



Tax and Superannuation Laws Amendment (2016 Measures No. 1) Regulation 2016

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 14 April 2016

Peter Cosgrove
Governor-General

By His Excellency's Command

Kelly O'Dwyer
Assistant Treasurer

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1 Name

This is the *Tax and Superannuation Laws Amendment (2016 Measures No. 1) Regulation 2016*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
|--|---|---------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table | The day after this instrument is registered. | 16 April 2016 |
| 2. Schedule 1 | The later of: (a) the day after this instrument is registered; and (b) the commencement of Schedule 1 (about extending GST to digital products and other services imported by consumers) to the <i>Tax and Superannuation Laws Amendment (2016 Measures No. 1) Act 2016</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 1 July 2016 |
| 3. Schedule 2 | The day after this instrument is registered. | 16 April 2016 |

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under the following:

- (a) the *A New Tax System (Goods and Services Tax) Act 1999*;
- (b) the *Superannuation Industry (Supervision) Act 1993*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Financial supplies

A New Tax System (Goods and Services Tax) Regulations 1999

1 Subregulation 40-5.09(3) (at the end of the table)

Add:

- | | |
|-------|--|
| 12 | An account made available by a non-resident in the course of carrying on banking business (within the meaning of the <i>Banking Act 1959</i>) in a foreign country in which the entity is authorised under the law of that country to carry on banking business |
| <hr/> | |
| 13 | A foreign superannuation fund (within the meaning of the <i>Income Tax Assessment Act 1997</i>) |

2 At the end of Schedule 15

Add:

Part 3—Amendments made by the Tax and Superannuation Laws Amendment (2016 Measures No. 1) Regulation 2016

106 Operation of Schedule 1

The amendments of these Regulations made by Schedule 1 to the *Tax and Superannuation Laws Amendment (2016 Measures No. 1) Regulation 2016* apply in relation to working out net amounts for tax periods starting on or after 1 July 2017.

Schedule 2—Amounts affected by earnout rights

Superannuation Industry (Supervision) Regulations 1994

1 At the end of subregulation 7.04(1)

Add:

Note: There is an exception for amounts relating to some CGT small business concessions (see subregulation (6A)).

2 After subregulation 7.04(6)

Insert:

- (6A) Despite subregulation (1), the regulated superannuation fund may accept, as a contribution, an amount to the extent that the amount does not exceed the member's CGT cap amount if:
- (a) were the amount to be accepted as a contribution, it could be covered under section 292-100 (certain CGT-related payments) of the *Income Tax Assessment Act 1997* in relation to a CGT event referred to in that section; and
 - (b) the capital proceeds from the CGT event were or could have been affected by one or more financial benefits received under a look-through earnout right; and
 - (c) that subregulation would not have prevented the fund from accepting the amount as a contribution had it been made to the fund in the financial year in which the CGT event happened.

Note: The CGT event is the one referred to in whichever of subsections 292-100(2), (4), (7) and (8) of that Act that could cause the amount to be covered under that subsection.

3 Subregulation 7.04(7)

Insert:

capital proceeds has the same meaning as in the *Income Tax Assessment Act 1997*.

CGT cap amount has the same meaning as in the *Income Tax Assessment Act 1997*.

CGT event has the same meaning as in the *Income Tax Assessment Act 1997*.

financial benefit has the same meaning as in the *Income Tax Assessment Act 1997*.

look-through earnout right has the same meaning as in the *Income Tax Assessment Act 1997*.

4 At the end of Part 14

Add:

Division 14.8—Transitional arrangements arising out of the Tax and Superannuation Laws Amendment (2016 Measures No. 1) Regulation 2016

14.09 Arrangements

The amendments of these regulations made by Schedule 2 to the *Tax and Superannuation Laws Amendment (2016 Measures No. 1) Regulation 2016* apply in relation to look-through earnout rights (within the meaning of the *Income Tax Assessment Act 1997*) created on or after 24 April 2015.