:
- (a) an entity is an attributable taxpayer in relation to a CFC; and
  - (b) the CFC has prepared financial accounts in accordance with standards to which subsection 820-960(1C) or (1D) of the Act relates; and
  - (c) those financial accounts translate amounts into the applicable functional currency using particular exchange rates; and
  - (d) the entity wishes to translate an amount into the applicable functional currency, using the exchange rate used to translate a corresponding amount in the financial accounts;

the entity must translate all amounts into the applicable functional currency using the exchange rates that were used in the financial accounts to translate corresponding amounts.

- (2) In this regulation:

*CFC* has the meaning given by Part X of the *Income Tax Assessment Act 1936*.

**960-80.03 Translation rules—translation from applicable functional currency into Australian currency**

- (1) For subsection 960-80(7) of the Act, if, before the day on which the *Income Tax Assessment Amendment Regulations 2005 (No. 2)* are registered, an entity translates an amount that is not the attributable income of a CFC from the applicable functional currency into Australian currency on a day in accordance with an item of the table in subsection 960-80(1) of the Act, the entity may translate the amount using:
- (a) an exchange rate that is an average of all of the exchange rates during the period, not exceeding 12 months, in which the entity carries on the relevant business or other activity; or
  - (b) the exchange rate applicable on the last day of the entity's income year.
- (2) For subsection 960-80(7) of the Act, if, before the day on which the *Income Tax Assessment Amendment Regulations 2005 (No. 2)* are registered, an entity that is an attributable taxpayer in relation to a CFC translates an amount that is the attributable income of a CFC from the applicable functional currency into Australian currency on a day in accordance with an item of the table in subsection 960-80(1) of the Act, the entity may translate the amount using:
- (a) an exchange rate that is an average of all of the exchange rates during the period, not exceeding 12 months, in which the CFC carries on the relevant business or other activity; or
  - (b) the exchange rate applicable on the last day of the CFC's statutory accounting period.
- (3) For subsection 960-80(7) of the Act, if, on or after the day on which the *Income Tax Assessment Amendment Regulations 2005 (No. 2)* are registered, an entity translates an amount that is not the attributable income of a CFC from the
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applicable functional currency into Australian currency on a day in accordance with an item of the table in subsection 960-80(1) of the Act, the entity must translate the amount using:

- (a) an exchange rate that is an average of all of the exchange rates during the period, not exceeding 12 months, in which the entity carries on the relevant business or other activity; or
  - (b) if the entity makes an election in writing to use the exchange rate applicable on the last day of the entity's income year—that exchange rate.
- (4) For subsection 960-80(7) of the Act, if, on or after the day on which the *Income Tax Assessment Amendment Regulations 2005 (No. 2)* are registered, an entity that is an attributable taxpayer in relation to a CFC translates an amount that is the attributable income of a CFC from the applicable functional currency into Australian currency on a day in accordance with an item of the table in subsection 960-80(1) of the Act, the entity must translate the amount using:
- (a) an exchange rate that is an average of all of the exchange rates during the period, not exceeding 12 months, in which the CFC carries on the relevant business or other activity; or
  - (b) if the entity makes an election in writing to use the exchange rate applicable on the last day of the CFC's statutory accounting period—that exchange rate.
- (5) An election under paragraph (3)(b) or (4)(b) is irrevocable.
- (6) In this regulation:

**CFC** has the meaning given by Part X of the *Income Tax Assessment Act 1936*.

**registered** means registered in accordance with the *Legislation Act 2003*.

**statutory accounting period** has the meaning given by Part X of the *Income Tax Assessment Act 1936*.

## **Division 974—Debt and equity interests**

### **Subdivision 974-F—Related concepts**

#### **974-135A Non-cumulative redeemable preference shares issued by credit union**

For paragraph 974-135(8)(d) of the Act, the obligation in respect of the return of investment on the redemption of a non-cumulative redeemable preference share issued by a credit union is not an effectively non-contingent obligation if:

- (a) the share is issued on or after 4 March 2003; and
- (b) the share satisfies, at the time it is issued, the criteria set out in section 7 of Guidance Note *AGN 111.2—Tier 2 Capital*, published by APRA in September 2000; and
- (c) the share is issued subject to the following terms and conditions:
  - (i) the share has a minimum term of 5 years;
  - (ii) dividend payments for the share are to be paid only:
    - (A) out of operating profits from the current year or the immediately previous year; and
    - (B) to the extent that payment is permitted by law and by relevant regulatory authorities;
  - (iii) dividend payments for the share are not cumulative;
  - (iv) any payments made in relation to the share out of net profits or net assets have preferential rights over payments made in relation to ordinary shares (if any) from the same sources;
  - (v) if the share is to be redeemed—the redemption cannot be carried out without the approval of the board of the credit union;
  - (vi) if the share is to be redeemed, but the redemption of the share would place the credit union in breach of a prudential standard made under the *Banking Act 1959*—the redemption cannot be carried out without the approval of APRA; and
- (d) the redemption is carried out on or after 4 March 2003; and
- (e) the share is issued only to a member of the credit union; and
- (f) a member of the credit union and its connected entities (within the meaning of subsection 995-1(1) of the Act) can together hold not more than 10% by value of the shares of that kind issued by the credit union.

#### **974-135B Non-cumulative redeemable preference shares issued by mutual building society**

For paragraph 974-135(8)(d) of the Act, the obligation in respect of the return of investment on the redemption of a non-cumulative redeemable preference share issued by a mutual building society is not an effectively non-contingent obligation if:

- (a) the mutual building society is an ADI; and
- (b) the share is issued on or after 4 March 2003; and

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- (c) the share satisfies, at the time it is issued, the criteria set out in section 7 of Guidance Note *AGN 111.2—Tier 2 Capital*, published by APRA in September 2000; and
- (d) the share is issued subject to the following terms and conditions:
  - (i) the share has a minimum term of 5 years;
  - (ii) dividend payments for the share are to be paid only:
    - (A) out of operating profits from the current year or the immediately previous year; and
    - (B) to the extent that payment is permitted by law and by relevant regulatory authorities;
  - (iii) dividend payments for the share are not cumulative;
  - (iv) any payments made in relation to the share out of net profits or net assets have preferential rights over payments made in relation to ordinary shares (if any) from the same sources;
  - (v) if the share is to be redeemed—the redemption cannot be carried out without the approval of the board of the mutual building society;
  - (vi) if the share is to be redeemed, but the redemption of the share would place the mutual building society in breach of a prudential standard made under the *Banking Act 1959*—the redemption cannot be carried out without the approval of APRA; and
- (e) the redemption is carried out on or after 4 March 2003; and
- (f) the share is issued only to a member of the mutual building society; and
- (g) a member of the mutual building society and its connected entities (within the meaning of subsection 995-1(1) of the Act) can together hold not more than 10% by value of the shares of that kind issued by the mutual building society.

#### **974-135C Redeemable preference shares**

For paragraph 974-135(8)(a) of the Act, an obligation to redeem or buy back a preference share in relation to a company is not a contingent obligation merely because a requirement exists, under a law, to the effect that:

- (a) the redemption or buy back must not prejudice the company's ability to pay its creditors; or
- (b) the redemption or buy back must not cause the company's remaining assets to become insufficient to pay any of the company's debts for which provision for payment has not otherwise been made.

#### **974-135D Term cumulative subordinated note with insolvency or capital adequacy conditions**

- (1) This regulation applies to an obligation to pay the principal or interest on a relevant term subordinated note at a particular time on or after 1 July 2001.
- (2) For paragraphs 974-135(8)(a) and (b) of the Act, the fact that the obligation is subject to insolvency or capital adequacy conditions does not in itself prevent it from being a non-contingent obligation.

- (3) In this regulation, a term subordinated note is *relevant* if:
- (a) at the time of its issue:
    - (i) it does not constitute or meet the requirements of a Tier 1 capital instrument; and
    - (ii) it does not form part of the Tier 1 capital of the issuer of the note, or a connected entity, and the reason for it not doing so is not that the instrument is in excess of the Tier 1 capital required for the purposes of prudential standards that deal with capital adequacy; and
  - (b) it has a term of not more than 30 years; and
  - (c) it does not include an unconditional right to extend the term of the note beyond a total term of 30 years; and
  - (d) it is subject to a condition that any payment of the principal or interest beyond the date on which it would otherwise be payable must accumulate (with or without compounding); and
  - (e) it does not give the issuer of the note an unconditional right to decline to provide a financial benefit that is equal in nominal value to the issue price of the note to settle the obligations under the note.
- (4) In this regulation, conditions applying to the obligation are *insolvency or capital adequacy conditions* if they have the effect that the issuer of the note is obliged or able to defer the payment of the principal or interest beyond the date on which it would otherwise be payable if, on that date:
- (a) the issuer of the note is insolvent, or would become insolvent if the payment were made; or
  - (b) if the issuer of the note is an entity that is regulated by the APRA or a comparable foreign regulator—the issuer is in breach of its capital adequacy ratio or would be in breach if the payment were made.
- (5) If the obligation is an obligation to pay at a time before 15 April 2010, this regulation applies only to the extent that applying it would not have the result that:
- (a) the rights of a person (other than the Commonwealth or an authority of the Commonwealth) immediately before 15 April 2010 would be affected so as to disadvantage the person; or
  - (b) liabilities would be imposed on a person (other than the Commonwealth or an authority of the Commonwealth), for anything done or omitted to be done before 15 April 2010.

**974-135E Perpetual cumulative subordinated note with profitability, insolvency or negative earnings conditions**

- (1) This regulation applies to an obligation to pay interest on a relevant perpetual subordinated note at a particular time on or after 1 July 2001.
- (2) For paragraphs 974-135(8)(a) and (b) of the Act, the fact that the obligation is subject to profitability, insolvency or negative earnings conditions does not in itself prevent the obligation from being a non-contingent obligation.

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- (3) In this regulation, a **relevant perpetual subordinated note** is a perpetual subordinated note that:
- (a) at the time of its issue:
    - (i) does not constitute or meet the requirements of a Tier 1 capital instrument; and
    - (ii) does not form part of the Tier 1 capital of the issuer of the note, or a connected entity, and the reason for it not doing so is not that the instrument is in excess of the Tier 1 capital required for the purposes of prudential standards that deal with capital adequacy; and
  - (b) would be a debt interest but for the obligation being subject to one or more profitability, insolvency or negative earnings conditions; and
  - (c) is subject to the condition that any deferred interest must accumulate (with or without compounding); and
  - (d) was issued by:
    - (i) an ADI that is a bank or non-mutual building society and that is regulated for prudential purposes by APRA; or
    - (ii) a subsidiary of an ADI mentioned in subparagraph (i), being a subsidiary that is regulated with the ADI for prudential purposes by APRA; or
    - (iii) an entity that:
      - (A) has undertaken to comply with prudential standards, issued by APRA, that deal with capital adequacy; and
      - (B) is regulated for prudential purposes by APRA; or
    - (iv) a subsidiary of an entity mentioned in subparagraph (iii) that is covered by the undertaking mentioned in that subparagraph; or
    - (v) an entity that is regulated for prudential purposes:
      - (A) by a foreign prudential regulator that has a prudential regulatory role comparable to that of APRA; and
      - (B) under ADI capital adequacy requirements comparable to those of APRA; and
  - (e) does not give the issuer of the note an unconditional right to decline to provide a financial benefit that is equal in nominal value to the issue price of the note to settle the obligations under the note.
- (4) In this regulation, conditions applying to the obligation are **profitability, insolvency or negative earnings conditions** if they have the effect that the issuer of the note is able, or obliged, to defer the payment of the interest (with or without compounding) beyond the date on which it would otherwise be payable if, on that date:
- (a) profitability does not justify the payment; or
  - (b) the issuer of the note is insolvent, or would become insolvent if the payment were made; or
  - (c) a dividend has not been declared or paid on a class or classes of share capital of the issuer during a specified period that:
    - (i) immediately precedes that date; and
    - (ii) is no more than 24 months; or

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- (d) the issuer's retained earnings are negative, or would be negative if the payment were made.
- (5) If the obligation is an obligation to pay at a time before the day this regulation commences, this regulation applies only to the extent that applying it would not have the result that:
  - (a) the rights of a person (other than the Commonwealth or an authority of the Commonwealth) immediately before the day this regulation commences would be affected so as to disadvantage that person; or
  - (b) liabilities would be imposed on a person (other than the Commonwealth or an authority of the Commonwealth) for anything done or omitted to be done before the day this regulation commences.

Note: The application of this regulation to a perpetual subordinated note does not mean that the note, together with one or more related schemes, cannot give rise to an equity interest.

**974-135F Term cumulative subordinated note with non-viability condition**

- (1) This regulation applies to an obligation to pay the principal or interest on a relevant term subordinated note at a particular time on or after the day this regulation commences.
- (2) For paragraphs 974-135(8)(a) and (b) of the Act, the fact that the obligation is subject to a non-viability condition does not in itself prevent the obligation from being a non-contingent obligation.
- (3) In this regulation, a term subordinated note is *relevant* if:
  - (a) it is issued by an entity regulated for prudential purposes by APRA or a subsidiary of an entity that is regulated for prudential purposes by APRA; and
  - (b) when it is issued:
    - (i) it does not constitute or meet the requirements of a Tier 1 capital instrument; and
    - (ii) it does not form part of the Tier 1 capital of the issuer of the note, and the reason for it not doing so is not that the instrument is in excess of the Tier 1 capital required for the purposes of prudential standards that deal with capital adequacy; and
  - (c) it has a term of no more than 30 years, and it does not include an unconditional right to extend the term of the note beyond a total term of 30 years; and
  - (d) it is subject to a condition that, unless a non-viability trigger event occurs, any payment of the principal or interest beyond the date on which it would otherwise be payable must accumulate (with or without compounding); and
  - (e) it does not give the issuer of the note an unconditional right to decline to provide a financial benefit that is equal in nominal value to the issue price of the note to settle the obligations under the note.

Note for paragraph (b)

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Whether the note constitutes or meets the requirement of a Tier 1 capital instrument, or forms part of the Tier 1 capital of the issuer, is determined under the prudential standards that apply to the issuer.

- (4) In this regulation, a condition applying to the obligation is a ***non-viability condition*** if the condition has the effect that if a non-viability trigger event occurs the note must be:
- (a) written off; or
  - (b) converted into ordinary shares of the issuer of the note or a parent entity of the issuer; or
  - (c) converted into mutual equity interests of the issuer of the note or a parent entity of the issuer.
- (5) In this regulation, a ***non-viability trigger event***, in relation to a note, is any of the following:
- (a) APRA or a comparable foreign regulator issues a notice, in writing, to the issuer of the note stating that conversion or write-off of capital instruments issued by the issuer is necessary because, without it, APRA or the foreign regulator considers that the issuer will become non-viable;
  - (b) APRA or a comparable foreign regulator determines, in writing given to the issuer of the note, that without an injection of capital, or equivalent support, from the public sector the issuer will become non-viable;
  - (c) APRA or a comparable foreign regulator issues a notice, in writing, to a parent entity of the issuer of the note stating that conversion or write-off of capital instruments is necessary because, without it, APRA or the foreign regulator considers that the parent entity or the issuer will become non-viable;
  - (d) APRA or a comparable foreign regulator determines, in writing given to a parent entity of the issuer of the note, that without an injection of capital, or equivalent support, from the public sector the parent entity or the issuer will become non-viable.
- (6) In this regulation, ***mutual equity interests*** has the same meaning as in section 11CAA of the *Banking Act 1959*.



## **Division 995—Definitions**

### **995-1.01 Definitions**

(1) In these Regulations, unless the contrary intention appears:

**accruing member** has:

- (a) for the purposes of Schedule 1A—the meaning given by clause 1.1 of that Schedule; and
- (b) for the purposes of Subdivision 293-DA and Schedule 1AA—the meaning given by subregulation 293-115.05(2).

**Act** means the *Income Tax Assessment Act 1997*.

**defined benefit member**:

- (a) means a member of a superannuation fund whose entitlements to superannuation benefits (other than benefits payable on death or disability) are defined by reference to 1 or more of the following matters:
  - (i) the member's salary, or allowance in the nature of salary, at a particular date or averaged over a period;
  - (ii) another individual's salary, or allowance in the nature of salary, at a particular date or averaged over a period;
  - (iii) a specified amount;
  - (iv) specified conversion factors; but
- (b) does not include a member of a superannuation fund whose entitlements to superannuation are defined solely by reference to 1 or more of the following matters:
  - (i) the member's disability superannuation benefits;
  - (ii) the member's superannuation death benefits;
  - (iii) payments of amounts mentioned in paragraph 307-10(a) of the Act (which relates to temporary disability payments).

**funded benefit interest** has the meaning given by subregulation 293-115.15(2).

**Governor-General Pension Scheme** means the Governor-General Pension Scheme constituted by allowances payable under section 4 of the *Governor-General Act 1974*.

**insolvent**, for an issuer, means:

- (a) the issuer cannot pay its debts as they fall due; or
- (b) the issuer's liabilities exceed its assets.

**non-accruing member** has, for the purposes of Subdivision 293-DA, the meaning given by subregulation 293-115.05(2).

**on-hold member**, in relation to a defined benefit member of a superannuation fund, has the meaning given by subregulation 292-170.04(5A).

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**pensioned member**, in relation to a defined benefit member of a superannuation fund, has the meaning given by subregulation 292-170.04(5).

**pooled investment annuity** has the meaning given by subregulation 307-205.02E(2).

**pooled investment pension** has the meaning given by subregulation 307-205.02D(2).

**RSA Act** means the *Retirement Savings Accounts Act 1997*.

**RSA Regulations** means the *Retirement Savings Accounts Regulations 1997*.

**SIS Act** means the *Superannuation Industry (Supervision) Act 1993*.

**SIS Regulations** means the *Superannuation Industry (Supervision) Regulations 1994*.

**superannuation annuity** means:

- (a) an income stream:
  - (i) that is issued by a life insurance company or registered organisation; and
  - (ii) that commenced before 20 September 2007; and
  - (iii) that is an annuity within the meaning of:
    - (A) subsection 10(1) of the SIS Act; or
    - (B) subregulation 1.07(1A) of the RSA Regulations; or
- (b) an income stream that:
  - (i) is issued by a life insurance company or registered organisation; and
  - (ii) is taken to be an annuity for the purposes of the SIS Act in accordance with subregulation 1.05(1) of the SIS Regulations; or
- (c) a deferred superannuation income stream that is taken to be an annuity for the purposes of the SIS Act in accordance with subregulation 1.05(1) of the SIS Regulations because the contract for the provision of the income stream meets the standards of subregulation 1.06A(2) of the SIS Regulations.

**superannuation income stream** means:

- (a) an income stream that is taken to be:
  - (i) an annuity for the purposes of the SIS Act in accordance with subregulation 1.05(1) of the SIS Regulations; or
  - (ii) a pension for the purposes of the SIS Act in accordance with subregulation 1.06(1) of the SIS Regulations; or
  - (iii) a pension for the purposes of the RSA Act in accordance with regulation 1.07 of the RSA Regulations; or
- (b) an income stream that:
  - (i) is an annuity or pension within the meaning of the SIS Act; and
  - (ii) commenced before 20 September 2007; or
- (c) a deferred superannuation income stream that is taken to be:

- (i) an annuity for the purposes of the SIS Act in accordance with subregulation 1.05(1) of the SIS Regulations because the contract for the provision of the income stream meets the standards of subregulation 1.06A(2) of the SIS Regulations; or
- (ii) a pension for the purposes of the SIS Act in accordance with subregulation 1.06(1) of the SIS Regulations because the rules for the provision of the income stream meet the standards of subregulation 1.06A(2) of the SIS Regulations; or
- (d) for the purposes of sections 295-385, 295-390, 295-395, 320-246 and 320-247 of the Act—one or more rights (whether contingent or not), to the extent that they are covered by subregulation (3).

**superannuation income stream benefit**: see subregulations (2) to (5).

**superannuation salary** means the salary used to determine a person's entitlement to superannuation benefits.

**terminal medical condition** has the meaning given by regulation 303-10.01.

- (2) Subregulation (3) applies if:
  - (a) immediately before the death of a person (the **deceased**), a superannuation interest was supporting a superannuation income stream payable to the deceased; and
  - (b) the superannuation income stream did not automatically revert to another person on the death of the deceased; and
  - (c) one or more other persons each have a right (whether contingent or not) to be paid an amount that will be a superannuation benefit from the superannuation interest; and
  - (d) each such right arises on the death of the deceased, and ceases to exist immediately after the payment of the amount mentioned in paragraph (c).
- (3) For the purposes of paragraph (d) of the definition of **superannuation income stream** in subregulation (1), this subregulation covers each such right, to the extent that the value of the superannuation interest has not increased (other than through investment earnings) on or after the deceased's death.
- (4) Subregulations (4A) and (4B) apply if:
  - (a) immediately before the death of a person (the **deceased**), a superannuation interest was supporting a superannuation income stream payable to the deceased; and
  - (b) the superannuation income stream did not automatically revert to another person on the death of the deceased; and
  - (c) one or more persons each have a right (whether contingent or not) to commence a new superannuation income stream using an amount applied from the superannuation interest; and
  - (d) each such right arises on the death of the deceased, and ceases to exist at the time the relevant new superannuation income stream commences (disregarding paragraph (4A)(a)); and

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- (e) each of the new income streams is of a kind mentioned in paragraph (a) of the definition of *superannuation income stream* in subregulation (1).
- (4A) For the purposes of sections 295-385, 295-390, 295-395, 320-246 and 320-247 of the Act, in applying paragraph (a) of the definition of *superannuation income stream* in subregulation (1):
- (a) treat each new superannuation income stream mentioned in paragraph (4)(c) as commencing on the death of the deceased; and
  - (b) during the period:
    - (i) starting on the death of the deceased; and
    - (ii) ending at the time the new superannuation income stream commences (disregarding paragraph (a));take account of the value of the superannuation interest only to the extent that the value has not increased (other than through investment earnings) on or after the deceased's death.
- (4B) For the purposes of subregulations (2) and (3), disregard a right mentioned in paragraph (4)(c).
- (5) In this regulation:
- investment earnings* does not include:
- (a) an amount paid under a policy of insurance on the life of the deceased; or
  - (b) an amount arising from self-insurance.

#### 995-1.04 Constitutionally protected funds

For the definition of *constitutionally protected fund* in subsection 995-1(1) of the Act, a fund:

- (a) of the kind to which, in the absence of item 5.3 of section 50-25 of the Act, Division 295 of the Act would apply; and
- (b) established by:
  - (i) a State Act mentioned in Schedule 4; or
  - (ii) a specified provision of a State Act mentioned in Schedule 4;is a constitutionally protected fund.

#### 995-1.05 Approved stock exchanges

The stock exchanges specified in Schedule 5 are named for the purposes of the definition of *approved stock exchange* in subsection 995-1(1) of the Act.

## **Schedule 1A—Method of working out amount of notional taxed contributions**

(subregulations 292-170.02(2), 292-170.05(2) and (3) and 292-170.06(2) and (3))

### **Part 1—Preliminary**

#### **Meaning of accruing member**

- 1.1 An *accruing member* in a financial year is a defined benefit member who is not a non-accruing member for the financial year.

#### **Meaning of benefit category**

- 1.2 A *benefit category* is a category of membership of a defined benefit fund as certified by an actuary.

- 1.3 An actuary must not certify a category of membership to be a benefit category unless the actuary is satisfied that:

- (a) each hypothetical new entrant to the benefit category with the same entry age would accrue retirement benefits on substantially the same basis; or
- (b) if any 2 hypothetical new entrants to the benefit category accrued retirement benefits on a different basis, the new entrant rates for each member calculated under Parts 2 and 3 would be equal.

Example: A defined benefit fund provides a benefit accrual of 10% plus twice member contribution rate of final average salary for each year of membership. Members can contribute at either 4% or 6% of salary. Member A contributes at 4% and member B contributes at 6%. An actuary must not certify that A and B are in the same benefit category unless the new entrant rates, as calculated under this Schedule, for members who contribute at 4% and 6%, are equal.

Note: A member would not be expected to move from one benefit category to another unless 1 of the following relevant external events occurs:

- (a) the member ceases accruing benefits under one section of the fund rules but commences accruing benefits under another section of the fund rules as a result of a change in employment status, eg promotion;
- (b) the member continues accruing benefits under one section of the fund rules and commences accruing benefits under another section of the fund rules as a result of a change in employment status, eg promotion;
- (c) the member ceases accruing benefits under one section of the fund rules and commences or continues accruing benefits under another section of the fund rules as a result of reaching maximum accrual or a change in employment status, eg demotion;
- (d) the exercise of a member option which results in a material change in the level of employer support;
- (e) a change in fund rules which directly affected the member's rate of accrual of retirement benefits in respect of future membership after 1 July 2007.

Example for paragraph (d)

If the new entrant rates calculated for members with different member contribution rates are not equal, and, as a result, there are a number of benefit categories corresponding to the different

member contribution rates, then a change in contribution rate would result in a move between benefit categories

**Accruing member must not belong to more than one benefit category at the same time unless certified by an actuary**

- 1.4 (1) An accruing member must not belong to more than one benefit category of the same defined benefit fund on the same day unless certified by an actuary.
- (2) An actuary must not certify that a member belongs to more than one benefit category on the same day unless the actuary is satisfied that the amount of notional taxed contributions to be reported will not be materially different from the amount of notional taxed contributions that would have been reported had the member belonged to only one benefit category on each relevant day.

Note: An accruing member would be ordinarily expected to belong to only one benefit category at a time. However, there might be circumstances in certain funds where it is materially more practical for the purpose of calculating the total amount of notional taxable contributions to deem that some members belong to more than one benefit category from time to time.

**Meaning of *fund benefit***

- 1.5 That part of a defined benefit interest which is sourced from contributions made into a superannuation fund or earnings on such contributions is referred to as the ***fund benefit***.

Note: A superannuation benefit may be wholly sourced from contributions made into a superannuation fund or earnings on such contributions. A superannuation benefit paid from a public sector superannuation fund may be wholly or partly sourced, or not sourced to any extent, from contributions made into a superannuation fund or earnings on such contributions. If a superannuation benefit is not sourced to any extent from contributions made into a superannuation fund, or earnings on such contributions, the amount of the fund benefit is zero.

**Standard method for working out amount of notional taxed contributions in respect of a benefit category for an accruing member of the benefit category if the fund benefit is wholly sourced from an accumulation of contributions made in respect of the member**

- 1.6 If the fund benefit is wholly sourced from an accumulation of concessional contributions made to a superannuation fund in respect of a member or earnings on such contributions, or an accumulation of member contributions or earnings on such contributions, the amount of notional taxed contributions for an accruing member for a financial year is the amount of concessional contributions made to the superannuation fund in respect of the member during the financial year.

**Standard method for working out amount of notional taxed contributions in respect of a benefit category for an accruing member of the benefit category if the fund benefit is not wholly sourced from an accumulation of contributions made in respect of the member**

- 1.7 If section 1.6 does not apply, the standard method for working out the amount of notional taxed contributions for an accruing member of a benefit category of a defined benefit fund for a financial year is:

$$1.2 \times \left( \text{New entrant rate} \times S \times \frac{D}{365} - M \right)$$

where, for the financial year:

*new entrant rate* is the new entrant rate for the benefit category worked out by an actuary under Parts 2 and 3.

*S* is the member's annual superannuation salary relevant to the benefit category on the first day of the financial year on which the member had a defined benefit interest in the scheme.

*D* is the number of days during the financial year that the member was an accruing member of the benefit category.

*M* is the amount of member contributions paid by or on behalf of the member in respect of the member's defined benefit interest in the fund during that part of the financial year that the member was an accruing member of the benefit category, and which are not assessable income of the fund.

**Standard method of working out total amount of notional taxed contributions for an accruing member of a defined benefit fund for a financial year**

- 1.8 The standard method for working out the total amount of notional taxed contributions for an accruing member of a defined benefit fund for a financial year is:

$$T + (1.2 \times (W + X + Y + Z))$$

where, for the financial year:

*T* is the sum of the amounts of notional taxed contributions for each benefit category that the member belongs to during the financial year calculated under sections 1.6 and 1.7.

*W* is an amount worked out on advice from an actuary under Part 4.

*X* is an amount worked out on advice from an actuary under Part 5.

*Y* is an amount worked out on advice from an actuary under Part 6.

*Z* is an amount worked out on advice from an actuary under Part 7.

## Part 2—New entrant rate

### Method of working out new entrant rate for a benefit category

- 2.1
- (1) The **new entrant rate** for a benefit category is the rate calculated under this Part and using the assumptions set out in Part 3.
  - (2) The new entrant rate for a benefit category is the rate that represents the long-term cost, expressed as a percentage of superannuation salary, of providing as much of the fund benefit as is payable on a voluntary exit to a hypothetical new entrant to the benefit category.
  - (3) The new entrant rate is calculated as the present value of the fund benefit payable on voluntary exit (resignation, early retirement, or retirement) under the rules of the defined benefit fund which are applicable to a new entrant to the benefit category divided by the present value of future superannuation salaries payable to the new entrant.
  - (4) To put the matter beyond doubt, the new entrant rate is calculated assuming that the fund benefit is to be wholly sourced from concessional contributions made into the fund at the new entrant rate and earnings on those contributions.
  - (5) The present value of the fund benefit is to be calculated having regard to the rules and practice of the defined benefit fund including benefit structure, caps, member options, reasonably expected discretions and member contributions, and using the economic, decrement and other assumptions set out in Part 3.

### New entrant rate to be based on period of membership needed to reach maximum benefit accrual

- 2.2
- (1) If the rules of the defined benefit fund applicable to the benefit category provide for a maximum benefit accrual, the new entrant rate is to be calculated on the basis that the benefit is funded over the period to when maximum accrual is attained.
  - (2) For practical purposes this means that, for the purpose of calculating the present value of future salaries payable to the new entrant, the superannuation salary is to be assumed to be zero at those ages after reaching maximum benefit accrual.

Example: If maximum accrual is attained after 20 years of membership, the superannuation salary for a 30-year-old new entrant will be assumed to be zero at age 50 and above for the purpose of calculating the present value of future salaries payable to the new entrant.

### New entrant rate to be rounded down

- 2.3
- The new entrant rate is to be rounded down to the lower 1 percentage point.
- Example: 10.6% would be rounded down to 10%.



**No allowance for administration expenses or income tax on assessable contributions**

- 2.4 The new entrant rate is to be calculated ignoring:
- (a) administration expenses; and
  - (b) income tax on assessable contributions.

Note: These items are allowed for in the formula in section 1.7 by multiplying by 1.2.

**Certain discretions to be allowed for**

- 2.5 (1) The new entrant rate is to be calculated assuming that certain discretions are always exercised.
- (2) Subject to subsection (2A), if the fund rules provide a discretion to pay, on voluntary exit, a benefit that is higher than the standard benefit, the actuary must assume that a higher benefit is always paid on voluntary exit on or after age 55.
- (2A) If the higher benefit mentioned in subsection (2) exceeds the accrued retirement benefit, the actuary may assume that the benefit is an amount:
- (a) greater than or equal to the accrued retirement benefit; and
  - (b) less than or equal to the higher benefit.
- (3) If the actuary believes that there is a reasonable expectation that a higher benefit than either the standard benefit or the accrued retirement benefit will be paid, then the actuary should assume that the benefit paid on voluntary exit on or after age 55 is always equal to the benefit reasonably expected to be paid.

Note: In considering whether there is a reasonable expectation that a higher benefit will be paid, it would generally not be appropriate to assume payment unless such an assumption was adopted in the most recent actuarial review.

**Method of working out new entrant rate for a member**

- 2.6 (1) If a member belongs to exactly one benefit category at a particular time, the new entrant rate for the member at that time is the new entrant rate for that benefit category.
- (2) If a member belongs to more than one benefit category at a particular time, the new entrant rate for the member at that time is the sum of the new entrant rates for each benefit category to which the member belongs.

Note: The new entrant rate for a member is relevant to regulations 292-170.05 and 292-170.06.

## Part 3—Valuation parameters

### Application of economic, decrement and other parameters

- 3.1 For the purpose of working out the new entrant rate for a benefit category mentioned in Part 1 or 2, the actuary is to apply the economic, decrement and other parameters set out in this Part.

### Discount rate

- 3.2 (1) The discount rate to be used to discount projected future benefits and salaries is 8% per year.
- (2) The discount rate is not to be adjusted for investment expenses or investment-related taxation or for any other reason.

### Fund earning rate and crediting rate

- 3.3 (1) If necessary, the fund earning rate to be assumed is 8% per year.
- (2) If necessary, the assumed crediting rate is to be based on the assumed fund earning rate.

### Rate of future salary or wages growth

- 3.4 (1) The rate of salary or wages growth to be applied is 4.5% per year.
- (2) This rate is to be used:
- (a) to project the value of future salary or wages; and
  - (b) to project benefits that increase in accordance with a general wage index (for example, average weekly earnings).

### Rate of increase in price indices

- 3.5 If a benefit is linked to an increase in a price index (for example, the Consumer Price Index), the rate of increase in the price index to be applied is 2.5% per year.

### New entrant age

- 3.6 (1) The age of new entrants to be assumed is based on the average age of entry to the fund of the persons who were defined benefit members of the fund at 1 July 2007.
- (2) The table sets out the age of new entrants that is to be assumed.

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Average age last birthday at commencement in fund of defined benefit members of the fund at 1 July 2007	New entrant age to be assumed
<30	25

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Average age last birthday at commencement in fund of defined benefit members of the fund at 1 July 2007	New entrant age to be assumed
30-34	30
35-39	35
40-44	40
45-49	45
50+	50

(2A) If:

- (a) there has been a transfer of defined benefit members from a predecessor fund into the fund, or a sub-fund of the fund; and
- (b) the actuary considers it reasonable to do so;

the actuary may determine a new entrant age for the fund or sub-fund taking account of the average age of entry used for or relevant for those members in the predecessor fund.

(2B) For this section:

*defined benefit member* does not include a person who:

- (a) is receiving only a pension benefit from the fund; or
- (b) has deferred his or her benefit entitlement in the fund.

- (3) If the actuary believes that there is insufficient information available to calculate the average age of entry, the actuary is to assume that the age of a new entrant is 40.

### Exit rates

- 3.7 (1) The table sets out the rates of voluntary exit from the fund that are to be assumed.

Age Band	Exit rate
<40	0.05
40-44	0.04
45-49	0.04
50-54	0.04
55-59	0.08
60	0.12
61-64	0.10
65	1.00

- (2) The rate of involuntary exit (including by redundancy, death or invalidity) to be assumed is zero.

### Pensions

- 3.8 (1) If the fund benefit is a single life pension, the pension is to be valued using the assumptions set out in this Part.
- (2) If the fund benefit is a reversionary pension, the value of the pension is to be taken as the value of the pension assuming it is a single life pension, increased by 10 %.

### Mortality of pensioners

3.9 The table sets out the rates of pensioner mortality ( $qx$ ) that are to be assumed.

Age	$qx$	Age	$qx$
35-49	0.003	77	0.048
50-54	0.004	78	0.053
55	0.005	79	0.059
56	0.006	80	0.064
57	0.006	81	0.070
58	0.007	82	0.077
59	0.008	83	0.085
60	0.008	84	0.095
61	0.009	85	0.106
62	0.010	86	0.116
63	0.012	87	0.128
64	0.013	88	0.139
65	0.014	89	0.149
66	0.016	90	0.159
67	0.017	91	0.168
68	0.019	92	0.176
69	0.021	93	0.184
70	0.023	94	0.193
71	0.026	95	0.202
72	0.029	96	0.211
73	0.032	97	0.219
74	0.035	98	0.228
75	0.039	99	0.236
76	0.043	100	1.000

### Taxed and untaxed benefits

- 3.10 If the rules of the fund provide for benefits to be paid on either a taxed or an untaxed basis, the actuary is to assume that the employer component of the fund benefit is paid as a taxed benefit.

Note: This situation applies to a small number of funds where the employer component of the fund benefit is generally met by a last minute contribution to the superannuation fund.

**Other assumptions to be set by the actuary**

- 3.11
- (1) Any other assumptions which may be necessary are to be set by the actuary responsible for calculating the new entrant rate.
  - (2) The assumptions are to be based on the assumptions used in the most recent actuarial valuation of the fund, unless the actuary believes, having regard to the expected future experience of the fund, that they are no longer appropriate.
  - (3) If the actuary believes that the assumptions used in the most recent actuarial valuation are no longer appropriate, the assumptions should be set on a best estimate basis.

## Part 4—Exercise of discretion to pay a benefit greater than the benefit assumed in calculating the new entrant rate

### Method of working out $W$ in the formula in section 1.8

- 4.1 (1) If a discretion is exercised to pay a benefit upon:
- (a) voluntary exit; or
  - (b) redundancy that is not bona fide;
- which is greater than the benefit assumed in calculating the new entrant rate, the excess of the actual benefit paid over the amount of the assumed benefit at the time the actual benefit is paid ( $W$ ) forms part of the amount of notional taxed contributions for the member for the financial year in which the benefit is paid.
- (2) For the formula in section 1.8:
- (a) in a financial year in which the trustee does not exercise a discretion to pay a benefit to the member which is greater than the assumed benefit,  $W$  equals zero; and
  - (b) in any other financial year,  $W$  equals an amount worked out on advice from an actuary that represents the excess of the actual benefit paid to the member over the amount of the assumed benefit at the time the actual benefit is paid.

Note: If the trustee decides to pay an untaxed benefit rather than a taxed benefit, any excess of the amount of the untaxed benefit over the amount of the taxed benefit that would otherwise have been payable is not to be included in  $W$ .

## **Part 5—Member has changed benefit category**

### **Method of working out $X$ in the formula in section 1.8**

- 5.1 (1) If a member's accrued retirement benefit increases during a financial year as a result of a change of benefit category or as a result of an exercise of discretion, an additional amount ( $X$ ) may need to be included in the amount of notional taxed contributions for the financial year.
- (2) For the formula in section 1.8:
- (a) in a financial year in which the member's accrued retirement benefit does not increase as a result of a change in benefit category or as a result of an exercise of discretion,  $X$  equals zero; and
  - (b) in any other financial year,  $X$  equals an amount worked out on advice from an actuary that represents the increase in the value of the accrued retirement benefit, if any, that accrued to the member as a result of the change in benefit category or as a result of the exercise of the discretion.
- 5.2 The economic and other assumptions to be used are set out in Part 3.

## Part 6—Governing rules have changed

### Method of working out $Y$ in the formula in section 1.8

- 6.1 (1) If:
- (a) the governing rules of the defined benefit fund are amended in a way that may result in an increase in a member's benefit; and
  - (b) the amendment is made for a reason other than to satisfy a legislative requirement;
- an additional amount ( $Y$ ) may need to be included in the amount of notional taxed contributions for the financial year.
- (2) For the formula in section 1.8:
- (a) in a financial year in which the fund rules are not changed in a way that may result in an increase in a member's benefit,  $Y$  equals zero; and
  - (b) in any other financial year:
    - (i) if the reason for the change in fund rules is to satisfy a legislative requirement,  $Y$  equals zero; and
    - (ii) if the change is for any other reason,  $Y$  equals an amount worked out on advice from an actuary that represents the increase in the value of the accrued retirement benefit, if any, that accrued to the member as a result of the change in fund rules.
- 6.2 The economic and other assumptions to be used are set out in Part 3.



## **Part 7—Non-arm's length increase in superannuation salary**

### **Method of working out $Z$ in the formula in section 1.8**

- 7.1 (1) If a member's superannuation salary is increased in a non-arm's length way with the primary purpose being to achieve an increase in superannuation benefit, an additional amount ( $Z$ ) may need to be included in the amount of notional taxed contributions for the financial year.
- (2) For the formula in section 1.8:
- (a) in a financial year where the member's superannuation salary is not increased in a non-arm's length way,  $Z$  equals zero; and
  - (b) in any other financial year,  $Z$  equals an amount worked out on advice from an actuary that represents the increase in the value of the accrued retirement benefit, if any, that accrued to the member as a result of the change in superannuation salary.
- 7.2 The economic and other assumptions to be used are set out in Part 3.

## Schedule 1AA—Working out defined benefit contributions

Note: See subregulation 293-115.20(2).

### Part 1—Preliminary

#### 1 Meaning of accruing member

An *accruing member* of a superannuation fund for a financial year, is an accruing member within the meaning given by subregulation 293-115.05(2).

#### 2 Meaning of benefit category

- (1) A *benefit category* is a category of membership of a defined benefit fund as certified by an actuary.
- (2) An actuary must not certify a category of membership to be a benefit category unless the actuary is satisfied that:
  - (a) each hypothetical new entrant to the benefit category with the same entry age would accrue retirement benefits on substantially the same basis; or
  - (b) if any 2 hypothetical new entrants to the benefit category accrued retirement benefits on a different basis, the new entrant rates for each member calculated under Parts 2 and 3 would be equal.

#### 3 Accruing member must not belong to more than one benefit category at the same time unless certified by an actuary

- (1) An accruing member must not belong to more than one benefit category of the same defined benefit fund on the same day unless certified by an actuary.
- (2) An actuary must not certify that a member belongs to more than one benefit category on the same day unless the actuary is satisfied that the amount of defined benefit contributions to be reported will not be materially different from the amount of defined benefit contributions that would have been reported had the member belonged to only one benefit category on each relevant day.

Note: An accruing member would be ordinarily expected to belong to only one benefit category at a time. However, there might be circumstances in certain funds where it is materially more practical for the purpose of calculating the total amount of defined benefit contributions to deem that some members belong to more than one benefit category from time to time.

#### 4 Method for determining amount of defined benefit contributions

- (1) The *defined benefit contributions* for an accruing member for a financial year is the amount worked out as follows:

$$\left( BC - NTC \right) \times 0.85 + NTC$$

where, for the financial year:

**BC** is the notional employer contribution calculated for the member under subclause (2).

**NTC** is the notional taxed contributions calculated for the member for the financial year under Schedule 1A to these Regulations, disregarding Subdivision 291-C of the *Income Tax (Transitional Provisions) Act 1997*. If **NTC** has not been calculated for the member for the financial year because the member is a member of a constitutionally protected fund, **NTC** is zero.

Note 1: Section 291-160 of the Act excludes superannuation interests in constitutionally protected funds from the provisions which explain how notional taxed contributions are to be calculated for defined benefit interests.

Note 2: Salary packaged contributions which do not contribute towards funding the defined benefit interest are included in the amount calculated under step 1 of the method statement set out in section 293-105 of the Act and do not form any part of the method of determining defined benefit contributions.

- (2) The **notional employer contribution** for an accruing member for a financial year is the amount worked out as follows:

$$T + \left( 1.2 \times (W + X + Y + Z) \right)$$

where, for the financial year:

**T** is the sum of the amounts of notional employer financed contributions for each benefit category that the member belongs to during the financial year calculated under subclause (3).

**W** is an amount worked out on advice from an actuary under Part 4.

**X** is an amount worked out on advice from an actuary under Part 5.

**Y** is an amount worked out on advice from an actuary under Part 6.

**Z** is an amount worked out on advice from an actuary under Part 7.

- (3) The **notional employer financed contributions** for an accruing member for a benefit category of a defined benefit fund for a financial year is the amount worked out as follows:

$$1.2 \times \left( \text{New entrant rate} \times S \times \frac{D}{365} - M \right)$$

where, for the financial year:

**D** is the number of days during the financial year that the member was an accruing member of the benefit category.

**M** is the amount of member contributions:

- (a) paid by or on behalf of the member in respect of the member's defined benefit interest in the fund during that part of the financial year that the member was an accruing member of the benefit category; and

(b) which are not assessable income of the fund;  
but excluding any amounts which are not assessable income of the fund because of:

- (c) item 5.3 of the table in section 50-25 of the Act; or
- (d) a choice made under section 295-180 of the Act.

***new entrant rate*** is the new entrant rate for the benefit category worked out by an actuary under Parts 2 and 3.

***S*** is the member's annual superannuation salary relevant to the benefit category on the first day of the financial year on which the member had a defined benefit interest in the scheme.

## **Part 2—New entrant rate**

### **5 Method of working out new entrant rate for a benefit category**

- (1) The new entrant rate for a benefit category is the rate calculated under this Part and using the assumptions set out in Part 3.
- (2) The new entrant rate for a benefit category is the rate that represents the long-term cost, expressed as a percentage of superannuation salary, of providing the benefits payable on a voluntary exit to a hypothetical new entrant to the benefit category.
- (3) The new entrant rate is calculated as the present value of the benefits payable on voluntary exit (resignation, early retirement, or retirement) under the rules of the defined benefit fund which are applicable to a new entrant to the benefit category divided by the present value of future superannuation salaries payable to the new entrant.
- (4) The present value of the benefits payable is to be calculated having regard to the rules and practice of the defined benefit fund including benefit structure, caps, member options, reasonably expected discretions and member contributions, and using the economic, decrement and other assumptions set out in Part 3.

### **6 New entrant rate to be based on period of membership needed to reach maximum benefit accrual**

- (1) If the rules of the defined benefit fund applicable to the benefit category provide for a maximum benefit accrual, the new entrant rate is to be calculated on the basis that the benefit is funded over the period to when maximum accrual is attained.
- (1A) For the Governor-General Pension Scheme, the period to when maximum benefit accrual is attained for a member of the Scheme is taken to be the period:
  - (a) starting on the day the member starts his or her appointment as Governor-General; and
  - (b) ending at the end of the financial year in which the member started his or her appointment.
- (2) For practical purposes this means that, for the purpose of calculating the present value of future salaries payable to the new entrant, the superannuation salary is to be assumed to be zero at those ages after reaching maximum benefit accrual.

Example: If maximum accrual is attained after 20 years of membership, the superannuation salary for a 30-year-old new entrant will be assumed to be zero at age 50 and above for the purpose of calculating the present value of future salaries payable to the new entrant.

### **7 New entrant rate to be rounded down**

The new entrant rate is to be rounded down to the lower 1 percentage point.

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Example: 10.6% would be rounded down to 10%.

## **8 No allowance for administration expenses or income tax on assessable contributions**

The new entrant rate is to be calculated ignoring:

- (a) administration expenses; and
- (b) income tax on assessable contributions.

Note: These items are allowed for in the formula in subclause 4(3) by multiplying by 1.2.

## **9 Certain discretions to be allowed for**

- (1) The new entrant rate is to be calculated assuming that certain discretions are always exercised.
- (2) Subject to subclause (3), if the fund rules provide a discretion to pay, on voluntary exit, a benefit that is higher than the standard benefit, the actuary must assume that a higher benefit is always paid on voluntary exit on or after age 55.
- (3) If the higher benefit mentioned in subclause (2) exceeds the accrued retirement benefit, the actuary may assume that the benefit is an amount:
  - (a) greater than or equal to the accrued retirement benefit; and
  - (b) less than or equal to the higher benefit.
- (4) If the actuary believes that there is a reasonable expectation that a higher benefit than either the standard benefit or the accrued retirement benefit will be paid, then the actuary should assume that the benefit paid on voluntary exit on or after age 55 is always equal to the benefit reasonably expected to be paid.

Note: In considering whether there is a reasonable expectation that a higher benefit will be paid, it would generally not be appropriate to assume payment unless such an assumption was adopted in the most recent actuarial review.

## **Part 3—Valuation parameters**

### **10 Application of economic, decrement and other parameters**

For the purpose of working out the new entrant rate for a benefit category mentioned in Part 1 or 2, the actuary is to apply the economic, decrement and other parameters set out in this Part.

### **11 Discount rate**

- (1) The discount rate to be used to discount projected future benefits and salaries is 8% per year.
- (2) The discount rate is not to be adjusted for investment expenses or investment-related taxation or for any other reason.

### **12 Fund earning rate and crediting rate**

- (1) If necessary, the fund earning rate to be assumed is 8% per year.
- (2) If necessary, the assumed crediting rate is to be based on the assumed fund earning rate.

### **13 Rate of future salary or wages growth**

- (1) The rate of salary or wages growth to be applied is 4.5% per year.
- (2) This rate is to be used:
  - (a) to project the value of future salary or wages; and
  - (b) to project benefits that increase in accordance with a general wage index (for example, average weekly earnings).

### **14 Rate of increase in price indices**

If a benefit is linked to an increase in a price index (for example, the Consumer Price Index), the rate of increase in the price index to be applied is 2.5% per year.

### **15 New entrant age**

- (1) The age of new entrants to be assumed is based on the average age of entry to the fund of the persons who were defined benefit members of the fund at 1 July 2007.
- (2) The following table sets out the age of new entrants that is to be assumed.

New entrant ages		
Item	Average age last birthday at commencement in fund of defined benefit members of the fund at 1 July 2007	New entrant age to be assumed
1	<30	25
2	30-34	30
3	35-39	35
4	40-44	40
5	45-49	45
6	50+	50

- (3) If:
- there has been a transfer of defined benefit members from a predecessor fund into the fund, or a sub-fund of the fund; and
  - the actuary considers it reasonable to do so;
- the actuary may determine a new entrant age for the fund or sub-fund taking account of the average age of entry used for or relevant for those members in the predecessor fund.
- (4) In this clause, *defined benefit member* does not include a person who:
- is receiving only a pension benefit from the fund; or
  - has deferred his or her benefit entitlement in the fund.
- (5) If the actuary believes that there is insufficient information available to calculate the average age of entry, the actuary is to assume that the age of a new entrant is 40.
- (6) If an actuary certifies a benefit category for the purposes of subclause 2(1) in relation to a person's membership of the Governor-General Pension Scheme, then, despite subclauses (1) to (5) of this clause, the new entrant age to be assumed for the benefit category is:
- the new entrant age specified by the *Governor-General Act 1974*; or
  - if that Act does not specify a new entrant age—the person's age when he or she commences his or her appointment as Governor-General.

## 16 Exit rates

- (1) The following table sets out the rates of voluntary exit from the fund that are to be assumed.

Voluntary exit rates		
Item	Age Band	Exit rate
1	<40	0.05
2	40-44	0.04
3	45-49	0.04



<b>Voluntary exit rates</b>		
<b>Item</b>	<b>Age Band</b>	<b>Exit rate</b>
4	50-54	0.04
5	55-59	0.08
6	60	0.12
7	61-64	0.10
8	65	1.00

- (1A) However, if an actuary certifies a benefit category under subclause 2(1) in relation to a person's membership of the Governor-General Pension Scheme, then, despite subclause (1) of this clause, the voluntary exit rates to be assumed for the benefit category are:
- (a) the voluntary exit rates specified by the *Governor-General Act 1974*; or
  - (b) if that Act does not specify voluntary exit rates—the following rates:
    - (i) from the age of the person on the day he or she commences his or her appointment as Governor-General (the *appointment day*), to his or her age on the fourth anniversary of the appointment day—0.00;
    - (ii) from the age of the person on his or her next birthday after the fourth anniversary of the appointment day to any later age—1.00.
- (2) The rate of involuntary exit (including by redundancy, death or invalidity) to be assumed is zero.

## 17 Pensions

- (1) If the benefit is a single life pension, the pension is to be valued using the assumptions set out in this Part.
- (2) If the benefit is a reversionary pension, the value of the pension is to be taken as the value of the pension assuming it is a single life pension, increased by 10%.

## 18 Mortality of pensioners

The following table sets out the rates of pensioner mortality ( $qx$ ) that are to be assumed.

<b>Pensioner mortality rates</b>		
<b>Item</b>	<b>Age</b>	<b><math>qx</math></b>
1	35-49	0.003
2	50-54	0.004
3	55	0.005
4	56	0.006
5	57	0.006
6	58	0.007
7	59	0.008

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<b>Pensioner mortality rates</b>		
<b>Item</b>	<b>Age</b>	<b>qx</b>
8	60	0.008
9	61	0.009
10	62	0.010
11	63	0.012
12	64	0.013
13	65	0.014
14	66	0.016
15	67	0.017
16	68	0.019
17	69	0.021
18	70	0.023
19	71	0.026
20	72	0.029
21	73	0.032
22	74	0.035
23	75	0.039
24	76	0.043
25	77	0.048
26	78	0.053
27	79	0.059
28	80	0.064
29	81	0.070
30	82	0.077
31	83	0.085
32	84	0.095
33	85	0.106
34	86	0.116
35	87	0.128
36	88	0.139
37	89	0.149
38	90	0.159
39	91	0.168
40	92	0.176
41	93	0.184
42	94	0.193
43	95	0.202
44	96	0.211
45	97	0.219

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**Pensioner mortality rates**

<b>Item</b>	<b>Age</b>	<b>qx</b>
46	98	0.228
47	99	0.236
48	100	1.000

**19 Other assumptions to be set by the actuary**

- (1) Any other assumptions which may be necessary are to be set by the actuary responsible for calculating the new entrant rate.
- (2) The assumptions are to be based on the assumptions used in the most recent actuarial valuation of the fund, unless the actuary believes, having regard to the expected future experience of the fund, that they are no longer appropriate.
- (3) If the actuary believes that the assumptions used in the most recent actuarial valuation are no longer appropriate, the assumptions should be set on a best estimate basis.

## **Part 4—Exercise of discretion to pay a benefit greater than the benefit assumed in calculating the new entrant rate**

### **20 Method of working out $W$ in the formula in subclause 4(2)**

- (1) If a discretion is exercised to pay a benefit upon:
  - (a) voluntary exit; or
  - (b) redundancy that is not bona fide;which is greater than the benefit assumed in calculating the new entrant rate, the excess of the actual benefit paid over the amount of the assumed benefit at the time the actual benefit is paid ( $W$ ) forms part of the amount of notional employer contributions for the member for the financial year in which the benefit is paid.
- (2) For the formula in subclause 4(2):
  - (a) in a financial year in which the trustee does not exercise a discretion to pay a benefit to the member which is greater than the assumed benefit— $W$  equals zero; and
  - (b) in any other financial year— $W$  equals an amount worked out on advice from an actuary that represents the excess of the actual benefit paid to the member over the amount of the assumed benefit at the time the actual benefit is paid.

## **Part 5—Member has changed benefit category**

### **21 Method of working out $X$ in the formula in subclause 4(2)**

- (1) If a member's accrued retirement benefit increases during a financial year as a result of a change of benefit category or as a result of an exercise of discretion, an additional amount ( $X$ ) may need to be included in the amount of notional employer contributions for the financial year.
- (2) For the formula in subclause 4(2):
  - (a) in a financial year in which the member's accrued retirement benefit does not increase as a result of a change in benefit category or as a result of an exercise of discretion— $X$  equals zero; and
  - (b) in any other financial year— $X$  equals an amount worked out on advice from an actuary that represents the increase in the value of the accrued retirement benefit, if any, that accrued to the member as a result of the change in benefit category or as a result of the exercise of the discretion.
- (3) The economic and other assumptions to be used are set out in Part 3.

## Part 6—Governing rules have changed

### 22 Method of working out *Y* in the formula in subclause 4(2)

- (1) If:
  - (a) the governing rules of the defined benefit fund are amended in a way that may result in an increase in a member's benefit; and
  - (b) the amendment is made for a reason other than to satisfy a legislative requirement;an additional amount (*Y*) may need to be included in the amount of notional employer contributions for the financial year.
- (2) For the formula in subclause 4(2):
  - (a) in a financial year in which the fund rules are not changed in a way that may result in an increase in a member's benefit—*Y* equals zero; and
  - (b) in any other financial year:
    - (i) if the reason for the change in fund rules is to satisfy a legislative requirement—*Y* equals zero; and
    - (ii) if the change is for any other reason—*Y* equals an amount worked out on advice from an actuary that represents the increase in the value of the accrued retirement benefit, if any, that accrued to the member as a result of the change in fund rules.
- (3) The economic and other assumptions to be used are set out in Part 3.

## **Part 7—Non-arm's length increase in superannuation salary**

### **23 Method of working out *Z* in the formula in subclause 4(2)**

- (1) If a member's superannuation salary is increased in a non-arm's length way with the primary purpose being to achieve an increase in superannuation benefit, an additional amount (*Z*) may need to be included in the amount of notional employer contributions for the financial year.
- (2) For the formula in subclause 4(2):
  - (a) in a financial year where the member's superannuation salary is not increased in a non-arm's length way—*Z* equals zero; and
  - (b) in any other financial year—*Z* equals an amount worked out on advice from an actuary that represents the increase in the value of the accrued retirement benefit, if any, that accrued to the member as a result of the change in superannuation salary.
- (3) The economic and other assumptions to be used are set out in Part 3.

## Schedule 1B—Valuation factors

(regulations 307-205.01 and 307-205.02)

### 1 Income stream valuation factors

- (1) For subregulation 307-205.01(2), the applicable factor is the factor given in Table 1 at the age which is the greater of:
  - (a) the minimum age at which a retirement benefit can be taken without requiring the consent of the employer; and
  - (b) the member's actual age as at his or her last birthday before 1 July 2007.
- (2) For subregulation 307-205.02(2), if the superannuation income stream in respect of the interest is payable for the life of the member, the applicable factor is the factor given in Table 1 for the age of the member at his or her last birthday before the day after the date on which the superannuation income stream is to be valued.
- (3) For subregulation 307-205.02(2), if the superannuation income stream in respect of the interest is payable for a fixed term, the applicable factor is the factor given in Table 2 for the number of complete years remaining in the term of the superannuation income stream on the day preceding the date on which the superannuation income stream is to be valued.

**Table 1**

Age	Factor for indexed lifetime income stream	Factor for non-indexed lifetime income stream	Age	Factor for indexed lifetime income stream	Factor for non-indexed lifetime income stream
18	23.238	15.405	34	21.950	15.045
19	23.158	15.385	35	21.821	15.002
20	23.084	15.366	36	21.691	14.958
21	23.016	15.349	37	21.553	14.911
22	22.956	15.334	38	21.410	14.861
23	22.906	15.322	39	21.266	14.809
24	22.862	15.312	40	21.113	14.754
25	22.816	15.302	41	20.956	14.695
26	22.763	15.289	42	20.790	14.632
27	22.694	15.271	43	20.609	14.562
28	22.612	15.248	44	20.421	14.487
29	22.523	15.223	45	20.229	14.409
30	22.422	15.194	46	20.030	14.326
31	22.310	15.160	47	19.823	14.239
32	22.193	15.124	48	19.610	14.148
33	22.076	15.086	49	19.391	14.052



Age	Factor for indexed lifetime income stream	Factor for non-indexed lifetime income stream	Age	Factor for indexed lifetime income stream	Factor for non-indexed lifetime income stream
50	19.164	13.950	73	11.815	9.756
51	18.931	13.844	74	11.398	9.471
52	18.691	13.732	75	10.983	9.183
53	18.443	13.615	76	10.566	8.889
54	18.189	13.492	77	10.144	8.587
55	17.927	13.364	78	9.723	8.282
56	17.659	13.230	79	9.314	7.980
57	17.383	13.089	80	8.898	7.669
58	17.100	12.943	81	8.486	7.357
59	16.810	12.790	82	8.087	7.051
60	16.513	12.631	83	7.697	6.748
61	16.209	12.465	84	7.323	6.455
62	15.891	12.287	85	6.966	6.172
63	15.558	12.099	86	6.627	5.901
64	15.213	11.900	87	6.311	5.647
65	14.861	11.693	88	6.010	5.402
66	14.506	11.480	89	5.728	5.171
67	14.144	11.260	90	5.465	4.954
68	13.775	11.032	91	5.218	4.750
69	13.396	10.794	92	4.991	4.561
70	13.011	10.548	93	4.773	4.379
71	12.627	10.297	94	4.566	4.205
72	12.230	10.035	95	4.360	4.031

**Table 2**

Number of years	Factor for indexed fixed-term income stream	Factor for non-indexed fixed-term income stream	Number of years	Factor for indexed fixed-term income stream	Factor for non-indexed fixed-term income stream
0	0.000	0.000	8	6.891	6.284
1	0.981	0.969	9	7.613	6.870
2	1.925	1.879	10	8.308	7.420
3	2.834	2.734	11	8.977	7.936
4	3.709	3.536	12	9.621	8.421
5	4.550	4.289	13	10.241	8.876
6	5.360	4.996	14	10.837	9.303
7	6.140	5.661	15	11.411	9.705

Number of years	Factor for indexed fixed-term income stream	Factor for non-indexed fixed-term income stream	Number of years	Factor for indexed fixed-term income stream	Factor for non-indexed fixed-term income stream
16	11.963	10.081	24	15.698	12.376
17	12.495	10.435	25	16.090	12.590
18	13.007	10.768	26	16.466	12.790
19	13.499	11.079	27	16.829	12.979
20	13.973	11.372	28	17.178	13.156
21	14.430	11.647	29	17.514	13.322
22	14.869	11.906	30	17.837	13.478
23	15.291	12.148			

## 2 Lump sum valuation factors

- (1) For subregulation 307-205.02(2), the applicable factor is the discount valuation factor mentioned in subclause (3) that applies for the minimum deferral period.
- (2) For the purposes of this clause, the minimum deferral period in relation to a lump sum that is to be paid at a time after the date on which an interest is to be valued is the number of complete years between the day before the date on which the interest is to be valued and the earliest date at which the lump sum can be paid.
- (3) This subclause sets out the discount valuation factors, in accordance with the following principles:
  - (a) the factors in column 2 of table 3 apply if the lump sum is not indexed;
  - (b) the factors in column 3 of table 3 apply if the lump sum is indexed in accordance with the consumer price index;
  - (c) the factors in column 4 of table 3 apply if the lump sum is indexed in accordance with a general wage index (for example, average weekly earnings, or average weekly ordinary time earnings, published by the Australian Bureau of Statistics);
  - (d) if the lump sum is indexed in accordance with a fund crediting rate, the factor is 1.

**Table 3**

Minimum deferral period	Lump sum not indexed	CPI indexed lump sum	Wage indexed lump sum
0	1.000	1.000	1.000
1	0.939	0.963	0.977
2	0.882	0.927	0.954
3	0.829	0.892	0.932
4	0.779	0.859	0.910
5	0.732	0.827	0.889

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<b>Minimum deferral period</b>	<b>Lump sum not indexed</b>	<b>CPI indexed lump sum</b>	<b>Wage indexed lump sum</b>
6	0.689	0.797	0.869
7	0.648	0.768	0.849
8	0.610	0.740	0.830
9	0.575	0.714	0.811
10	0.542	0.688	0.793
11	0.511	0.664	0.776
12	0.483	0.641	0.759
13	0.456	0.619	0.742
14	0.431	0.598	0.727
15	0.409	0.579	0.711
16	0.387	0.560	0.697
17	0.368	0.542	0.683
18	0.350	0.525	0.669
19	0.333	0.509	0.656
20	0.318	0.494	0.644
21	0.304	0.480	0.632
22	0.291	0.467	0.621
23	0.279	0.454	0.610
24	0.269	0.443	0.600
25	0.259	0.432	0.590
26	0.250	0.422	0.582
27	0.243	0.413	0.573
28	0.236	0.404	0.565
29	0.229	0.397	0.558
30	0.224	0.390	0.552

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## Schedule 1C—Farm management deposits: statements to be read by depositors

(regulation 393-10)

### Part 1—Statements

#### 1 *Authorised deposit-taking institution*

The FMD provider issuing this application form is an authorised deposit-taking institution for the purposes of the *Banking Act 1959*.

#### 2 *Financial Claims Scheme*

The account holder may be entitled to payment under the Financial Claims Scheme. Payments under the Financial Claims Scheme are subject to a limit for each depositor in respect of total deposits held by that depositor at a locally incorporated authorised deposit-taking institution. For further information contact the Australian Prudential Regulation Authority or visit [www.fcs.gov.au](http://www.fcs.gov.au).

### Part 2—Required statements

#### 1 *Purpose of farm management deposits scheme*

The farm management deposits scheme is designed to allow individuals carrying on a primary production business in Australia to shift before-tax income from years when they need it least to years when it is most needed. The scheme helps those individuals to manage their exposure to adverse economic events and seasonal fluctuations.

Eligibility criteria apply to individuals carrying on a primary production business in Australia under the scheme.

Note: **Primary production business** and carrying on a primary production business are explained in subsection 995-1(1) of the Act.

#### 2 *Tax consequences of farm management deposits*

The scheme allows individuals carrying on a primary production business in Australia to deduct the amount of any farm management deposit they own from their assessable income for the income year in which the deposit is made. However, the amount of the deductions cannot exceed the owner's taxable primary production income for the income year.

Under the Pay As You Go system, owners may reduce their instalment income for an instalment period by the amount of farm management deposits made during that period. The reduction is limited to the amount that the owners can reasonably expect to deduct for the deposit for the income year in which the deposit is made. However, the instalment income for the period cannot be reduced below nil.

When a farm management deposit is repaid to an owner in an instalment period, the instalment income of the period will include the amount of the repayment. But the owner's instalment income will only include so much of the repayment as will be included in the owner's assessable income for the income year in which the repayment is made.

If neither the owner's tax file number nor Australian Business Number has been quoted to the FMD provider that holds the deposit, the amount repaid will also be subject to withholding at a rate equal to the sum of the top marginal tax rate and the Medicare levy.

### 3 *Important requirements for farm management deposits*

Some of the requirements for farm management deposits are summarised below. There are also other requirements set out in the Act. A breach of some of the requirements will result in the deposit not being treated as a farm management deposit, and the tax benefits will be lost.

- The owner must be an individual who is carrying on a primary production business in Australia when the deposit is made.
- The deposit must be made by only one individual and on behalf of only one individual.
- Rights of the depositor must not be transferable to another entity.
- The deposit must not be used as security for any amount that the depositor or any other entity owes to the FMD provider or any other entity.
- Interest or other earnings on the deposit must not be invested as a farm management deposit with the FMD provider without having first been paid to the depositor.
- If the depositor requests in writing, the FMD provider must electronically transfer the deposit, or part of the deposit, to another FMD provider that agrees to accept it as a farm management deposit.
- The FMD provider must not deduct any fees from the principal of a farm management deposit. However, it may charge fees on the deposit.

### 4 *Repayment of farm management deposits*

The tax benefits are not retained for deposit amounts repaid within the first 12 months after the deposit was made, unless the repayment is made:

- (a) because the owner:
  - (i) dies; or
  - (ii) becomes bankrupt; or
  - (iii) ceases to carry on a primary production business in Australia and does not start carrying on such a business again within 120 days; or
  - (iv) has requested the deposit, or part of the deposit, to be transferred to another FMD provider and the repayment relates to the transfer; or
- (b) because the circumstances specified in subsection 393-40(3) of the Act or in regulations made for the purposes of that subsection, relating to repayment in the event of severe drought, exist; or
- (c) because the circumstances specified in regulation 393-15, relating to repayment in the event of a natural disaster, exist.

## Part 3—Additional information

Note: Under paragraph 393-10(1)(c) of the Act, an FMD provider is required to insert the figures that are stated in the provisions mentioned in this Part.

- 1 The minimum deposit threshold is the amount stated in item 4 of the table in section 393-35 of the Act.
  - 2 The maximum deposit limit is the amount stated in item 10 of the table in section 393-35 of the Act.
  - 3 An individual can own more than one farm management deposit, and can own farm management deposits with different FMD providers, but the sum of the balances of all of the farm management deposits of an owner claimed as a deduction must not be more than the maximum deposit limit.
  - 4 The amount of any repayment of the deposit must be at least the amount stated in item 12 of the table in section 393-35 of the Act, except where the entire amount of the deposit is repaid.
  - 5 The deposit will not be deductible if taxable non-primary production income for the year of income exceeds the amount stated in paragraph 393-5(1)(d) of the Act.
  - 6 If neither the owner's tax file number nor Australian Business Number has been quoted to the FMD provider, any repayment will be subject to the withholding rate, which is the sum of:
    - (a) the top marginal tax rate for the income year in the year of deposit; and
    - (b) the Medicare levy.
- Note 1: The top marginal tax rate is the maximum rate specified in column 3 of the table in Part 1 of Schedule 7 to the *Income Tax Rates Act 1986*.
- Note 2: The Medicare levy is specified in subsection 6(1) of the *Medicare Levy Act 1986*.
- 7 If the deposit is used to offset a liability to pay interest on debts to the FMD provider that do not wholly relate to a primary production business that the owner (or a partnership of which the owner is a partner) carries on, the owner is liable to an administrative penalty of up to 200% of that offset.

## **Schedule 2—Translation of currency amounts—rules and other requirements**

(item 12 of the table in subsection 960-50(6) of the Act, as modified, and subregulation 960-50.01(2))

### **Part 1—Rules and requirements for item 12 of the table in subsection 960-50(6) of the Act**

#### **1.1 Exchange rate—consistency with accounting standards used by entity**

For item 12 of the table in subsection 960-50(6) of the Act, as modified, if:

- (a) a financial report (within the meaning of the *Corporations Act 2001*) prepared by an entity:
  - (i) complies with the accounting standards under the *Corporations Act 2001*; and
  - (ii) translates amounts into Australian currency using particular exchange rates; and
  - (iii) has been audited in accordance with the *Corporations Act 2001*; and
- (b) the entity, or another entity, wishes to translate an amount into Australian currency in accordance with that item, using the exchange rate used in that financial report to translate a corresponding amount;

the entity mentioned in paragraph (b) must translate all amounts into Australian currency using the exchange rates that were used in that financial report to translate corresponding amounts.

#### **1.2 Choice of daily exchange rate**

- (1) For item 12 of the table in subsection 960-50(6) of the Act, as modified, an entity may translate all amounts of a particular currency, relating to a particular day, into Australian currency using an exchange rate that is applicable at a time, on that day, chosen by the entity (a *daily exchange rate*).
- (2) If the entity chooses a daily exchange rate relating to a particular day, the entity must choose a daily exchange rate relating to each subsequent day in the income year using the same time of the day as the time to which the first daily exchange rate related.
- (3) However:
  - (a) the entity is not permitted to translate amounts using a daily exchange rate if the use of the rate would not be appropriate having regard to the entity's business or activities; and
  - (b) the entity must obtain the rate from a source that is not an associate of the entity, and not the entity itself, unless the Commissioner notifies the entity that it may obtain the rate from 1 or more specified sources; and
  - (c) the entity must translate amounts relating to the relevant day using that rate.

Example: If an entity is a trader that takes currency positions as part of its business, the use of a single exchange rate for its activities on a day would not be appropriate having regard to its business.

Note: *Associate* is defined in subsection 995-1(1) of the Act.

### 1.3 Choice of average exchange rate

- (1) For item 12 of the table in subsection 960-50(6) of the Act, as modified, an entity may, in a period, translate an amount into Australian currency using an exchange rate that is an average of all of the exchange rates that are applicable during a period, not exceeding 12 months, that is chosen by the entity (an **average exchange rate**).
- (2) However:
  - (a) the entity is not permitted to translate an amount using an average exchange rate unless it appears to the entity on reasonable grounds that the rate would be a reasonable approximation of the exchange rate or rates that the entity would have used if the entity had used the exchange rate required by another appropriate item of the table in subsection 960-50(6) of the Act; and
  - (b) the entity must obtain:
    - (i) all of the exchange rates that it will use to work out the average exchange rate; or
    - (ii) an average exchange rate that has been worked out for a particular period;  
from 1 or more sources that are not associates of the entity, and not the entity itself, unless the Commissioner notifies the entity that it may obtain the rate or rates from 1 or more specified sources; and
  - (c) the entity must translate amounts relating to the relevant period using the rate.

Note 1: Item 12 of the table in subsection 960-50(6) of the Act is available as an alternative to the special translation rules in items 1 to 11A (inclusive) in that table. Therefore, subclause (2) requires the entity to consider whether using the translation rules in item 12 would lead to a reasonable approximation with the translation rules in another appropriate item of the table.

Note 2: *Associate* is defined in subsection 995-1(1) of the Act.



## **Part 2—Translation of foreign currency amounts into Australian currency—rules and requirements for item 11A of the table in subsection 960-50(6) of the Act**

### **2.1 Exchange rate—consistency with an entity’s financial records**

For item 11A of the table in subsection 960-50(6) of the Act, as modified, if:

- (a) an entity keeps financial records (within the meaning of the *Corporations Act 2001*) of the exchange rates that the entity uses to translate amounts into Australian currency; and
- (b) the entity, or another entity, translates an amount to which the records correspond into Australian currency in accordance with item 11A;

the exchange rate that the entity mentioned in paragraph (b) uses must be the same as the exchange rate specified in those records for translating the amount into Australian currency.

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## Schedule 4—Constitutionally protected superannuation funds—State legislation

Note: See regulation 995-1.04.

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### Constitutionally protected superannuation funds

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Item	Legislation
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**Part 1 New South Wales**

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101	<i>Judges' Pensions Act 1953</i>
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**Part 2 Victoria**

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201	<b>Attorney-General and Solicitor-General Act 1972</b>
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202	<b>Coal Mines (Pensions) Act 1958</b>
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203	<b>Constitution Act 1975</b>
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204	<b>County Court Act 1958</b>
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205	<b>Magistrates' Court Act 1989</b>
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210	<b>Ombudsman Act 1973</b> (subsection 9(2))
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211	<b>Public Prosecutions Act 1994</b>
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212	<b>Supreme Court Act 1986</b>
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**Part 3 Queensland**

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301	<i>Governor's Pension Act 1977</i>
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302	<i>Judges (Pensions and Long Leave) Act 1957</i>
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**Part 4 Western Australia**

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402	<i>Judges' Salaries and Pensions Act 1950</i>
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403	<i>Parliamentary Superannuation Act 1970</i>
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404	<i>State Superannuation Act 2000</i>
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**Part 5 South Australia**

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501	<i>Governors' Pensions Act 1976</i>
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502	<i>Judges' Pensions Act 1971</i>
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503	<i>Parliamentary Superannuation Act 1974</i>
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504	<i>Police Superannuation Act 1990</i>
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505	<i>Southern State Superannuation Act 2009</i> (other than section 30(2)(h))
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506	<i>Superannuation Act 1988</i> (other than section 52 and Schedule 3)
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**Part 6 Tasmania**

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602	<i>Judges' Contributory Pensions Act 1968</i>
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## Schedule 5—Approved Stock Exchanges

Note: See regulation 995-1.05.

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### **Approved Stock Exchanges**

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#### **Argentina**

Buenos Aires Stock Exchange

#### **Australia**

ASX, also known as Australian Securities Exchange

Chi-X

IR Plus Securities Exchange

National Stock Exchange of Australia

SSX, also known as Sydney Stock Exchange

#### **Austria**

Vienna Stock Exchange

#### **Belgium**

Euronext Brussels

#### **Bermuda**

Bermuda Stock Exchange

#### **Brazil**

B3, also known as BM&F Bovespa

#### **Canada**

Montréal Stock Exchange

Toronto Stock Exchange

TSX Venture Exchange

#### **Chile**

Santiago Stock Exchange

Valparaiso Stock Exchange

#### **China**

Shanghai Stock Exchange

Shenzhen Stock Exchange

#### **Colombia**

Colombia Stock Exchange

#### **Denmark**

Nasdaq Copenhagen

#### **Finland**

Nasdaq Helsinki

#### **France**

Euronext Paris

#### **Germany**

Berlin Stock Exchange

Dusseldorf Stock Exchange

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**Approved Stock Exchanges**

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Frankfurt Stock Exchange

Hamburg Stock Exchange

Hannover Stock Exchange

Munich Stock Exchange

Stuttgart Stock Exchange

**Greece**

ATHEX, also known as Athens Exchange

**Hong Kong**

Hong Kong Stock Exchange

**Hungary**

Budapest Stock Exchange

**India**

Bombay Stock Exchange

Calcutta Stock Exchange

**Indonesia**

Indonesia Stock Exchange

**Ireland**

Euronext Dublin

**Israel**

Tel Aviv Stock Exchange

**Italy**

Borsa Italiana, also known as Italian Stock Exchange

**Jamaica**

Jamaica Stock Exchange

**Japan**

Fukuoka Stock Exchange

Nagoya Stock Exchange

Osaka Securities Exchange

Sapporo Securities Exchange

Tokyo Stock Exchange

**Korea, Republic of**

Korea Stock Exchange

**Luxembourg**

Luxembourg Stock Exchange

**Malaysia**

Bursa Malaysia

**Mexico**

Mexican Stock Exchange

**Netherlands**

Euronext Amsterdam

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**Approved Stock Exchanges**

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**New Zealand**

NZX, also known as New Zealand's Exchange

**Nigeria**

Nigerian Stock Exchange

**Norway**

Oslo Stock Exchange

**Pakistan**

Pakistan Stock Exchange, also known as PSX

**Peru**

Lima Stock Exchange

**Philippines**

Philippine Stock Exchange

**Poland**

Warsaw Stock Exchange

**Portugal**

Euronext Lisbon

**Serbia**

Belgrade Stock Exchange

**Singapore**

Singapore Exchange

**Slovakia**

Bratislava Stock Exchange

**Slovenia**

Ljubljana Stock Exchange

**South Africa**

Johannesburg Stock Exchange

**Spain**

Barcelona Stock Exchange

Bilbao Stock Exchange

Madrid Stock Exchange

Valencia Stock Exchange

**Sri Lanka**

Colombo Stock Exchange

**Sweden**

Nasdaq Stockholm

**Switzerland**

SIX Swiss Exchange

**Taiwan**

Taiwan Stock Exchange

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**Approved Stock Exchanges**

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**Thailand**

Stock Exchange of Thailand

**Trinidad and Tobago**

Trinidad and Tobago Stock Exchange

**Turkey**

Borsa Istanbul, also known as Istanbul Stock Exchange

**United Kingdom**

London Stock Exchange

**United States**

Chicago Stock Exchange

NASDAQ OMX BX

NASDAQ PHLX

NASDAQ Stock Exchange

NYSE, also known as New York Stock Exchange

NYSE American

NYSE American Options

NYSE ARCA equities

NYSE ARCA options

NYSE National

**Uruguay**

Montevideo Stock Exchange

**Venezuela**

Caracas Stock Exchange

**Zimbabwe**

Zimbabwe Stock Exchange

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

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

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced



## Endnote 3—Legislation history

## Endnote 3—Legislation history

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
1997 No. 198	16 July 1997	1 July 1997 (r 2)	
1998 No. 85	14 May 1998	14 May 1998 (r 1)	—
1999 No. 12	11 Feb 1999	11 Feb 1999 (r 2)	—
1999 No. 78	19 May 1999	1 July 1997 (r 2)	—
1999 No. 147	30 June 1999	1 July 1999 (r 2)	—
2000 No. 1	7 Feb 2000	7 Feb 2000 (r 2)	—
2000 No. 128	22 June 2000	22 June 2000 (r 2)	—
2001 No. 18	13 Feb 2001	1 July 1997 (r 2)	—
2001 No. 26	23 Feb 2001	23 Feb 2001 (r 2)	—
2001 No. 288	5 Oct 2001	5 Oct 2001 (r 2)	—
2001 No. 321	15 Oct 2001	Sch 2: 15 Dec 2001 (r 2)	—
2002 No. 46	7 Mar 2002	7 Mar 2002 (r 2)	—
2002 No. 65	5 Apr 2002	5 Apr 2002 (r 2)	—
2002 No. 170	3 July 2002	3 July 2002 (r 2)	—
2002 No. 172	5 July 2002	5 July 2002 (r 2)	—
2003 No. 39	27 Mar 2003	Sch 2: 6 July 2002 (r 2(b)) Remainder: 1 July 2001 (r 2(a))	—
2003 No. 40	27 Mar 2003	27 Mar 2003 (r 2)	—
2003 No. 108	4 June 2003	4 June 2003 (r 2)	—
2003 No. 373	23 Dec 2003	23 Dec 2003 (r 2)	—
2004 No. 52	30 Mar 2004	30 Mar 2004 (r 2)	—
2004 No. 278	26 Aug 2004	26 Aug 2004 (r 2)	—
2004 No. 303	7 Sept 2004	7 Sept 2004 (r 2)	r 4
2004 No. 330	25 Nov 2004	25 Nov 2004 (r 2)	—
2005 No. 22	28 Feb 2005 (F2005L00314)	1 Mar 2005 (r 2)	—
2005 No. 75	27 Apr 2005 (F2005L00940)	Sch 2: 28 Apr 2005 (s 2(b)) Remainder: 1 July 2003 (s 2(a))	—
2005 No. 102	26 May 2005 (F2005L01200)	Sch 2: 27 May 2005 (s 2(b)) Remainder: 1 July 2001 (s 2(a))	r 4
2005 No. 207	19 Sept 2005 (F2005L02673)	Sch 1 (item 54): 1 Oct 2005 (r 2)	—
2005 No. 328	19 Dec 2005 (F2005L04023)	20 Dec 2005 (r 2)	—
2006 No. 60	22 Mar 2006 (F2006L00800)	23 Mar 2006 (r 2)	—
2006 No. 61	22 Mar 2006 (F2006L00821)	23 Mar 2006 (r 2)	—
2006 No. 216	14 Aug 2006 (F2006L02613)	Sch 1: 14 Sept 2006 (r 2(a))	—
2006 No. 306	17 Nov 2006 (F2006L03670)	18 Nov 2006 (r 2)	—

## Endnotes

### Endnote 3—Legislation history

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
2006 No. 367	14 Dec 2006 (F2006L03995)	10 June 2005 (r 2)	—
2006 No. 368	14 Dec 2006 (F2006L04000)	15 Dec 2006 (r 2)	—
2007 No. 44	23 Mar 2007 (F2007L00581)	24 Mar 2007 (r 2)	—
2007 No. 90	13 Apr 2007 (F2007L00956)	r 1–3 and Sch 1: 14 Apr 2007 (r 2(a)) Remainder: 1 July 2007 (r 2(b), (c))	r 5
2007 No. 103	27 Apr 2007 (F2007L01126)	1 July 2007 (r 2)	r 3
2007 No. 177	26 June 2007 (F2007L01757)	27 June 2007 (r 2)	—
2007 No. 178	26 June 2007 (F2007L01735)	27 June 2007 (r 2(b))	r 4
2007 No. 202	29 June 2007 (F2007L01893)	1 July 2007 (r 2)	—
2007 No. 328	2 Oct 2007 (F2007L03775)	3 Oct 2007 (r 2)	r 4
2007 No. 329	2 Oct 2007 (F2007L03793)	3 Oct 2007 (r 2)	—
2007 No. 330	2 Oct 2007 (F2007L03803)	3 Oct 2007 (r 2)	—
2008 No. 35	25 Mar 2008 (F2008L00923)	26 Mar 2008 (r 2)	—
2008 No. 81	16 May 2008 (F2008L01434)	17 May 2008 (r 2)	—
2008 No. 131	29 June 2008 (F2008L02183)	1 July 2008 (r 2)	—
2008 No. 144	29 June 2008 (F2008L02193)	r 1–3 and Sch 1: 1 July 2007 (s 2(a)) Remainder: 30 June 2008 (s 2(b))	—
2008 No. 145	29 June 2008 (F2008L02266)	24 June 2008 (r 2)	r 4
2009 No. 13	6 Feb 2009 (F2009L00235)	7 Feb 2009 (r 2)	—
2009 No. 54	30 Mar 2009 (F2009L01191)	31 Mar 2009 (r 2)	—
2009 No. 177	10 July 2009 (F2009L02714)	11 July 2009 (r 2)	r 4
2009 No. 247	21 Sept 2009 (F2009L03523)	22 Sept 2009 (r 2)	—
2009 No. 388	16 Dec 2009 (F2009L04411)	r 1–3 and Sch 1: 1 July 2008 (r 2(a)) r 4 and Sch 2: 1 Aug 2009 (r 2(b)) Remainder: 17 Dec 2009 (r 2(c))	—
2010 No. 8	11 Feb 2010 (F2010L00318)	1 July 2009 (r 2)	—
2010 No. 9	11 Feb 2010 (F2010L00303)	12 Feb 2010 (r 2)	—
2010 No. 73	14 Apr 2010 (F2010L00917)	15 Apr 2010 (r 2)	—
2010 No. 74	15 Apr 2010 (F2010L00850)	16 Apr 2010 (r 2)	—
2011 No. 5	14 Feb 2011 (F2011L00251)	15 Feb 2011 (r 2)	—
2011 No. 35	15 Mar 2011 (F2011L00420)	16 Mar 2011 (r 2)	—
2011 No. 57	21 Apr 2011 (F2011L00634)	22 Apr 2011 (r 2)	—
2011 No. 80	3 June 2011 (F2011L00942)	26 Mar 2009 (r 2)	r 4

## Endnote 3—Legislation history

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
2011 No. 120	30 June 2011 (F2011L01364)	Sch 2 (item 43): 1 July 2011 (r 2)	—
2011 No. 182	5 Oct 2011 (F2011L02022)	6 Oct 2011 (r 2)	—
2012 No. 47	11 Apr 2012 (F2012L00835)	12 Apr 2012 (s 2)	—
2012 No. 310	11 Dec 2012 (F2012L02398)	12 Dec 2012 (s 2)	—
24, 2013	4 Mar 2013 (F2013L00394)	5 Mar 2013 (s 2)	—
84, 2013	16 May 2013 (F2013L00784)	17 May 2013 (s 2)	—
103, 2013	3 June 2013 (F2013L00894)	4 June 2013 (s 2)	—
127, 2013	17 June 2013 (F2013L01019)	18 June 2013 (s 2)	—
279, 2013	16 Dec 2013 (F2013L02123)	Sch 1 (items 11–22): 17 Dec 2013 (s 2)	—
6, 2014	19 Feb 2014 (F2014L00159)	Sch 1: 20 Feb 2014 (s 2)	—
52, 2014	16 May 2014 (F2014L00549)	Sch 3: 17 May 2014 (s 2)	—
90, 2014	13 June 2014 (F2014L00712)	Sch 2: 14 June 2014 (s 2)	—
17, 2015	2 Mar 2015 (F2015L00240)	3 Mar 2015 (s 2)	—
39, 2015	30 Mar 2015 (F2015L00367)	Sch 2: 31 Mar 2015 (s 2 item 4)	—
63, 2015	1 May 2015 (F2015L00630)	Sch 1: 1 July 2015 (s 2)	—
110, 2015	29 June 2015 (F2015L00968)	Sch 1 (item 1): 1 July 2015 (s 2(1) item 1)	—
156, 2015	9 Sept 2015 (F2015L01416)	Sch 1 (items 2, 3): 10 Sept 2015 (s 2(1) item 1)	SLI No 155, 2015 (s 23)

Name	Registration	Commencement	Application, saving and transitional provisions
Treasury Laws Amendment (2016 Measures No. 1) Regulation 2016	26 Feb 2016 (F2016L00156)	Sch 1: 27 Feb 2016 (s 2(1) item 1)	—
Acts and Instruments (Framework Reform) (Consequential Amendments) Regulation 2016	29 Feb 2016 (F2016L00170)	Sch 1 (items 22, 23): 5 Mar 2016 (s 2(1) item 1)	—
Tax Laws Amendment (Foreign Resident Capital Gains Withholding Payments) Regulation 2016	9 May 2016 (F2016L00711)	Sch 1 (item 1): 1 July 2016 (s 2(1) item 2)	—

## Endnotes

### Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Treasury Laws Amendment (2016 Measures No. 3) Regulations 2016	17 Oct 2016 (F2016L01625)	Sch 2 (items 2, 3): 18 Oct 2016 (s 2(1) item 3)	—
Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017	27 Mar 2017 (F2017L00321)	Sch 1 (items 2–4), Sch 2, Sch 5, Sch 6, Sch 7 (items 1–3), Sch 9 (item 1) and Sch 10 (item 2): 28 Mar 2017 (s 2(1) items 2, 4, 7)	—
Treasury Laws Amendment (2017 Measures No. 1) Regulations 2017	21 June 2017 (F2017L00704)	Sch 1 (items 1–9) and Sch 2: 1 July 2017 (s 2(1) item 1)	—
Treasury Laws Amendment (2017 Measures No. 2) Regulations 2017	17 Nov 2017 (F2017L01491)	Sch 1: 18 Nov 2017 (s 2(1) item 1)	—
Treasury Laws Amendment (2018 Measures No. 1) Regulations 2018	22 June 2018 (F2018L00831)	Sch 3: 23 June 2018 (s 2(1) item 1)	—
Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2018	7 Dec 2018 (F2018L01691)	Sch 1 (items 1–3): 1 July 2017 (s 2(1) item 2) Sch 1 (item 4): 1 Nov 2018 (s 2(1) item 3) Sch 1 (items 5–8): 8 Dec 2018 (s 2(1) item 4) Sch 1 (items 14–17): 1 Jan 2019 (s 2(1) item 5)	—
Treasury Laws Amendment (Mutual Equity Interests) Regulations 2019	25 Mar 2019 (F2019L00391)	26 Mar 2019 (s 2(1) item 1)	—
Income Tax Assessment Amendment (Kiribati Phoenix Islands Protected Area Conservation Trust) Regulations 2019	9 Sept 2019 (F2019L01167)	10 Sept 2019 (s 2(1) item 1)	—
Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019	17 Dec 2019 (F2019L01641)	Sch 1 (item 26) and Sch 5 (items 1–8, 10): 18 Dec 2019 (s 2(1) items 2, 5–7)	—

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**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
Part 1 heading.....	ad 2002 No 172
r 1 .....	rs 1999 No 12
r 2 .....	rep LA s 48D
<b>Part 2</b>	
Part 2 heading.....	ad 2002 No 172
<b>Division 26</b>	
Division 26 .....	ad 2007 No 90
r 26-85.01 .....	ad 2007 No 90
Division 28 heading.....	ad 2002 No 172
	rep F2016L00156
Division 28 .....	rep F2016L00156
r 28-25.01 .....	ad 1998 No 85
	am 1999 No 12
	rs 2000 No 1
	rep F2016L00156
<b>Division 30</b>	
Division 30 heading.....	ad 2002 No 172
r 30-212.01 .....	ad 2000 No 128
	am 2002 No 172
r 30-212.02 .....	ad 2000 No 128
	rs 2002 No 172
	am No 90, 2014; No 39, 2015
r 30-212.03, 30-212.04 .....	ad 2000 No 128
	rep 2002 No 172
r 30-212.05 .....	ad 2000 No 128
r 30-212.06 .....	ad 2000 No 128
r 30-212.07 .....	ad 2000 No 128
r 30-212.08 .....	ad 2000 No 128
r 30-212.09 .....	ad 2000 No 128
	am No 90, 2014
r 30-212.10 .....	ad 2000 No 128
	am 2002 No 172
	rs No 90, 2014
r 30-212.11 .....	ad 2000 No 128
	am 2002 No 172
	rs No 90, 2014

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## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
r 30-212.12 .....	ad 2000 No 128
<b>Division 31</b>	
Division 31 .....	ad 2002 No 172
r 31-15.01 .....	ad 2002 No 172
r 31-15.02 .....	ad 2002 No 172 am No 90, 2014
r 31-15.03 .....	ad 2002 No 172
r 31-15.04 .....	ad 2002 No 172
r 31-15.05 .....	ad 2002 No 172
r 31-15.06 .....	ad 2002 No 172
r 31-15.07 .....	ad 2002 No 172 rs No 90, 2014
r 31-15.08 .....	ad 2002 No 172 rs No 90, 2014
r 31-15.09 .....	ad 2002 No 172
<b>Division 50</b>	
Division 50 heading.....	ad 2002 No 172
r 50-50.01 .....	ad 1999 No 78 rs 2001 No 18; 2002 No 170; 2003 No 108 am 2003 No 373; 2006 No 367; F2017L01491
r 50-50.02 .....	ad 2003 No 108 rs F2017L01491
r 50-50.03 .....	ad No 127, 2013 am F2017L01491
r 50-55.01 .....	ad 1999 No 78 rep 2006 No 216 ad F2019L01167
r 50-70.01 .....	ad 1999 No 78 rep 2006 No 216
<b>Division 51</b>	
Division 51 heading.....	ad 2002 No 172
r 51-5.01 .....	rs 2004 No 278; 2006 No 368 am F2016L00170 rs F2019L01641
r 51-42.01 .....	ad 2008 No 145
<b>Division 61</b>	
Division 61 heading.....	ad 2002 No 172 rs 2008 No 131; No 84, 2013
Division 61 .....	rs No 84, 2013

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
<b>Subdivision 61-G</b>	
r 61-220.01 .....	ad 2008 No 131 am 2011 No 120 rs No 84, 2013
r 61-220.02 .....	ad No 84, 2013 am F2018L01691
r 61-330.01 .....	ad 1999 No 147 am 2001 No 321; 2005 No 207; 2006 No 60 rep 2008 No 131
<b>Division 70</b>	
Division 70 .....	ad 2002 No 172
r 70-55.01 .....	am No 156, 2015
<b>Division 83A</b>	
Division 83A .....	ad 2010 No 8
r 83A-5.01 .....	ad 2010 No 8
r 83A-315.01 .....	ad 2010 No 8 am No 63, 2015
r 83A-315.02 .....	ad 2010 No 8
r 83A-315.03 .....	ad 2010 No 8
r 83A-315.04 .....	ad 2010 No 8
r 83A-315.05 .....	ad 2010 No 8
r 83A-315.06 .....	ad 2010 No 8
r 83A-315.07 .....	ad 2010 No 8
r 83A-315.08 .....	ad 2010 No 8 am No 63, 2015
r 83A-315.09 .....	ad 2010 No 8 am No 63, 2015
<b>Part 2A</b>	
Part 2A heading .....	ad 2011 No 80
<b>Division 230</b>	
Division 230 .....	ad 2011 No 80
r 230-355.01 .....	ad 2011 No 80
<b>Division 290</b>	
Division 290 .....	ad 2007 No 90
<b>Subdivision 290-C</b>	
r 290-155.01 .....	ad F2017L00321
r 290-155.05 .....	ad F2017L00321
r 290-170.01 .....	ad 2007 No 90

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 291</b>	
Division 291 heading (prev Division 292 heading)	
Division 292 heading.....	rs and renum F2017L00321
Division 292 .....	ad 2007 No 90
<b>Subdivision 291-B</b>	
Subdivision 291-B heading (prev Subdivision 292-B heading)	
Subdivision 292-B heading.....	rs and renum F2017L00321
Subdivision 292-B .....	ad 2007 No 103
r 292-25.01 heading.....	rs and renum F2017L00321
r 292-25.01 .....	ad 2007 No 103
	am. 2007 No. 202; F2017L00321
	renum F2017L00321
r 291-25.01 (prev r 292-25.01)	
<b>Division 292</b>	
Division 292 heading.....	ad F2017L00321
<b>Subdivision 292-C</b>	
r 292-90.01 .....	ad 2007 No 90
<b>Subdivision 292-D</b>	
Subdivision 292-D.....	ad 2007 No 103
r 292-170.01 .....	ad 2007 No 103
r 292-170.02 .....	ad 2007 No 103
r 292-170.03 .....	ad 2007 No 103
	am F2017L00321
r292-170.04 .....	ad 2007 No 103
	am No 52, 2014
r 292-170.05 .....	ad 2007 No 103
	am 2007 No 330; 2009 No 177
r 292-170.06 .....	ad 2007 No 103
	am 2007 No 330; 2009 No 177
r 292-170.07 .....	ad 2009 No 177
r 292-170.08 .....	ad 2009 No 177
Division 302 .....	ad 2007 No 328
(first occurring)	
	rep 2009 No 388
r 302-195 .....	ad 2007 No 328
	rep 2009 No 388
r 302-195A .....	ad 2007 No 328
	rep 2009 No 388



## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
<b>Division 293</b>	
Division 293 .....	ad No 279, 2013
<b>Subdivision 293-D</b>	
Subdivision 293-D .....	ad No 6, 2014
r 293-115.01 .....	ad No 6, 2014
<b>Subdivision 293-DA</b>	
Subdivision 293-DA .....	ad No 52, 2014
r 293-115.05 .....	ad No 52, 2014
	am No 17, 2015
r 293-115.10 .....	ad No 52, 2014
r 293-115.15 .....	ad No 52, 2014
r 293-115.20 .....	ad No 52, 2014
<b>Subdivision 293-E</b>	
r 293-145.01 .....	ad No 279, 2013
<b>Division 294</b>	
Division 294 .....	ad F2017L00704
<b>Subdivision 294-B</b>	
Subdivision 294-B .....	ad F2019L01641
r 294-25.01 .....	ad F2019L01641
<b>Subdivision 294-C</b>	
Subdivision 294-C .....	ad F2019L01641
r 294-80.01 .....	ad F2019L01641
r 294-80.02 .....	ad F2019L01641
r 294-80.03 .....	ad F2019L01641
<b>Subdivision 294-D</b>	
r 294-130.01 .....	ad F2017L00704
	am F2019L01641
r 294-135.01 .....	ad F2017L00704
	am F2019L01641
r 294-145.01 .....	ad F2017L00704
	am F2019L01641
<b>Division 295</b>	
Division 295 .....	ad 2007 No 90
<b>Subdivision 295-D</b>	
r 295-265.01 .....	ad 2007 No 90
<b>Subdivision 295-F</b>	
r 295-385.01 .....	ad 2007 No 90
	rs No 103, 2013
	am F2017L00321

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Subdivision 295-G</b>	
Subdivision 295-G.....	ad 2011 No 182
r 295-465.01 .....	ad 2011 No 182
<b>Part 3</b>	
Part 3 heading.....	ad 2007 No 103
<b>Division 301</b>	
Division 301 .....	ad 2007 No 90
<b>Subdivision 301-D</b>	
r 301-170.01 .....	ad 2007 No 90
<b>Subdivision 301-E</b>	
r 301-225.01 .....	ad 2007 No 90 am 2007 No 103
<b>Division 302</b>	
Division 302 .....	ad 2007 No 90
<b>Subdivision 302-D</b>	
r 302-195 .....	ad 2009 No 388
r 302-195A .....	ad 2009 No 388
r 302-200.01 .....	ad 2007 No 90
r 302-200.02 .....	ad 2007 No 90
<b>Division 303</b>	
Division 303 .....	ad 2008 No 144
r 303-10.01 .....	ad 2008 No 144 am No 110, 2015
<b>Division 306</b>	
Division 306 .....	ad 2007 No 90
r 306-10.01 .....	ad 2007 No 90 rs 2008 No 144; F2017L00321
<b>Division 307</b>	
Division 307 .....	ad 2007 No 90
<b>Subdivision 307-B</b>	
Subdivision 307-B.....	ad F2018L01691
r 307-70.01 .....	ad F2018L01691
<b>Subdivision 307-C</b>	
Subdivision 307-C.....	ad 2007 No 329
r 307-125.01 .....	ad 2007 No 329
r 307-125.02 .....	ad No 103, 2013 am F2017L00321
<b>Subdivision 307-D</b>	
r 307-200.01 .....	ad 2007 No 90 rs No 279, 2013

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
r 307-200.02 .....	ad 2007 No 90 am 2007 No 202
r 307-200.03 .....	ad 2007 No 90 am 2007 No 202
r 307-200.04 .....	ad 2007 No 90 rep 2007 No 202
r 307-200.05 .....	ad 2007 No 90 rs F2017L00704
r 307-205.01 .....	ad 2007 No 90 am F2017L00321
r 307-205.02 .....	ad 2007 No 90 am 2007 No 202; No 103, 2013; F2017L00321; F2017L00704
r 307-205.02A .....	ad 2007 No 202 am F2017L00704
r 307-205.02B.....	ad 2007 No 202
r 307-205.02C.....	ad F2017L00704
r 307-205.02D .....	ad F2017L00704
r 307-205.02E.....	ad F2017L00704
Division 328 .....	ad 2003 No 39 rep 2007 No 178
r 328-375.01 .....	ad 2003 No 39 am 2006 No 216 rep 2007 No 178
<b>Part 3A</b>	
Part 3A .....	ad F2016L01625
<b>Division 393</b>	
Division 393 .....	ad F2016L01625
r 393-1 .....	ad F2016L01625
r 393-5 .....	ad F2016L01625
r 393-10.....	ad F2016L01625
r 393-15 .....	ad F2016L01625 am F2018L01691
<b>Part 4</b>	
Part 4 .....	ad 2005 No 75
<b>Subdivision 775-B</b>	
r 775-145.01 .....	ad 2005 No 75
<b>Subdivision 830-A</b>	
r 830-15.01 .....	ad 2007 No 177
<b>Part 5</b>	
Part 5 .....	ad No 103, 2013

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 910</b>	
r 910-1.01 .....	ad No 103, 2013 am No 279, 2013
r 910-1.02 .....	ad No 279, 2013
r 910-1.03 .....	ad No 279, 2013
r 910-1.04 .....	ad No 6, 2014
r 910-1.05 .....	ad No 52, 2014
r 910-1.07 .....	ad No 17, 2015
r 910-1.08 .....	ad F2016L00156 ed C76
r 910-1.09 .....	ad F2017L00321
r 910-1.10 .....	ad F2018L01691
r 910-1.11 .....	ad F2019L00391
r 910-1.12 .....	ad F2019L01641
<b>Part 6</b>	
Part 6 heading .....	ad 2002 No 172
<b>Division 960</b>	
Division 960 .....	ad 2005 No 75
<b>Subdivision 960-C</b>	
r 960-50.01 .....	ad 2005 No 75 am 2005 No 75
<b>Subdivision 960-D</b>	
r 960-80.01 .....	ad 2005 No 75
r 960-80.02 .....	ad 2005 No 75
r 960-80.03 .....	ad 2005 No 75 am F2016L00170
<b>Division 974</b>	
<b>Subdivision 974-F</b>	
r 974-135A .....	ad 2004 No 303
r 974-135B .....	ad 2004 No 303
r 974-135C (prev r 974A-135C) .....	reloc and renum No 102, 2005
Division 974A .....	ad 2005 No 102
Division 974A heading .....	rep 2005 No 102
Subdivision 974A-F heading .....	rep 2005 No 102
r 974A-135C .....	ad 2005 No 102 reloc and renum No 102, 2005
r 974-135D .....	ad 2010 No 73 am 2011 No 35; No 310, 2012
r 974-135E .....	ad 2011 No 35

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
r 974-135F .....	am No 310, 2012 ad 2012 No 310 am F2019L00391
<b>Division 995</b>	
Division 995 heading .....	ad 2002 No 172
r 995-1.01 .....	am No 90, 2007; No 103, 2007; No 144, 2008; No 35, 2011; No 103, 2013; No 52, 2014; No 17, 2015; F2017L00321; am F2017L00704 ed C76 am F2018L01691
r 995-1.02 .....	ad 2001 No 288 am 2002 No 65; 2003 No 108; 2003 No 373; 2004 No 330 rs 2005 No 328 rep 2010 No 9
r 995-1.03 .....	ad 2007 No 90 rep F2017L00321
r 995-1.04 .....	ad 2007 No 90
r 995-1.05 .....	ad 2011 No 5
Schedule 1 .....	ad 2000 No 1 rep F2016L00156
Part 2 .....	am 2001 No 26; 2002 No 46; 2003 No 40; 2004 No 52; 2005 No 22; 2006 No 61; 2007 No 44; 2008 No 35; 2009 No 54; 2010 No 74; 2011 No 57; 2012 No 47; No 24, 2013; No 39, 2015 rs No 279, 2013 am No 156, 2015 rep F2016L00156
<b>Schedule 1A</b>	
Schedule 1A .....	ad 2007 No 103 am 2007 No 202; 2007 No 330; 2009 No 177; No 52, 2014
<b>Schedule 1AA</b>	
Schedule 1AA .....	ad No 52, 2014
<b>Part 1</b>	
Part 1 .....	ad No 52, 2014
c 1 .....	ad No 52, 2014
c 2 .....	ad No 52, 2014
c 3 .....	ad No 52, 2014
c 4 .....	ad No 52, 2014
<b>Part 2</b>	
Part 2 .....	ad No 52, 2014
c 5 .....	ad No 52, 2014
c 6 .....	ad No 52, 2014 am No 17, 2015

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
c 7.....	ad No 52, 2014
c 8.....	ad No 52, 2014
c 9.....	ad No 52, 2014
<b>Part 3</b>	
Part 3 .....	ad No 52, 2014
c 10.....	ad No 52, 2014
c 11.....	ad No 52, 2014
c 12.....	ad No 52, 2014
c 13.....	ad No 52, 2014
c 14.....	ad No 52, 2014
c 15.....	ad No 52, 2014
	am No 17, 2015
c 16.....	ad No 52, 2014
	am No 17, 2015
c 17.....	ad No 52, 2014
c 18.....	ad No 52, 2014
c 19.....	ad No 52, 2014
<b>Part 4</b>	
Part 4 .....	ad No 52, 2014
c 20.....	ad No 52, 2014
<b>Part 5</b>	
Part 5 .....	ad No 52, 2014
c 21 .....	ad No 52, 2014
<b>Part 6</b>	
Part 6 .....	ad No 52, 2014
c 22.....	ad No 52, 2014
<b>Part 7</b>	
Part 7 .....	ad No 52, 2014
c 23.....	ad No 52, 2014
<b>Schedule 1B</b>	
Schedule 1B.....	ad 2007 No 90
	am 2007 No 202
<b>Schedule 1C</b>	
Schedule 1C.....	ad F2016L01625
<b>Part 1</b>	
Part 1 .....	ad F2016L01625
<b>Part 2</b>	
Part 2 .....	ad F2016L01625
<b>Part 3</b>	
Part 3 .....	ad F2016L01625

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
<b>Schedule 2</b>	
Schedule 2 .....	ad 2005 No 75
<b>Part 1</b>	
Part 1 .....	ad 2005 No 75
<b>Part 2</b>	
Part 2 .....	ad 2005 No 75
Schedule 3 .....	ad 2005 No 328
	am 2006 No 216
	rs 2006 No 306
	am 2008 No 81; 2009 No 13; 2009 No 247
	rep 2010 No 9
<b>Schedule 4</b>	
Schedule 4 .....	ad 2007 No 90
	am 2009 No 338; No 279, 2013
<b>Schedule 5</b>	
Schedule 5 .....	ad 2011 No 5
	am F2016L00711
	rs F2018L00831