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Lodgment of returns for the year of income ended 30 June 2012 in accordance with the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Taxation Administration Act 1953*, the *Superannuation Industry (Supervision) Act 1993* and the *Income Tax (Transitional Provisions) Act 1997*

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## Explanatory Statement

### General outline of Instrument

1. This Instrument sets out who is required to lodge an annual return, in the approved form, and the due date for lodgment.
2. The proposed Instrument will be a Legislative Instrument for the purposes of the *Legislative Instruments Act 2003* and it is legally binding on the Commissioner of Taxation (“the Commissioner”)

### Date of effect

3. The Instrument applies to the year of income ended 30 June 2012 or an approved period in lieu and is effective from the day after it is registered.

### What is this Instrument about:

4. The principal purpose of the Instrument is to require lodgment of income tax and annual returns in accordance with section 161 of the *Income Tax Assessment Act 1936* and section 35D of the *Superannuation Industry (Supervision) Act 1993* for an income year by specifying who is to lodge and to stipulate the date by which they are to lodge. The Instrument establishes due dates for lodgment of returns which can be deferred by the exercise of the Commissioner’s discretion under s 388-55 of Schedule 1 to the *Taxation Administration Act 1953*, for example the deferred due dates for returns lodged under the tax agent lodgment program.

### What is the effect of this Instrument:

5. The effect of this Instrument is that taxpayers have guidance on their obligations to lodge returns in the approved form and the date by which they must be lodged and the penalty that may be applied for failure to lodge on time.

### Compliance cost impact:

6. An assessment of the compliance cost impact indicates that the impact will be minor for both implementation and on-going compliance costs. The new instrument is of a minor or machinery nature.

## **Background:**

7. Since the commencement of the *Income Tax Assessment Act 1936*, section 161 of that Act refers to the requirement to lodge an annual return. Every person must, if required by the Commissioner, give to the Commissioner a return for a year of income within the period specified in the notice.
8. Each year the Commissioner publishes a notice that sets out the requirements for certain persons to lodge returns and the date by which they must be lodged. It also identifies classes of persons who are not required to lodge a return.
9. The notice defines a 'person' and in tables sets out in detail the requirements for a 'person' to lodge a return, as well as supplementary information such as the requirement for lodgment in the approved form and the penalties that may be applied for failing to lodge the return on time.

## **Consultation:**

10. There has been no external consultation in relation to this Instrument. This is a machinery provision and a requirement of section 161 of the *Income Tax Assessment Act 1936* and section 35D of the *Superannuation Industry (Supervision) Act 1993* and it is a long standing practice to publish the due dates for lodgment of returns for each financial year and who must lodge them.

## **Statement of compatibility prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011:**

11. This instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

## **Overview**

12. This legislative instrument specifies which persons which persons are required to lodge an income tax return for the year ended 30 June 2012.

## **Human rights implications**

13. This legislative instrument does not engage any of the applicable rights or freedoms.

## **Conclusion**

14. This legislative instrument is compatible with human rights as it does not raise any human rights issues.

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**Michael D'Ascenzo**  
**Commissioner of Taxation**  
**25 June 2012**

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