

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

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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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.