

EXPLANATORY STATEMENT

Social Security (Deeming Threshold Rates) Determination 2015 (No. 1)

Summary

The *Social Security Act 1991* (the Act) prescribes rules for calculating income from financial investments. These rules are generally known as deeming rules. Under these rules the value of a customer's financial assets are added together and income is deemed on these assets using a 'below threshold rate' and an 'above threshold rate'. The first \$48,000 of a single person's financial assets (or \$79,600 for pensioner couples and \$39,800 for each member of a couple who is a social security allowance recipient) is deemed to earn the below threshold rate, and the balance over this amount is deemed to earn the above threshold rate.

Background

Under section 1082 of the Act the below threshold and above threshold rates for the purposes of Division 1B of Part 3.10 of the Act are determined, by legislative instrument, by the Minister. From 4 November 2013 until the commencement of this instrument, the below threshold rate is 2 per cent and the above threshold rate is 3.5 per cent.

Deeming rates are subject to continuing review to ensure they are set to reflect the returns available in the market to people for their financial investments. The deeming rate is regularly reviewed by analysing the medium to long term trends in a wide range of investment indicators such as term deposit rates, cash management account returns, changes in share prices, share dividend yields, managed investment returns, and data and analysis from the Reserve Bank of Australia and Treasury.

The principles that are considered when reviewing the deeming rates include:

- that deeming should be a simple and fair way to assess income from financial investments, so that people with the same amount held in different financial assets receive a similar assessment;
- it should reduce the extent to which income support payments fluctuate; and
- it should simplify investment choice to encourage people to choose investments on their merits.

Based on these factors, it is considered appropriate to reduce the below threshold rate to 1.75 per cent and the above threshold rate to 3.25 per cent, from 20 March 2015.

Explanation of Provisions

Section 1 and 2 of the Determination are mechanical provisions that provide for the name of the instrument and its commencement, respectively.

Section 3 revokes the *Social Security (Deeming Threshold Rates) Determination 2013 (No. 2)*.

Section 4 provides that 'Act' means the *Social Security Act 1991*.

Section 5 sets out the below threshold rate of 1.75 per cent.

Section 6 sets out the above threshold rate of 3.25 per cent.

Regulatory Impact Analysis

The Determination does not require a Regulatory Impact Statement nor a Business Cost Calculator Figure. The Determination is not regulatory in nature and will not impact on business activity and will have no, or minimal, compliance costs or competition impact.

Consultation

Consultation for this Determination is not necessary. The Determination is of a machinery nature. Existing arrangements are not substantially altered; the Determination does not change the operation of the deeming provisions. Rather, deeming rates are being changed, informed by returns available in the market for financial investments.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Social Security (Deeming Threshold Rates) Determination 2015 (No. 1) **(the Determination)**

The Determination 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 of the Legislative Instrument

The Determination will have the effect of changing the deeming rates from 2 per cent and 3.5 per cent for the below and above threshold deeming rates respectively, to 1.75 and 3.25 per cent. The deeming rates are used to assess income from financial investments for social security and veterans' affairs pension/allowance purposes. The first \$48,000 of a single person's financial assets (or \$79,600 for pensioner couples and \$39,800 for each member of a couple who is a social security allowance recipient) is deemed to earn the below threshold rate, and the balance over this amount is deemed to earn the above threshold rate.

The deeming rates assume that financial investments are earning a certain rate of income, regardless of the amount of income they are actually earning. If a person earns more than these rates, the extra income is not assessed.

Deeming rates are subject to continuing review to ensure they are set to reflect the returns available in the market to people for their financial investments. The deeming rate is regularly reviewed by analysing the medium to long term trends in a wide range of investment indicators such as term deposit rates, cash management account returns, changes in share prices, share dividend yields, managed investment returns, and data and analysis from the Reserve Bank of Australia and Treasury.

As a result of the reduction in the below and above threshold deeming rates under the *Social Security (Deeming Threshold Rates) Determination 2015 (No. 1)*, this Determination may increase the rate at which individuals receive social security and veterans' affairs pensions and allowances.

Human rights implications

Changes to the deeming rate are compatible with human rights.

These changes, whether an increase or a decrease, are made to ensure that the income testing of social security payments operates consistently and fairly as financial market conditions change. Where returns from financial products are high, the deeming rate is set higher to ensure that social security recipients who hold financial products have more income assessed for the relevant income test. Conversely, when returns are low, the deeming rate is

set lower to enable less income to be counted for the assessment of recipients' income support payments.

Deeming is merely an assessment methodology and, as such, its application does not change the core parameters of the relevant income test which include the income free threshold and taper rates.

Conclusion

The Determination is compatible with human rights.

The Hon Scott Morrison MP, Minister for Social Services