



Legislative Instrument

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*

I, Erin Holland, Deputy Commissioner of Taxation, delegate of the Commissioner of Taxation under section 8 of the *Taxation Administration Act 1953*, make the following legislative instrument regarding lodgment of returns for the year of income ended 30 June 2017 under the:

Income Tax Assessment Act 1936:

Section 18; Section 23AF; Section 23AG; Section 130; Section 160AAAA; Section 161; Subsection 161A(1); Section 162; Section 163; Section 255; former subsection 485AA(1); former subsection 485AA(2); Division 1AB of Part III; Division 5A of Part III; and Division 15 of Part III.

Income Tax Assessment Act 1997:

Section 61-215; Section 204-75; Section 205-50; Section 210-135; Section 214-15; Subsection 214-25(2); Section 303-10; paragraph 830-10(2)(b); Subsection 830-15(5); paragraph 830-15(5)(b); Section 960-195; Section 995-1; Division 50; Subdivision 61-G; Division 405; Division 703; Division 719; Division 830; and Part 3-90.

Income Tax (Transitional Provisions) Act 1997:

Division 205 and Division 214.

Taxation Administration Act 1953:

Section 8C; Section 8E; and Section 8ZF.

Taxation Administration Act 1953 (Schedule 1):

Section 12-140; Section 12-145; Section 12-319A; Section 12-320; Section 260-140, Section 286-75; Section 388-50, Section 388-55; Section 390-5; Subdivision 12A-C; Subdivision 12-F; Subdivision 12-FA; and Subdivision 12-H.

Superannuation Industry (Supervision) Act 1993:

Section 35D.

Higher Education Support Act 2003:

Subsection 154-18(3).

Trade Support Loans Act 2014

Subsection 47C(3).

Signed Erin Holland
Deputy Commissioner of Taxation
11 May 2017

1. Name of instrument

This instrument is the '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*'.

2. Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

3. Application

General terms

The meanings of general terms used in this instrument are set out below:

year of income or **income year** means the year of income ended 30 June 2017, or the approved accounting period instead, if a person has been granted leave to adopt a substituted accounting period under section 18 of the *Income Tax Assessment Act 1936*.

person includes:

- a) a partner of a partnership, including a foreign hybrid as defined in Division 830 of the *Income Tax Assessment Act 1997*, and subject to Table K or Table Q, the descriptions in the Tables apply to a partner with respect to their duty to give me a partnership return as if the partnership were regarded as a person and meets those descriptions;
- b) a trustee of a trust estate; and
- c) a 'full self-assessment taxpayer'.

full self-assessment taxpayer means:

- d) a company,
- e) a trustee of a corporate unit trust,
- f) a trustee of a public trading trust,
- g) a trustee of an approved deposit fund,
- h) a trustee of a superannuation fund,
- i) a trustee of a pooled superannuation trust, or
- j) a corporate limited partnership that is treated as a company by virtue of the provisions of Division 5A of Part III of the *Income Tax Assessment Act 1936*.

Requirement to Lodge Income Tax Returns

Under section 161 and related provisions of the *Income Tax Assessment Act 1936*, I require every person described in any of Tables A, B, C, D, E, F, G, H, I, J, K, L, or M to give me a return of income for the year of income ended 30 June 2017 (or an approved substituted accounting period).

Every person required to lodge a return (with the exception of those covered in Table I and Table J) whose year of income ends on 30 June 2017 must do so by 31 October 2017. The return must be in the approved form under subsection 161A(1) of the *Income Tax Assessment Act 1936*.

Substituted accounting periods

Full self-assessment taxpayers must lodge their return with me no later than the 15th day of the 7th month after the end of their year of income if they adopt an approved substituted accounting period instead of the year of income ended 30 June 2017. This does not apply to those persons covered by Table I or Table J.

Other taxpayers must lodge their return with me no later than the last day of the 4th month after the close of their approved substituted accounting period.

For the following taxpayers in Tables I or J:

- a) 'master of the ship or agent or other representative in Australia of the owner or charterer' (see Table I)
- b) a person having 'control of a non-resident's money' (see Table I)
- c) an 'agent for a non-resident insurer', or an 'agent for a non-resident reinsurer' (see Table J)

Where a person is described in Table I or Table J and is required to lodge a return in one of these capacities for the year of income ended 30 June 2017, or approved substituted accounting period, they must lodge the return with me no later than the 1st day of the 6th month of the following year of income.

Where Table I applies, the person is required to give a separate return for each person for whom they are an agent, in addition to their own return (if one is required).

Where Table J applies, the person is required to furnish an aggregate return for their position as agent, in addition to their own return (if one is required).

Table A

Every person not covered by Tables O or P who during the year of income:

1. had an amount withheld from payments or an amount paid to the Commissioner of Taxation ('the Commissioner') under the Pay As You Go (PAYG) withholding system, other than:
 - a) payments covered by section 12-140 and section 12-145 of Schedule 1 to the *Taxation Administration Act 1953* that relate to an unfranked or partially franked dividend where the total amount of dividends or distributions received and franking credits (if any) was \$18,200 or less; or
 - b) payments covered by Subdivision 12-F of Schedule 1 to the *Taxation Administration Act 1953* (relating to certain dividend, interest and royalty payments); or
 - c) payments covered by Subdivision 12-FA of Schedule 1 to the *Taxation Administration Act 1953* (relating to departing Australia superannuation payments); or
 - d) payments covered by section 12-319A of Schedule 1 to the *Taxation Administration Act 1953* that relate to payments to persons participating in the Seasonal Labour Mobility Program; or
 - e) payments covered by section 12-320 of Schedule 1 to the *Taxation Administration Act 1953* (relating to mining payments); or
 - f) payments covered by Subdivision 12-H of Schedule 1 to the *Taxation Administration Act 1953* (relating to fund payments from withholding managed investment trusts (MIT)); or

- g) payments covered by Subdivision 12A-C of Schedule 1 to the *Taxation Administration Act 1953* (relating to deemed payments by attribution managed investment trusts (AMIT)); or
 - h) payments withheld from a superannuation lump sum to which section 303-10 of the *Income Tax Assessment Act 1997* (concerning certain superannuation lump sum payments received by a person with a terminal medical condition) applies; or
2. incurred a tax loss or made a net capital loss or is entitled to deduct a tax loss or apply a net capital loss of an earlier year of income, or being a company or trust estate has undeducted tax losses or unapplied net capital losses of any earlier year of income where those losses exceed \$1,000 or, being a company, transfers a tax loss or net capital loss to another group company; or
 3. carried on a business; or
 4. was entitled to income as a beneficiary of a trust estate that has operated a 'primary production business' (as defined in section 995-1 of the *Income Tax Assessment Act 1997*) in Australia; or
 5. had an individual interest in the net income or partnership loss of a partnership which operated a primary production business (as defined) in Australia; or
 6. was at all times under 18 years of age and whose income for the year of income was more than \$416 (excluding salary or wages or other payments for work that was personally performed), or whose income from dividends or distributions and franking credits for the year of income was more than \$416; or
 7. received income subject to the provisions of sections 23AF or 23AG of the *Income Tax Assessment Act 1936* and received \$1 or more of other income; or
 8. paid an instalment amount under the PAYG instalment system; or
 9. was a special professional as defined by Division 405 of the *Income Tax Assessment Act 1997*; or
 10. was entitled to claim the private health insurance tax offset under Subdivision 61-G of the *Income Tax Assessment Act 1997* and did not claim the correct offset as a premium reduction, unless a choice has been made under section 61-215 of the *Income Tax Assessment Act 1997* (relating to reallocation of the private health insurance offset between spouses); or
 11. had reportable fringe benefits identified on their payment summary; or
 12. had reportable employer superannuation contributions identified on their payment summary; or
 13. derived assessable income from dividends or distributions and franking credits that exceeded \$18,200; or
 14. made one or more personal contributions to a complying superannuation fund or retirement savings account and will be eligible to receive a super co-contribution in relation to those contributions; or
 15. has exceeded their concessional contributions cap for the corresponding financial year; or
 16. has exceeded their non-concessional contributions cap for the corresponding financial year;
 17. received an Australian superannuation lump sum that included an untaxed element when aged 60 years or over; or
 18. received an Australian superannuation lump sum that included a taxed element or an untaxed element when aged under 60 years.

Table B

Every person, except where they are described in Tables O or P, who has received from an authorised officer of the Australian Taxation Office a letter described as:

'Notification of requirement for a detailed form of return for the year of income ended 30 June 2017 (or approved substituted accounting period).'

Table C

Every person (not being a full self-assessment taxpayer), except where they are described in Table N, who was an Australian resident for the whole of the year of income and whose taxable income for the year of income exceeded \$18,200.

Table D

Every person (not being a full self-assessment taxpayer), except where they are described in Table N, who was not an Australian resident at any time during the year of income and derived income (including capital gains) that is taxable in Australia other than:

- a) dividend, interest or royalty income subject to withholding payments covered by Subdivision 12-F of Schedule 1 to the *Taxation Administration Act 1953*, and
- b) fund payments from withholding MITs subject to withholding covered by Subdivision 12-H of Schedule 1 to the *Taxation Administration Act 1953*, and
- c) payments covered by Subdivision 12A-C of Schedule 1 to the *Taxation Administration Act 1953* (relating to deemed payments by AMITs).

Table E

Every person (not being a full self-assessment taxpayer), except where they are described in Table N, who was an Australian resident for only part of the year of income and whose taxable income exceeded the lesser of \$18,200 or \$13,464 plus \$395 for each month the person was an Australian resident (including the month in which the person became, or ceased to be, an Australian resident).

Table F

Every person being a full self-assessment taxpayer (excluding trustees of superannuation funds, approved deposit funds and pooled superannuation trusts) not covered by Table O or Table P that during the year of income:

1. was an Australian resident, and derived income (including capital gains) from sources in Australia or sources outside Australia; or
2. was a non-resident of Australia, and derived income (including capital gains) that is taxable in Australia other than:
 - a) dividend, interest or royalty income subject to withholding payments covered by Subdivision 12-F of Schedule 1 to the *Taxation Administration Act 1953*, and
 - b) fund payments from withholding MITs subject to withholding covered by Subdivision 12-H of Schedule 1 to the *Taxation Administration Act 1953*, and
 - c) payments covered by Subdivision 12A-C of Schedule 1 to the *Taxation Administration Act 1953* (relating to deemed payments by AMITs).

Table G

Every trustee of a superannuation fund, an approved deposit fund, a pooled superannuation trust, not covered by Table O or Table P, that during the year of income:

1. was an Australian resident; or
2. was a non-resident of Australia, and derived income (including capital gains) that is taxable in Australia other than:
 - a) dividend, interest or royalty income subject to withholding payments covered by Subdivision 12-F of Schedule 1 to the *Taxation Administration Act 1953*, and
 - b) fund payments from withholding MITs subject to withholding covered by Subdivision 12-H of Schedule 1 to the *Taxation Administration Act 1953*, and
 - c) payments covered by Subdivision 12A-C of Schedule 1 to the *Taxation Administration Act 1953* (relating to deemed payments by AMITs).

Note:

Trustees of self-managed superannuation funds to which this table applies are required to lodge the *Self-managed superannuation fund annual return 2017*. Other entities to which this table applies are required to lodge the *Fund income tax return 2017*.

Table H

Every person that during the year of income was a head company of a consolidated group or a multiple entry consolidated (MEC) group in accordance with Part 3-90 of the *Income Tax Assessment Act 1997*.

Table I

Every person liable for tax as:

1. 'master of the ship or agent or other representative in Australia of the owner or charterer' in accordance with section 130 of the *Income Tax Assessment Act 1936*; or
2. a person having 'control of a non-resident's money' in accordance with section 255 of the *Income Tax Assessment Act 1936*.

Table J

In accordance with Division 15 of Part III of the *Income Tax Assessment Act 1936*, every person liable for tax as:

1. an 'agent for a non-resident insurer'; or
2. an 'agent for a non-resident reinsurer'.

Table K

A partnership return required under this instrument, including for a 'foreign hybrid' treated as a partnership by Division 830 of the *Income Tax Assessment Act 1997*, is to be lodged by the partners resident in Australia or by any of them who satisfy the conditions set out below (other than a partner described in Table Q):

- a) if all those partners have equal individual interests in the net income, or partnership loss, of the partnership in the year of income, as the case may be – by any one of those partners;
- b) if 2 or more of those partners have equal individual interests in the net income, or partnership loss, of the partnership in the year of income, as the case may be, and those interests are greater than the individual interest of any other of those partners in that net income or partnership loss – by any one of the first-mentioned partners; or
- c) if paragraph (a) or (b) does not apply – by whichever of those partners has the greater or greatest individual interest in the net income, or partnership loss, of the partnership in the year of income, as the case may be.

If there is no partner resident in Australia, the return is to be lodged by the partnership's agent in Australia.

Table L

Every trustee of a trust estate not covered by Tables N, O, P or R that derived income (including capital gains) during the income year. The return is required to be lodged by the trustee resident in Australia. If there is no trustee resident in Australia, the return is to be lodged by the trust's public officer or, where no public officer is appointed, by the trust's agent in Australia.

Note:

The trustee of an AMIT to which this table applies is required to lodge an *Attribution managed investment trust tax return 2017*. Other trustees to which this table applies are required to lodge the *Trust tax return 2017*.

Table M

1. Any person who was a foreign resident (within the meaning of subsection 995-1(1) of the *Income Tax Assessment Act 1997*) during the year of income, and:
 - a) on 1 June immediately preceding the year of income had an accumulated HELP debt (within the meaning of section 140-25 of the *Higher Education Support Act 2003*); and
 - b) whose income was more than **\$13,717** for the year of income (see paragraph 14(2)(a) of the *Overseas Debtors Repayment Guidelines 2017*). This income is the sum of the person's repayment income within the meaning of section 154-5 of the *Higher Education Support Act 2003* and any foreign-sourced income; **or**
2. Any person who was a foreign resident (within the meaning of subsection 995-1(1) of the *Income Tax Assessment Act 1997*) during the year of income, and:

- a) on 1 June immediately preceding the year of income had an accumulated TSL debt (within the meaning of section 35 of the *Trade Support Loans Act 2014*); and
- b) whose income was more than the **\$13,717** for the year of income (see paragraph 17(5)(a) of the Trade Support Loan Rules 2014). This income is the sum of the person's repayment income within the meaning of section 5 of *Trade Support Loans Act 2014* and section 154-5 of the *Higher Education Support Act 2003* and any foreign-sourced income.

Note:

A person under Table M is also required to lodge a notice relating to the person's foreign sourced income (see subsection 154-18(3) of the *Higher Education Support Act 2003* and/or subsection 47C(3) of the *Trade Support Loans Act 2014*).

Exceptions to the requirement to lodge an income tax return under this instrument

A person described in Tables C, D, E, or L **is not** required to lodge an income tax return under this legislative instrument if they are described in Table N. (See the Note after Table N).

A person described in Tables O, P or R **is not** required to lodge an income tax return.

A person described in Table Q **is not** required to lodge a partnership tax return.

Table N (to be read in conjunction with Tables C, D, E and L)

1. Every person whose assessable income during the year of income included payments received in respect of one or more of:
 - a) Social security benefits and allowances, that is, Newstart allowance, sickness allowance, Youth allowance, Disaster recovery allowance, special benefit, widow allowance, partner allowance, parenting payment (partnered), Austudy payment;
 - b) Farm Household allowance;
 - c) Specified Commonwealth education and training payments to persons 16 years or older, that is, payments made under ABSTUDY (including the ABSTUDY Masters and Doctorate Award), the Veterans' Children Education Scheme, the Military Rehabilitation and Compensation Act Education and Training Scheme (known as 'MRCA Education Allowance' on a PAYG payment summary);
 - d) Commonwealth labour market programs, such as Green Corps Training Allowance, New Enterprise Incentive Scheme Allowance;
 - e) Income support component of wages paid to participants in the Community Development Employment Projects (CDEP) Scheme and CDEP Scheme participant supplement.

AND

- f) who had no other assessable income; or

- g) whose taxable income **was less than or equal to \$20,542.**
2. Every person who qualified for a tax offset under section 160AAAA of the *Income Tax Assessment Act 1936* during the year of income and whose rebate income was **less than or equal to** the following amounts:
- h) if at any time during the year of income the person was single, widowed or separated - **\$32,279**; or
 - i) if at any time during the year of income the person and their spouse (married or de facto) had to live apart due to illness **or** the person or their spouse was in a nursing home - **\$31,279** or
 - j) if at any time during the year of income the person and their spouse (married or de facto) lived together - **\$28,974.**

If a person is covered by more than one category during the year of income, the person is taken to be covered by category (h) or, if category (h) does not apply, category (i).

Note:

Legislative instrument: *Requirement to lodge a return for the year of income ended 30 June 2017 under the Income Tax Assessment Act 1936 and the Taxation Administration Act 1953 – Department of Human Services – parents with a child support assessment* requires persons to lodge an income tax return where they are a liable or recipient parent under a child support assessment **unless** they are in receipt of specified Australian Government pensions, allowances or payments for the whole of the year of income **and** the total of their:

- k) taxable income
- l) exempt Australian Government allowances, pensions and payments
- m) target foreign income
- n) reportable fringe benefits
- o) total net investment loss, and
- p) reportable superannuation contributions

for the income year was less than **\$24,154.**

Table O

Any non-profit company that is an Australian resident and whose taxable income for the year of income **does not exceed \$416.**

Any entity within the meaning of section 960-100 of the *Income Tax Assessment Act 1997*, the income of which is exempt from liability to income tax under the provisions of Division 50 of the *Income Tax Assessment Act 1997*.

Any State/Territory body, the income of which is exempt from income tax under the provisions of Division 1AB of Part III of the *Income Tax Assessment Act 1936*.

Table P

Any person that for the whole of the year of income was:

- a) a subsidiary member of a consolidated group (as defined in Division 703 of the *Income Tax Assessment Act 1997*); or

- b) a subsidiary member of a MEC group (as defined in Division 719 of the *Income Tax Assessment Act 1997*).

Table Q

A person who has made an election under former subsections 485AA(1) or (2) of the *Income Tax Assessment Act 1936* in any prior income year in relation to their interest in a foreign investment fund (within the meaning of former Part XI of the *Income Tax Assessment Act 1936*) prior to the income year ended 30 June 2011 or an election under paragraphs 830-10(2)(b) or 830-15(5)(b) of the *Income Tax Assessment Act 1997* in the income year ended 30 June 2011 or a later income year, so that their interest is treated as either an interest in a foreign hybrid limited partnership (in accordance with subsection 830-10(2) of the *Income Tax Assessment Act 1997*) or as an interest in a foreign hybrid company (in accordance with subsection 830-15(5) of the *Income Tax Assessment Act 1997*), for the year of income and that interest does not pass the non-portfolio interest test within the meaning of section 960-195 of the *Income Tax Assessment Act 1997*, ignoring interests held by associates of the holding entity.

Note:

A partner is required to include details of all relevant income, expenditure and deduction items, as well as distribution details in their own tax return.

Table R

Any person that is the trustee of a resident trust estate of a deceased person where:

- a) the deceased person died less than 3 years before the end of the income year; and
- b) no beneficiary is presently entitled to a share of the income of the trust estate; and
- c) the net income of the trust estate under section 95 of the *Income Tax Assessment Act 1936* is less than \$18,200; and
- d) there are no non-resident beneficiaries of the trust estate.

Australia includes territories and certain sea installations and offshore areas

In this instrument 'Australia' includes Norfolk Island, the Territory of Cocos (Keeling) Islands, the Territory of Christmas Island and certain sea installations and offshore areas.

Deferral of time for lodgment of returns

In accordance with section 388-55 of Schedule 1 to the *Taxation Administration Act 1953*, the Commissioner may defer the time for lodgment of any return to a date later than the relevant date specified in this instrument.

Notice of requirement to lodge a return or information

Nothing in this instrument prevents the Commissioner or an authorised officer of the Australian Taxation Office from issuing a notice, in accordance with section 162 or section 163 of the *Income Tax Assessment Act 1936*, requiring a person to give the Commissioner, in the approved form, a return, or further returns, or any information, statement or document about the person's financial affairs for any year of income.

Exemption from requirement to lodge returns

Nothing in this instrument prevents the Commissioner or an authorised officer of the Australian Taxation Office from granting an exemption from lodgment, whether conditional or not, for specific returns or classes of returns from time to time.

Lodgment of franking returns

If a corporate tax entity incurs, at any time during its 2016-17 income year, a liability to pay franking deficit tax or over-franking tax, or an obligation to disclose information to the Commissioner under section 204-75 of the *Income Tax Assessment Act 1997*, it is required to lodge a franking return for that income year.

A corporate tax entity is also required to lodge a franking return for its 2016-17 income year if a refund of income tax is taken by section 205-50 of the *Income Tax Assessment Act 1997* to have been paid to the entity at any time during that year.

If a corporate tax entity does not incur, during the income year, a liability to pay any amount of franking deficit tax or over-franking tax, or an obligation to disclose information under section 204-75 of the *Income Tax Assessment Act 1997*, and it has not received a refund of income tax mentioned above, then it is only required to lodge a franking return if it is specifically requested to do so by the Commissioner.

Date of lodgment of franking return

The franking return must be lodged in the approved form by the last day of the month following the end of the income year in which the liability was incurred, or the refund is taken to have been paid, or the disclosure obligation arose, except in certain cases. This is also the date on which the franking deficit tax and over-franking tax, if any, is payable.

In certain cases where a refund of income tax is received the taxation law provides for a different payment date for franking deficit tax (namely, 14 days after that refund is received). In these cases the franking return accounting for that refund must be lodged by the payment date provided for in the law.

Special rules for late balancing corporate tax entities that elect to use 30 June as a basis for determining their franking deficit tax liability

Late balancing corporate tax entities that elect to use 30 June as a basis for determining their franking deficit tax liability in accordance with the rules contained

in Division 205 of the *Income Tax (Transitional Provisions) Act 1997* are required to lodge a franking return and meet their liability for franking deficit tax in accordance with the rules contained in Division 214 of the *Income Tax (Transitional Provisions) Act 1997*.

Where a late balancing corporate tax entity that elects to have its franking deficit tax liability determined on 30 June 2017 incurs a liability to pay franking deficit tax under Division 205 of the *Income Tax (Transitional Provisions) Act 1997*, the franking return must be lodged in the approved form by 31 July 2017 except in certain cases. This is also the date on which the franking deficit tax is payable.

In certain cases where a refund of income tax is received, the taxation law provides for a different payment date for franking deficit tax (namely, 14 days after that refund is received). In these cases the franking return accounting for that refund must be lodged by the payment date provided for in the law.

Lodgment of venture capital deficit tax returns

An entity that is a Pooled Development Fund for the purposes of the *Income Tax Assessment Act 1997* at the end of the income year, or that ceases to be a Pooled Development Fund during the income year, that has (or because of a refund of income tax, is taken to have) a deficit balance in its venture capital sub-account at the end of its 2016-17 income year, or immediately before it ceases to be a Pooled Development Fund during that year, is required to pay venture capital deficit tax under section 210-135 of the *Income Tax Assessment Act 1997* and is required to lodge a venture capital deficit tax return for that year.

Pooled Development Funds which have a nil or credit balance in the venture capital sub-account at the close of the income year or immediately before they cease to be Pooled Development Funds (and which are not taken to have a deficit at the relevant time by virtue of a refund of income tax) are not required to lodge a venture capital deficit tax return.

Date of lodgment of venture capital deficit tax return

The venture capital deficit tax return must be lodged in the approved form by the last day of the month following the end of the income year. (This is also the date on which the venture capital deficit tax is payable).

Requirement to lodge ancillary fund returns

Under section 163 of the *Income Tax Assessment Act 1936*, I require every entity that is a trustee of a public ancillary fund (within the meaning of subsection 426-102(1) of Schedule 1 to the *Taxation Administration Act 1953*) or a private ancillary fund (within the meaning of subsection 426-105(1) of Schedule 1 to the *Taxation Administration Act 1953*) to lodge an ancillary fund return in the approved form for the year of income (or an approved substituted accounting period), whether or not the ancillary fund is exempt from income tax.

Note:

For public ancillary funds and private ancillary funds that are registered as a charity with the Australian Charities and Not-for-profits Commission (ACNC), the ACNC annual information statement that is required to be lodged with the Commissioner of the ACNC is the approved form for the ancillary fund return.

Note:

A trustee of a public ancillary fund or a private ancillary fund that is not registered as a charity with the ACNC and that derived income (including capital gains) during the income year is also required to lodge an income tax return under Table L of this instrument.

Date of lodgment of ancillary fund return

An entity required to lodge an ancillary fund return whose year of income ends on 30 June 2017 must do so by 31 December 2017.

An entity that is required to lodge an ancillary fund return that has an approved substituted accounting period must lodge the return no later than the last day of the 6th month after the end of the year of income.

However, if an entity is registered as a charity with the ACNC and is therefore required to lodge an ACNC annual information statement with the Commissioner of the ACNC, the date of lodgment of the ancillary fund return will be the lodgment date of the ACNC annual information statement as required under section 60-5 of the *Australian Charities and Not-for-profits Commission Act 2012*, or such further time as the Commissioner of the ACNC allows.

Lodgment of returns in accordance with the *Superannuation Industry (Supervision) Act 1993* and lodgment of statements in accordance with the *Taxation Administration Act 1953*

Where a taxpayer is a trustee of a self-managed superannuation fund as defined in the *Superannuation Industry (Supervision) Act 1993* at any time during the year of income ended 30 June 2017 (or approved accounting period instead), then in accordance with section 35D of the *Superannuation Industry (Supervision) Act 1993* the period for lodgment of a return under that section is the period ending on the day that the taxpayer is required to lodge their income tax return. This return forms part of the *Self-managed superannuation fund annual return 2017* which must be lodged with the Commissioner in accordance with this instrument.

The requirements for the lodgment of member information statements by superannuation providers in relation to superannuation plans (other than self-managed superannuation funds) are detailed in a separate legislative instrument '*Lodgment of statements by superannuation providers in relation to superannuation plans (other than self-managed superannuation funds) for each financial year ended 30 June in accordance with the Taxation Administration Act 1953*' (registered in 2014). The lodgment of member information statements by

superannuation providers is required under section 390-5 of Schedule 1 to the *Taxation Administration Act 1953*. The member information statements for superannuation providers in relation to superannuation plans that are self-managed superannuation funds form part of the *Self-managed superannuation fund annual return 2017* which must be lodged with the Commissioner in accordance with this instrument.

Lodgment in the approved form

In accordance with subsection 161A(1) of the *Income Tax Assessment Act 1936*, subsection 214-25(2) 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*, a return required by the Commissioner under this instrument must be lodged in the approved form. Under section 388-50 of Schedule 1 to the *Taxation Administration Act 1953*, a document is in the approved form if:

- a) it is in the form approved in writing by the Commissioner;
- b) it contains a declaration signed by the person or persons as required;
- c) it contains the information required by the form and is accompanied by any further information, statement, or document (**including any schedule**) required by the Commissioner; and
- d) it is given in the manner that the Commissioner requires (which may include electronically).

Note: Giving false or misleading information is an offence.

Penalties for non-compliance

Any person who fails or refuses to give me a return or any other information under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997* commits an offence (by virtue of section 8C of the *Taxation Administration Act 1953*) which is punishable on conviction by a fine not exceeding 20 penalty units under section 8E of the *Taxation Administration Act 1953* if it is the first offence. If convicted of a second offence, the court may impose a fine not exceeding 40 penalty units. If convicted of a third or subsequent offence, the court may impose a fine not exceeding 50 penalty units or a maximum of 12 months imprisonment, or both. Under section 8ZF of the *Taxation Administration Act 1953*, the court may impose a fine not exceeding 250 penalty units on a company if it is convicted of a third or subsequent offence for failing to give me a return or any other information under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*.

Alternatively:

1. any person (including a full self-assessment taxpayer) may, in relation to an income tax return, become liable to pay a penalty under section 286-75 of Schedule 1 to the *Taxation Administration Act 1953*;
2. companies, trustees of corporate unit trusts, trustees of public trading trusts, corporate limited partnerships and pooled development funds may, in relation to a franking return, or a venture capital deficit tax return, become liable to pay a penalty under section 286-75 of Schedule 1 to the *Taxation Administration Act 1953*.

A trustee of a self-managed superannuation fund who contravenes the requirement to lodge a return under section 35D of the *Superannuation Industry (Supervision) Act 1993* commits an offence and, if convicted, is liable to a penalty of 50 penalty units. This return forms part of the *Self-managed superannuation fund annual return 2017*.

Note:

At the time this instrument was registered one penalty unit was \$180.00.