



# **Income Tax (Transitional Provisions) (Permanent Incapacity Benefits) Amendment Rules 2024**

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I, Stephen Jones, Assistant Treasurer and Minister for Financial Services, make the following rules.

Dated

18 November 2024

Stephen Jones  
Assistant Treasurer  
Minister for Financial Services

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## 1 Name

This instrument is the *Income Tax (Transitional Provisions) (Permanent Incapacity Benefits) Amendment Rules 2024*.

## 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. The whole of the instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made.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 *Income Tax (Transitional Provisions) Act 1997*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Income Tax (Transitional Provisions) (Permanent Incapacity Benefits) Rules 2024*

#### 1 Section 5 (heading)

Omit “assessments”, substitute “assessments for the 2022-23 income year”.

#### 2 At the end of the instrument

Add:

#### 6 Amendment of assessments for the 2023-24 income year—transitional rule for permanent incapacity benefits

- (1) Under subsection 301-105(1) of the Act, this section prescribes matters of a transitional nature that relate to the 2023-24 income year.
- (2) This section applies if:
  - (a) a superannuation benefit (the **trigger benefit**) was paid to an individual in the 2020-21 income year or an earlier income year; and
  - (b) the Commissioner made an assessment for the income year for the individual before 4 December 2020; and
  - (c) the trigger benefit was paid to the individual because the individual satisfied a condition of release specified in item 103 (permanent incapacity) of the table in Schedule 1 to the *Superannuation Industry (Supervision) Regulations 1994*; and
  - (d) the Commissioner made the assessment on the basis that the trigger benefit was a superannuation lump sum.
- (3) The Commissioner cannot amend an assessment for the 2023-24 income year for the individual on the basis that a superannuation benefit paid to the individual is a superannuation income stream benefit if:
  - (a) the superannuation benefit was paid to the individual because the individual satisfied a condition of release specified in item 103 (permanent incapacity) of the table in Schedule 1 to the *Superannuation Industry (Supervision) Regulations 1994*; and
  - (b) the Commissioner made the assessment on the basis that the superannuation benefit was a superannuation lump sum; and
  - (c) for the 2022-23 income year:
    - (i) a superannuation benefit (the **2022-23 benefit**) was paid to the individual because the individual satisfied a condition of release specified in item 103 (permanent incapacity) of the table in Schedule 1 to the *Superannuation Industry (Supervision) Regulations 1994*; and
    - (ii) the Commissioner made an assessment for the individual on the basis that the 2022-23 benefit was a superannuation lump sum.
- (4) Subsection (3) does not apply in any of these cases:

- (a) if the Commissioner may amend the assessment in accordance with item 5 (fraud or evasion) or 6 (review or appeal) of the table in subsection 170(1) of the *Income Tax Assessment Act 1936*;
- (b) if the amendment is made for the purpose of giving effect to a provision specified in the regulations for the purposes of paragraph 301-100(4)(b) of the Act.