

Superannuation Contributions Tax (Assessment and Collection) Amendment Regulations 2000 (No. 1) 2000 No. 149

EXPLANATORY STATEMENT

STATUTORY RULES 2000 No. 149

Issued by the Authority of the Assistant Treasurer

Superannuation Contributions Tax (Assessment and Collection) Act 1997

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

Superannuation Contributions Tax (Assessment and Collection) Amendment Regulations 2000 (No. 1)

Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Amendment Regulations 2000 (No. 1)

Subsection 42(1) of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* (the SCT(A&C) Act) and section 37 of the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997* (the CP Act) provide that the Governor-General may make Regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act, including prescribing how statements are to be given to the Commissioner of Taxation (the Commissioner) and prescribing penalties, not exceeding a fine of 5 penalty units, for offences against the Regulations.

Paragraph 8(5)(a) of the SCT(A&C) Act and paragraph 9(6)(a) of the CP Act provide that the actuarial value of the benefits that accrued to, and the value of the administration expenses and risk benefits provided in respect of, a member of a defined benefits superannuation scheme for the 1999-2000 financial year and later financial years is an amount worked out by an eligible actuary using the method set out in the Regulations.

Section 13 of the SCT(A&C) Act requires superannuation providers to give statements to either the Commissioner or to other superannuation providers on specific matters and other matters set out in the Regulations. Section 12 of the CP Act requires constitutionally protected superannuation providers to give information to the Commissioner on specific and other matters set out in the Regulations.

Section 43 of the SCT(A&C) Act and section 38 of the CP Act define **contributed amounts** in relation to a member (other than a member of a defined benefit superannuation scheme) and provide that the Regulations may set out any part of such amount that is to be regarded as reasonably attributable to interest.

Section 43 of the SCT(A&C) Act also defines **unfunded defined benefits superannuation scheme** as a scheme that is declared by the Regulations to be such a scheme. Section 38 of the CP Act defines these schemes to be the same as set out in the SCT(A&C) Act.

The purpose of the Regulations was to amend the Superannuation Contributions Tax (Assessment and Collection) Regulations and the Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Regulations to:

- i) include a method for calculating the actuarial value of the benefits that accrued to, and the value of the administration expenses and risk benefits provided in respect of, a member of a defined benefits superannuation scheme for the 1999-2000 financial year and later financial years;
- ii) alter the information requirements in relation to statements superannuation providers are to give;
- iii) identify that part of contributed amounts that is to be regarded as reasonably attributable to interest; and
- iv) declare schemes that are to be regarded as unfunded defined benefit schemes.

The amendments to the Regulations reflected discussions between the Government and various representative superannuation industry bodies.

The amended Regulations specify:

- i) that schemes established by or operated under, a Commonwealth, State or Territory Act set out in Schedule 1 to the Regulations, or established by or operated under, a trust deed set out in Schedule 1 to the Regulations, are declared to be unfunded defined benefits superannuation schemes (Regulation 2A - SCT(A&C) Regulations);
- ii) the part of contributed amounts that is to be regarded as reasonably attributable to interest (Part IA - both SCT(A&C) Regulations and CP Regulations);
- iii) the method for calculating the actuarial value of the benefits that accrued to, and the value of the administration expenses and risk benefits provided in respect of, a member of a defined benefits superannuation scheme for the 1999-2000 financial year and later financial years (Part IB-both SCT(A&C) Regulations and CP Regulations); and
- iv) the information requirements in relation to statements superannuation providers are to give (Part 3 - both SCT(A&C) Regulations and CP Regulations).

Details of the amended Regulations are set out in separate attachments.

The proposed Regulations would commence on 1 July 20 00.

Attachment

Superannuation Contributions Tax (Assessment and Collection) Amendment Regulations 2000 (No. 1)

Regulation 1 - names the amending Regulations.

Regulation 2 - sets 1 July 2 000 as the date the amending Regulations commence.

Regulation 3 - sets out that Schedule 1 amended the Superannuation Contributions Tax (Assessment and Collection) Regulations.

Schedule 1 of the Superannuation Contributions (Assessment and Collection) Amendment Regulations 2000 (No.

Item 1 substituted new Regulation 1 - name of Regulations.

Items 2 to 8 amended the definitions in existing Regulation 2 -

i) new definitions were added in relation to the methodology for reporting surchargeable contributions for defined benefit funds under new schedule 2 (actuarial certificate, actuarial valuation, employer-sponsor);

ii) new definitions were inserted to identify matters that are to be reported under the schedules (ATO Corporate External Gateway User ID, Australian Business Number, Deferred Annuity Account Indicator, Deferred Annuity Provider Indicator, destination superannuation provider system code, supplier file reference, supplier number, unique superannuation provider reference for the contributed amount transferred out); and

iii) some definitions were omitted because the information is now not required to be reported (direct employer contributed amount, direct specified rollover amount, roll-in employer contributed amount, roll-in specified roll-over amount).

Items 9 to 12 amended the notes in existing Regulation 2 - inserted other expressions defined by section 43 of the Act (allocated surplus amount, defined benefit superannuation scheme, eligible actuary, eligible termination payment, Superannuation Contributions Ruling SCR97/1, unfunded defined benefits superannuation scheme).

Item 13 inserted new Regulation 2A - meaning of unfunded defined benefit scheme.

Item 14 inserted new Regulations 2E, 2F and 2G - identified the part of contributed amounts that is to be regarded as "*reasonably attributable to interest*" for schemes without a surplus and for schemes with a surplus. A surplus exists when the net market value of the assets of the scheme is greater than the total value of the account balances of the members of the scheme (regulation 2E identifies the schemes to which the Part applies and what a surplus is for those schemes; regulation 2F identifies the amount for a fund without a surplus; regulation 2G identifies the amount for a fund with a surplus where amounts are allocated from either an investment reserve or a miscellaneous reserve or from both).

Item 14 inserted new regulation 211 - identified the amounts credited, allocated or attributed under subparagraph (a)(ii) of the definition of contributed amounts.

Item 14 inserted new regulation 2L - set out the method for working out surchargeable contributions for members of defined benefit funds for the year ended 30 June 2000 (the method is either annual salary multiplied by a notional surchargeable contributions factor

calculated by an eligible in line with a method set out in Superannuation Contributions Ruling S CR 97/1 or a method approved by the Commissioner).

Item 14 inserts new Regulations 2M and 2N - set out the method for working out surchargeable contributions for accruing members of defined benefit funds for the years ended 30 June 2001 and later financial years (this method is set out in Schedule 2 of the amended Regulations and involves an eligible actuary calculating a value for each of the components of the formula set out in the Schedule in line with the processes outlined in the Schedule).

Items 15, 16, 18, 19, 20, 21, 22, 24 and 25 amended existing subregulations 3(1), 3AQ, 311(1), 3Q1, 3Q2, 10(1) and existing Regulations 31) and 3E -reflected the numbers of replacement schedules (existing schedules 1, 1 A, 1 B, 1 C, 1 D, 1 E and 2 were renumbered).

Item 17 omitted existing subregulations M(3) and (4) - (existing subregulation 3A(3) provided an option for superannuation providers to report only if the information is known to the superannuation provider; existing subregulation 3A(4) gave the Commissioner the power to request non-reported information from the superannuation provider - while there was an option for schemes to report particular information in relation to members leaving/transferring, industry would not actively record and report the information unless there was compulsion to do so).

Items 18 and 19 amended existing subregulations 3B(1) and 3Q1) - removed the words "and if known to the superannuation provide?" (in line with the removal of subregulations 3A(3) and 3A(4)).

Item 23 amended existing subregulation 5(2) - the words "office of a Deputy Commissioner" to "office of the Commissioner".

Item 26 substituted schedules