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## Explanatory Statement

Requirement to lodge a return for the year of income ended 30 June 2017 under the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Income Tax (Transitional Provisions) Act 1997*, the *Taxation Administration Act 1953*, the *Superannuation Industry (Supervision) Act 1993*, the *Higher Education Support Act 2003* and the *Trade Support Loans Act 2014*

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### 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. This instrument will be a legislative instrument for the purposes of the *Legislation Act 2003*.
3. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

### Date of effect

4. This instrument applies to the year of income ended 30 June 2017 or an approved accounting period and is effective from the day after it is registered on the Federal Register of Legislation.

### What is this instrument about

5. The principal purpose of this instrument is to require lodgment of income tax and annual returns in accordance with sections 161 and 163 of the *Income Tax Assessment Act 1936*, section 214-15 of the *Income Tax Assessment Act 1997*, section 214-5 of the *Income Tax (Transitional Provisions) Act 1997*, section 35D of the *Superannuation Industry (Supervision) Act 1993*, section 154-18(3) of the *Higher Education Support Act 2003* and section 47C(3) of the *Trade Support Loans Act 2014* for an income year by specifying who is to lodge and to stipulate the date by which they are to lodge. This instrument establishes due dates for lodgment of returns which can be deferred by the Commissioner of Taxation (the Commissioner) under section 388-55 of Schedule 1 to the *Taxation Administration Act 1953*, for example the deferred due dates for returns lodged under the lodgment program.

## What is the effect of this instrument

6. 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. Under the *Taxation Administration Act 1953*, it is also an offence to give false or misleading information in a return, notice, statement, or other document (including any schedule) required by the Commissioner.

## Compliance cost impact

7. Minor – there will be no or minimal impacts for both implementation and ongoing compliance costs. The legislative instrument is minor or machinery in nature.

## Background

8. 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.
9. 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.
10. 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.
11. Section 214-15 of the *Income Tax Assessment Act 1997* refers to the notice to be given by the Commissioner to require corporate tax entities to give a franking return.
12. Section 35D of the *Superannuation Industry (Supervision) Act 1993* refers to the requirement for self managed superannuation funds to lodge annual returns.
13. Subsection 154-18(3) of the *Higher Education Support Act 2003* refers to the requirement for a foreign resident who had an accumulated HELP debt on 1 June immediately preceding the income year to lodge a return.
14. Subsection 47C(3) of the *Trade Support Loan Act 2014* refers to the requirement for a foreign resident who had an accumulated TSL debt on 1 June immediately preceding the income year to lodge a return.

## Consultation

15. There has been no external consultation in relation to this instrument, it was considered impracticable to initiate a public consultation given the number of people affected. This legislative instrument is a requirement of section 161 of the *Income Tax Assessment Act 1936*, section 214-15 of the *Income Tax Assessment Act 1997*, section 214-5 of the *Income Tax (Transitional Provisions) Act 1997*, section 35D of the *Superannuation Industry (Supervision) Act 1993*, subsection 154-18(3) of the *Higher Education Support Act 2003* and subsection 47C(3) of the *Trade Support Loans Act 2014*. It is a long standing practice to publish the due dates for lodgment of returns for each income year and who must lodge them.

## Legislative References

*Income Tax Assessment Act 1936*  
*Income Tax Assessment Act 1997*  
*Income Tax (Transitional Provisions) Act 1997*  
*Taxation Administration Act 1953*  
*Superannuation Industry (Supervision) Act 1993*  
*Higher Education Support Act 2003*  
*Trade Support Loans Act 2014*  
*Legislation Act 2003*  
*Acts Interpretation Act 1901*  
*Human Rights (Parliamentary Scrutiny) Act 2011*  
*Australian Charities and Not-for-profits Commission Act 2012*

## Statement of Compatibility with Human Rights

This Statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

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This legislative 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

The principal purpose of this instrument is to require lodgment of income tax and annual returns in accordance with section 161 of the *Income Tax Assessment Act 1936*, section 214-15 of the *Income Tax Assessment Act 1997*, section 35D of the *Superannuation Industry (Supervision) Act 1993*, subsection 154-18(3) of the *Higher Education Support Act 2003* and subsection 47C(3) of the *Trade Support Loans Act 2014* for an income year by specifying who is to lodge and to stipulate the date by which they are to lodge.

### Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms as it simply provides guidance for taxpayers 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.

### Conclusion

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