

EXPOSURE DRAFT

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Inserts for
**Treasury Laws Amendment (2017
Measures No. 2) Bill 2017: Income tax
relief for transfers within a fund to a
MySuper product**

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details

1. Schedule #	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	
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Schedule #—Income tax relief for transfers within a fund to a MySuper product

Income Tax Assessment Act 1997

1 Subsection 40-340(1) (table item 7, column headed “Type of CGT roll-over”)

Omit “MySuper product”, substitute “*MySuper product”.

2 Section 311-1

Repeal the section, substitute:

311-1 What this Division is about

This Division provides tax relief for certain entities if a member’s accrued default amount is required to be transferred to a MySuper product.

If the transfer is to a MySuper product in another complying superannuation fund, a trustee of a complying superannuation fund, a life insurance company, or a trustee of a pooled superannuation trust, that satisfies certain conditions can:

- (a) choose to transfer a loss; or
- (b) choose an asset roll-over; or
- (c) choose to transfer a loss and choose an asset roll-over.

If the transfer is to a MySuper product in the same complying superannuation fund, a trustee of the complying superannuation fund, a life insurance company, a trustee of a pooled superannuation trust, or the trustee of an interposed trust, that satisfies certain conditions can choose an asset roll-over.

Note 1: This Division will be repealed on 2 July 2019: see Part 3 of Schedule 1 to the *Superannuation Laws Amendment (MySuper Capital Gains Tax Relief and Other Measures) Act 2013*.

Note 2: Part 2C of the *Superannuation Industry (Supervision) Act 1993* provides rules about MySuper products.

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3 Section 311-5

Omit “MySuper products in other complying superannuation funds”,
substitute “*MySuper products”.

4 Section 311-10 (heading)

Repeal the heading, substitute:

311-10 Certain entities can choose transfer of losses, asset roll-overs, or both for transfers between funds

5 Paragraph 311-10(2)(c)

Omit “units in the entity”, substitute “units in the trust”.

6 After section 311-10

Insert:

311-12 Certain entities can choose asset roll-overs for transfers within a fund

- (1) If an *arrangement is made for which the conditions in this section are satisfied, a trustee of a *complying superannuation fund, a *life insurance company or a trustee of a trust (the *transferring entity*) can choose an asset roll-over.

Entity’s assets must support interests in a fund

- (2) The first condition is satisfied if, just before the *arrangement was made:
- (a) for an entity that is a trustee of a *complying superannuation fund (the *original fund*)—its assets included assets other than:
 - (i) a *complying superannuation life insurance policy; or
 - (ii) units in a *pooled superannuation trust; or
 - (b) for an entity that is a *life insurance company—a complying superannuation life insurance policy issued by the entity was held by a complying superannuation fund (the *original fund*); or
 - (c) for an entity that is a trustee of a pooled superannuation trust—units in the trust were held by a complying superannuation fund (the *original fund*); or

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- 1 (d) for an entity that is the trustee of a trust (other than a trustee
2 for which paragraph (c) is satisfied)—all the units in the trust
3 were wholly owned, directly or indirectly (through one or
4 more interposed entities), by one of the following:
- 5 (i) a trustee of a complying superannuation fund (the
6 *original fund*);
- 7 (ii) a life insurance company that has issued a complying
8 superannuation life insurance policy that, just before the
9 arrangement was made, was held by a complying
10 superannuation fund (the *original fund*);
- 11 (iii) a trustee of a pooled superannuation trust that has issued
12 units that, just before the arrangement was made, were
13 held by a complying superannuation fund (the *original*
14 *fund*).

15 *Transfer of accrued default amount*

- 16 (3) The second condition is satisfied if:
- 17 (a) under the *arrangement at a particular time (the *completion*
18 *time*), the original fund attributes to a *MySuper product an
19 *accrued default amount of a person who is a member (within
20 the meaning of the *Superannuation Industry (Supervision)*
21 *Act 1993*); and
- 22 (b) the amount is so attributed as a result of an election made
23 under paragraph 29SAA(1)(a) of that Act.

24 *Investment structures of default product and MySuper product*
25 *must be substantially the same*

- 26 (4) The third condition is satisfied if:
- 27 (a) the investment structure of the class of beneficial interest to
28 which the *accrued default amount is attributed just before
29 the completion time; and
- 30 (b) the investment structure of the *MySuper product;
31 are substantially the same.

32 *Choice relates to period from 29 June 2015 to 1 July 2017*

- 33 (5) The fourth condition is satisfied if the completion time occurs
34 during the period beginning on 29 June 2015 and ending on 1 July
35 2017.

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1 **7 Section 311-15**

2 Omit “The transferring entity”, substitute “If section 311-10 applies, the
3 transferring entity”.

4 **8 Paragraph 311-20(4)(b)**

5 Omit “transferring entity”, substitute “trust”.

6 **9 Section 311-40 (heading)**

7 Repeal the heading, substitute:

8 **311-40 Assets roll-over—transfers between funds**

9 **10 Subsection 311-40(1)**

10 Omit “The transferring entity can choose”, substitute “If section 311-10
11 applies, the transferring entity can choose under that section”.

12 **11 Subparagraph 311-40(1)(b)(i)**

13 Before “the continuing fund”, insert “a trustee of”.

14 **12 Subparagraph 311-40(1)(b)(ii)**

15 Before “a *pooled superannuation trust”, insert “a trustee of”.

16 **13 Subsection 311-40(2)**

17 Omit all the words before paragraph (a), substitute:

18 (2) This subsection applies to an asset (an *original asset*) if the asset is
19 an asset of the transferring entity just before the *arrangement was
20 made, and:

21 **14 Paragraphs 311-40(2)(a), (b) and (c)**

22 Omit “entity choosing under Subdivision 311-B”, substitute
23 “transferring entity”.

24 **15 After section 311-40**

25 Insert:

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311-42 Assets roll-over—transfers within a fund

- 1
- 2 (1) If section 311-12 applies, the transferring entity can choose under
- 3 that section an asset roll-over for an asset in relation to which,
- 4 under the *arrangement, a *CGT event happens if:
- 5 (a) subsection (2) applies to the asset; and
- 6 (b) subsection (3) applies to the CGT event.
- 7 (2) This subsection applies to an asset (an *original asset*) if the asset is
- 8 an asset of the transferring entity just before the *arrangement was
- 9 made, and:
- 10 (a) in a case where the transferring entity is a trustee of a
- 11 *complying superannuation fund—the asset is reasonably
- 12 attributable to the *accrued default amount of the member; or
- 13 (b) in a case where the transferring entity is a *life insurance
- 14 company—the asset is reasonably attributable to:
- 15 (i) the accrued default amount of the member; and
- 16 (ii) a *complying superannuation life insurance policy
- 17 issued by the transferring entity and held by the original
- 18 fund; or
- 19 (c) in a case where the transferring entity is a trustee of a *pooled
- 20 superannuation trust—the asset is reasonably attributable to:
- 21 (i) the accrued default amount of the member; and
- 22 (ii) units in a pooled superannuation trust issued by the
- 23 transferring entity and held by the original fund; or
- 24 (d) in a case where the transferring entity is a trustee of a trust
- 25 (other than a trustee for which paragraph 311-12(2)(c) is
- 26 satisfied)—the asset is reasonably attributable to the accrued
- 27 default amount of the member.
- 28 (3) This subsection applies to a *CGT event if an asset (the *received*
- 29 *asset*) becomes an asset of one of the following (the *receiving*
- 30 *entity*) as a result of the CGT event:
- 31 (a) a trustee of the original fund;
- 32 (b) a *life insurance company with which a *complying
- 33 superannuation life insurance policy is held by the original
- 34 fund just after the completion time;
- 35 (c) a trustee of a *pooled superannuation trust in which units are
- 36 held by the original fund just after the completion time;
- 37 (d) a trustee of a trust in which all the units are wholly owned,
- 38 directly or indirectly (through one or more interposed

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1 entities), just after the completion time by one of the
2 following:

- 3 (i) a trustee of the original fund;
- 4 (ii) a life insurance company with which a complying
5 superannuation life insurance policy is held by the
6 original fund just after the completion time;
- 7 (iii) a trustee of a pooled superannuation trust in which units
8 are held by the original fund just after the completion
9 time.

10 **16 Section 311-45**

11 Omit “If the roll-over is chosen”, substitute “If a roll-over is chosen
12 under Subdivision 311-B”.

13 **17 Before subsection 311-50(1)**

14 Insert:

15 (1A) This section applies if a roll-over is chosen under
16 Subdivision 311-B.

17 **18 Subsections 311-55(1) and (2)**

18 Omit “the roll-over”, substitute “a roll-over chosen under
19 Subdivision 311-B”.

20 **19 Subsection 995-1(1)**

21 Insert:

22 *MySuper product* has the same meaning as in the *Superannuation*
23 *Industry (Supervision) Act 1993*.

24 **20 Application of amendments**

25 The amendments made by this Schedule apply in relation to the
26 attribution or transfer of accrued default amounts on or after 29 June
27 2015.

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