2016‑2017‑2018‑2019

The Parliament of the

Commonwealth of Australia

HOUSE OF REPRESENTATIVES

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| **EXPOSURE DRAFT** |

Treasury Laws Amendment (Miscellaneous Amendments) Bill 2019

No. , 2019

(Treasury)

A Bill for an Act to amend the law relating to taxation and superannuation, and for related purposes

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A Bill for an Act to amend the law relating to taxation and superannuation, and for related purposes

The Parliament of Australia enacts:

1 Short title

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

2 Commencement

(1) Each provision of this Act 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. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. |  |
| 2. Schedule 1, Part 1 | 1 July 2017. | 1 July 2017 |
| 3. Schedule 1, Part 2 | The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent. |  |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Superannuation

Income Tax Assessment Act 1997

1 Subsection 294‑145(1)

Repeal the subsection, substitute:

Debit for commutation

(1) Item 1 of the table in subsection 294‑80(1) applies in relation to a \*capped defined benefit income stream as if the reference in column 2 of that item to the amount of the \*superannuation lump sum were a reference to:

(a) in a case where the commutation mentioned in column 1 of that item is a commutation in full—the \*debit value, just before the commutation takes place, of the \*superannuation interest that supports the capped defined benefit income stream; or

(b) in a case where that commutation is a commutation in part:

(i) if the capped defined benefit income stream is, or was at any time, covered by item 1 or 2 of the table in subsection 294‑130(1)—the debit value mentioned in paragraph (a), multiplied by the fraction mentioned in subsection (1A); or

(ii) if the capped defined benefit income stream is, or was at any time, covered by any of items 3 to 7 of the table in subsection 294‑130(1)—the amount mentioned in subsection (1B).

(1A) For the purposes of subparagraph (1)(b)(i), the fraction is:



where:

***SV just after commutation*** means the \*special value, just after the commutation takes place, of the \*superannuation interest that supports the \*capped defined benefit income stream.

***SV just before commutation*** means the \*special value, just before the commutation takes place, of the \*superannuation interest that supports the \*capped defined benefit income stream.

(1B) For the purposes of subparagraph (1)(b)(ii), the amount is the lesser of the following:

(a) the \*debit value mentioned in paragraph (1)(a);

(b) the amount (disregarding this section) of the \*superannuation lump sum you received because of the commutation (as mentioned in item 1 of the table in subsection 294‑80(1)).

2 Subsection 294‑145(6)

Repeal the subsection, substitute:

(6) The ***debit value***, at a particular time, of a \*superannuation interest that supports an income stream that is, or was at any time, a \*capped defined benefit income stream covered by any of items 3 to 7 of the table in subsection 294‑130(1) is:

(a) the amount of the \*transfer balance credit that arose in your \*transfer balance account in respect of the income stream; less

(b) the sum of the following:

(i) the amount of any \*transfer balance debits (apart from debits arising under item 4 of the table in subsection 294‑80(1)) that have arisen in your transfer balance account in respect of the income stream before that time;

(ii) if item 1 of the table in subsection 294‑80(1) applies in relation to the income stream because the income stream is commuted—the amount worked out under subsection (6A).

(6A) The amount is the sum of the following:

(a) the total amount of \*superannuation income stream benefits that youwere entitled to receive from the income stream before the start of the financial year in which the commutation takes place;

(b) if regulation 1.07B of the *Superannuation Industry (Supervision) Regulations 1994* applies to the income stream—the greater of the following:

(i) the minimum amount under subregulation 1.07B(4) of those regulations for the income stream for that financial year;

(ii) the total amount of superannuation income stream benefits that you received from the income stream in that financial year (other than superannuation income stream benefits that you were entitled to receive from the income stream before the start of that financial year);

(c) if regulation 1.07C of the *Superannuation Industry (Supervision) Regulations 1994* applies to the income stream—the greater of the following:

(i) the minimum amount under subregulation 1.07C(3) of those regulations for the income stream for that financial year;

(ii) the total amount of superannuation income stream benefits that you received from the income stream in that financial year (other than superannuation income stream benefits that you were entitled to receive from the income stream before the start of that financial year);

(d) if regulation 1.08 of the *Retirement Savings Accounts Regulations 1997* applies to the income stream—the greater of the following:

(i) the minimum amount under regulation 1.08 of those regulations for the income stream for that financial year;

(ii) the total amount of superannuation income stream benefits that you received from the income stream in that financial year (other than superannuation income stream benefits that you were entitled to receive from the income stream before the start of that financial year).

3 Subsection 295‑190(1) (table item 2, column headed “Includes:”, paragraph (a))

After “fund”, insert “(other than an element untaxed in the fund under subsection 307‑290(4))”.

4 Application

The amendments made by Part 1 of this Schedule apply on or after 1 July 2017.

Part 2—Running balance accounts

Taxation Administration Act 1953

5 Section 8AAZA (definition of *credit*)

At the end of the definition, add:

; and (c) an amount that the Commissioner determines under section 8AAZAB to be an amount the Commissioner must pay to a taxpayer under a taxation law.

6 Section 8AAZA (definition of *primary tax debt*)

Repeal the definition, substitute:

***primary tax debt*** means:

(a) an amount due to the Commonwealth by an entity directly under a taxation law (other than, except in Division 4, the *Product Grants and Benefits Administration Act 2000*), including any such amount that is not yet payable; or

(b) an amount that the Commissioner determines under section 8AAZAA to be an amount due to the Commonwealth.

7 Section 8AAZA (paragraph (b) of the definition of *RBA deficit debt*)

Repeal the paragraph, substitute:

(b) payments made in respect of current or anticipated primary tax debts of the entity that have been allocated to the RBA; and

(c) any credits to which the entity is entitled under a taxation law that have been allocated to the RBA (disregarding any credits that have already been allocated to the RBA under paragraph (a)).

Note: For the purposes of paragraph (c), a credit may have already been allocated to the RBA under paragraph (a) as a part of a primary tax debt determined by the Commissioner under section 8AAZAA.

8 Section 8AAZA (paragraph (b) of the definition of *RBA surplus*)

Repeal the paragraph, substitute:

(b) payments made in respect of current or anticipated primary tax debts of the entity that have been allocated to the RBA; and

(c) any credits to which the entity is entitled under a taxation law that have been allocated to the RBA (disregarding any credits that have already been allocated to the RBA under paragraph (a)).

Note: For the purposes of paragraph (c), a credit may have already been allocated to the RBA under paragraph (a) as a part of a primary tax debt determined by the Commissioner under section 8AAZAA.

9 After section 8AAZA

Insert:

8AAZAA Amount due to the Commonwealth

For the purposes of paragraph (b) of the definition of ***primary tax debt*** in section 8AAZA, the Commissioner may determine an amount (including a nil amount) due to the Commonwealth by an entity that is:

(a) the sum of some or all of the amounts covered by paragraph (a) of that definition for the entity; or

(b) the balance of:

(i) the sum of some or all of the amounts covered by paragraph (a) of that definition for the entity; less

(ii) the sum of some or all of the credits to which the entity is entitled to under a taxation law.

8AAZAB Amount payable by the Commonwealth

For the purposes of paragraph (c) of the definition of ***credit*** in section 8AAZA, the Commissioner may determine an amount (including a nil amount) that the Commissioner must pay to an entity that is:

(a) the sum of some or all of the amounts covered by paragraph (a) or (b) of that definition for the entity; or

(b) the balance of:

(i) the sum of some or all of the amounts covered by paragraph (a) or (b) of that definition for the entity; less

(ii) the sum of some or all of the amounts due to the Commonwealth by the entity under a taxation law.

10 Subsection 8AAZD(1)

Omit “debt to an RBA that has been established for that type of tax debt”, substitute “debt, that has not already been allocated under this section, to an RBA that has been established for that type of tax debt or debts”.

11 Subsection 8AAZD(1) (note)

Omit “Note”, substitute “Note 1”.

12 At the end of subsection 8AAZD(1)

Add:

Note 2: A primary tax debt to be allocated to an RBA may be:

(a) a single amount due under a taxation law; or

(b) an amount determined under section 8AAZAA from several amounts due under taxation laws.

13 After section 8AAZD

Insert:

8AAZDA Reallocation of primary tax debts between RBAs

(1) This section applies to a primary tax debt that has already been allocated to an RBA of an entity.

(2) The Commissioner may reallocate the primary tax debt, in whole or in part, to any RBA of the entity that has been established for that type of tax debt in the manner the Commissioner determines.

14 After section 8AAZF

Insert:

8AAZFA Transfer of RBA balance

The Commissioner may determine that the balance of an RBA of an entity be transferred, in whole or in part, to any other RBA that has been established for the entity.

8AAZFB Transfer of other account balance

(1) This section applies if the Commissioner has allocated one or more primary tax debts to an account (a ***non‑RBA account***) other than an RBA for an entity.

(2) The Commissioner may determine that the balance of the non‑RBA account for the entity be transferred, in whole or in part, to any RBA that has been established for the entity.

(3) If the Commissioner transfers an amount from a non‑RBA account for the entity to an RBA for the entity under subsection (2), the following provisions apply in relation to each primary tax debt to which the amount corresponds:

(a) the primary tax debt is taken to have been allocated to the RBA under section 8AAZD;

(b) any general interest charge allocated to the non‑RBA account for the primary tax debt is taken to have altered the balance of the RBA in the Commissioner’s favour under subsection 8AAZF(2);

(c) any amounts of a kind mentioned in subsection 8AAZL(1) allocated to the non‑RBA account and applied against the primary tax debt are taken to have been allocated and applied under section 8AAZLA in the manner determined by the Commissioner.