

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 *Tax and Superannuation Laws Amendment (2016 Measures No. 1) Act 2016*.  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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 *Banking Act 1959*) in a foreign country in which the entity is authorised under the law of that country to carry on banking business |
| 13 | A foreign superannuation fund (within the meaning of the *Income Tax Assessment Act 1997*) |

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.