

EXPOSURE DRAFT



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Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection 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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Part 1—Preliminary

1 Name

This instrument is the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection 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	1 April 2019.	1 April 2019

Note: This table relates only to the provisions of this instrument as originally made.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 *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

- Note: A number of expressions used in this instrument are defined in the Act, including the following:
- (a) assessment;
 - (b) Commissioner;
 - (c) late payment penalty;
 - (d) member;
 - (e) superannuation provider;

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Part 1 Preliminary

Section 5

(f) surcharge.

In this instrument:

ABN has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

Act means the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*.

approved form has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

reporting day means 15 January, 15 April and 15 July in each year.

superannuation fund number means the number assigned to a superannuation provider by the Australian Prudential Regulation Authority.

tax file number has the meaning given by section 202A of the *Income Tax Assessment Act 1936*.

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Additional information in statements by superannuation providers **Part 2**

Section 6

Part 2—Additional information in statements by superannuation providers

6 Statement in relation to superannuation benefit or payment split

For the purposes of paragraph 12(6)(f) of the Act, a statement under subsection 12(6) of the Act must include the following information:

- (a) the superannuation provider's name, ABN, tax file number and superannuation fund number;
- (b) the date of the statement.

Note: Paragraphs 12(6)(c) to (e) of the Act also require information to be included in the statement.

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Part 3 General information requirements

Section 7

Part 3—General information requirements

7 Form of statement to be given to the Commissioner

A statement or other document to be given by a person to the Commissioner under the Act or this instrument, other than a statement under section 12 of the Act, must be in the approved form.

Note: Section 13 of the Act provides for how information contained in a statement under section 12 of the Act is to be given.

8 Change or omission in information given to the Commissioner

- (1) If at any time a superannuation provider becomes aware of a change or omission in any information given to the Commissioner for the purposes of the Act or this instrument, the provider must:
 - (a) inform the Commissioner of the change; or
 - (b) give the omitted information to the Commissioner;as the case requires, unless the provider is reasonably satisfied that the change or omission will not affect an assessment.
- (2) Information required by subsection (1) must be given:
 - (a) if the provider becomes aware of the change or omission at least 30 days before the next reporting day—before that reporting day; or
 - (b) if the provider becomes aware of the change or omission less than 30 days before the next reporting day—before the reporting day after the next reporting day.

9 Giving a tax file number statement to the Commissioner

- (1) If:
 - (a) a superannuation provider has given information to the Commissioner for the purposes of the Act or this instrument in relation to a member; and
 - (b) the member did not quote the member's tax file number to the provider in connection with the operation or possible future operation of the Act before the information was given; and
 - (c) the Commissioner has not informed the provider of the member's tax file number; and
 - (d) the member later quotes the tax file number to the provider in connection with the operation or possible future operation of the Act;the provider must give a statement to the Commissioner that includes the information required by subsection (2).
- (2) For the purposes of subsection (1), the following information is required:
 - (a) the superannuation provider's name, ABN, tax file number and superannuation fund number;
 - (b) the date of the statement;

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- (c) the member's name and date of birth;
 - (d) the address of the member's place of residence or place of business or employment;
 - (e) if the address of the member's place of business or employment is given—the name (and any trading name) of the place of business or employment;
 - (f) the member's tax file number.
- (3) The statement must be given to the Commissioner:
- (a) if the tax file number is quoted to the provider at least 30 days before the next reporting day—before that reporting day; or
 - (b) if the tax file number is quoted to the provider less than 30 days before the next reporting day—before the reporting day after the next reporting day.

Note: Superannuation providers must comply with any rules relating to tax file number information issued by the Privacy Commissioner under section 17 of the *Privacy Act 1988*.

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Part 4 Rounding amounts

Section 10

Part 4—Rounding amounts

10 Surcharge debt accounts—amount of interest to be rounded down

If interest calculated under subsection 15(4) of the Act for a member's account is an amount of whole dollars and an amount of cents, the amount of cents is to be disregarded.

11 Amounts remitted or refunded to be rounded up

If an amount of any of the following that is to be refunded or remitted under the Act is not a multiple of 5 cents, the amount is to be increased to the nearest multiple of 5 cents:

- (a) surcharge;
- (b) general interest charge payable under section 18 of the Act;
- (c) late payment penalty.

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Part 5—Transitional arrangements

Division 1—Transitional matters relating to the repeal of the Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Regulations 1997

12 Repealed instrument continues to apply in relation to liabilities and entitlements

Despite the repeal of the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Regulations 1997*, the provisions of that instrument, except for regulations 17 and 18, continue to apply in relation to:

- (a) calculating or determining amounts (including amounts of contributed amounts, surchargeable contributions and surcharge); and
- (b) the contents of statements under section 12 of the Act.

Note: The topics of regulations 17 and 18 of the repealed instrument are dealt with in sections 10 and 11, respectively, of this instrument.

13 Use of previously approved form

- (1) This section applies to a form for a kind of information to be given by a person to the Commissioner under the Act or the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Regulations 1997* (the **old Regulations**) that was, immediately before the repeal of the old Regulations, specified or approved by the Commissioner.
- (2) The form is taken to have been approved in writing by the Commissioner, at the commencement of this instrument, for the purposes of a statement or document containing that kind of information to be given by a person to the Commissioner under the Act or this instrument.
- (3) If the form does not require a declaration by any person, then a statement or other document given to the Commissioner in that form does not need to comply with the requirement for a declaration in paragraph 388-50(1)(b) in Schedule 1 to the *Taxation Administration Act 1953* in order to be in the approved form for the purposes of section 7 of this instrument.

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Schedule 1 Repeals

Schedule 1—Repeals

Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Regulations 1997

1 The whole of the instrument

Repeal the instrument.