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| **EXPOSURE DRAFT** |

Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019

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 regulations.

Dated 2019

Peter Cosgrove

Governor‑General

By His Excellency’s Command

Stuart Robert **[DRAFT ONLY—NOT FOR SIGNATURE]**

Assistant Treasurer

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1 Name

This instrument is the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019*.

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 this 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Note: This table relates only to the provisions of this instrument as originally made.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:

(a) the *Income Tax Assessment Act 1997*; and

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Part 1—Transfer balance account credits and debits

Income Tax Assessment Regulations 1997

1 Before Subdivision 294‑D

Insert:

Subdivision 294‑B—Transfer balance account

294‑25.01 Credit in transfer balance account—payment of consideration for interest supporting deferred superannuation income stream

(1) For the purposes of item 5 of the table in subsection 294‑25(1) of the Act, a transfer balance credit arises under this regulation in your transfer balance account if:

(a) you are the retirement phase recipient of a superannuation income stream; and

(b) the superannuation income stream is a deferred superannuation income stream; and

(c) after you start to be the retirement phase recipient of the superannuation income stream, you pay an amount of consideration for the superannuation interest that supports the superannuation income stream.

(2) The amount of the credit is the amount of the consideration.

(3) The credit arises at the time you pay the consideration.

Subdivision 294‑C—Transfer balance debits

294‑80.01 Debit in transfer balance account—reduction in amount of superannuation income stream benefit

(1) For the purposes of item 8 of the table in subsection 294‑80(1) of the Act, a transfer balance debit arises under this regulation in your transfer balance account if:

(a) you are the retirement phase recipient of a superannuation income stream; and

(b) the superannuation income stream is a capped defined benefit income stream that:

(i) is covered by item 1 or 2 of the table in subsection 294‑130(1) of the Act; or

(ii) is prescribed by regulation 294‑130.01 (but is not a superannuation income stream to which subregulation 294‑130.01(3B) applies); and

(c) you are entitled to receive a superannuation income stream benefit (the ***earlier benefit***) from the superannuation income stream at a time (the ***earlier time***); and

(d) the amount of the next superannuation income stream benefit (the ***later benefit***) that you are entitled to receive from the superannuation income stream falls short of the amount of the earlier benefit; and

(e) that shortfall is not attributable to any of the following:

(i) circumstances that cause a transfer balance debit to arise in your transfer balance account (other than because of this regulation);

(ii) a CPI adjustment in the amount of superannuation income stream benefits that you are entitled to receive from the superannuation income stream.

(2) The amount of the debit is:

(a) the special value, just before the earlier time, of the superannuation interest that supports the superannuation income stream; less

(b) the special value, just before the time (the ***later time***) at which you are entitled to receive the later benefit, of that superannuation interest.

(3) The debit arises at the later time.

Part 2—Innovative income streams

Income Tax Assessment Regulations 1997

2 At the end of regulation 307‑205.02C

Add:

(4) In working out the value of a superannuation interest for the purposes of items 5 and 6 of the table in subsection 294‑80(1) of the Act:

(a) disregard the words “the greater of” in subregulation (1) of this regulation; and

(b) disregard paragraph (1)(a) of this regulation.

Part 3—Successor fund transfers

Income Tax Assessment Regulations 1997

3 Subregulation 294‑130.01(1)

Omit “(3)”, substitute “(3), (3A), (3B)”.

4 After subregulation 294‑130.01(3)

Insert:

(3A) This subregulation applies to a superannuation income stream if:

(a) it is covered by item 2 of the table in subsection 294‑130(1) of the Act; and

(b) it starts to be in the retirement phase on or after 1 July 2017; and

(c) it arises as a direct result of the payment of an involuntary roll‑over superannuation benefit to a successor fund.

(3B) This subregulation applies to a superannuation income stream if:

(a) it is covered by any of items 3 to 7 of the table in subsection 294‑130(1) of the Act; and

(b) it starts to be in the retirement phase on or after 1 July 2017; and

(c) it arises as a direct result of the payment of an involuntary roll‑over superannuation benefit to a successor fund.

5 Regulation 294‑135.01

Before “For the purposes of”, insert “(1)”.

6 At the end of regulation 294‑135.01

Add:

(2) Subregulation (1) does not apply to a superannuation interest covered by subregulation (3).

(3) This subregulation covers an income stream that is, or was at any time, a superannuation income stream prescribed by regulation 294‑130.01 to which subregulation 294‑130.01(3B) applies.

(4) For the purposes of subsection 294‑135(4) of the Act, the ***special value***, at a particular time, of a superannuation interest covered by subregulation (3) is the amount worked out in respect of that time using the formula in subsection 294‑135(3) of the Act.

Part 4—Life expectancy period

Superannuation Industry (Supervision) Regulations 1994

7 Subregulation 1.03(1) (at the end of the definition of *life expectancy period*)

Add:

; and (d) dividing the number of those years mentioned in paragraph (b) by 4, and rounding the result down to the nearest whole number;

(e) adding the result of paragraph (d) to the result of paragraph (c).

Note: Paragraphs (d) and (e) give an approximation of the number of extra days in leap years.

Part 5—Application

Income Tax Assessment Regulations 1997

8 In the appropriate position in Division 910

Insert:

910‑1.11 Transitional arrangements arising out of the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019*

(1) Subject to subregulations (2) and (3), the amendments made by Parts 1 and 3 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019* apply on and after 1 July 2017.

(2) Regulation 294‑25.01, as inserted by item 1 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019*, applies on and after the commencement of that item.

(3) The amendment made by Part 2 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019* applies on and after the commencement of that Part.

Superannuation Industry (Supervision) Regulations 1994

9 In the appropriate position in Part 14

Insert:

Division 14.19—Transitional arrangements arising out of the Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019

14.19 Arrangements

The amendment made by Part 4 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019* applies on and after 1 July 2017.