

EXPOSURE DRAFT

2016-2017-2018-2019

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

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

4 The Parliament of Australia enacts:

5 **1 Short title**

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

8 **2 Commencement**

9 (1) Each provision of this Act specified in column 1 of the table
10 commences, or is taken to have commenced, in accordance with
11 column 2 of the table. Any other statement in column 2 has effect
12 according to its terms.

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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.	

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Note: This table relates only to the provisions of this Act as originally enacted.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.

3

4

5

(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.

6

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8

3 Schedules

9

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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Treasury Laws Amendment (Miscellaneous Amendments) Bill 2019

No. , 2019

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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:

$$1 - \frac{\text{SV just after commutation}}{\text{SV just before commutation}}$$

where:

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Schedule 1 Amendments

Part 1 Superannuation

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

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

7 (1B) For the purposes of subparagraph (1)(b)(ii), the amount is the
8 lesser of the following:

- 9 (a) the *debit value mentioned in paragraph (1)(a);
10 (b) the amount (disregarding this section) of the *superannuation
11 lump sum you received because of the commutation (as
12 mentioned in item 1 of the table in subsection 294-80(1)).

13 2 Subsection 294-145(6)

14 Repeal the subsection, substitute:

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

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

22 (b) the sum of the following:

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

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

32 (6A) The amount is the sum of the following:

33 (a) the total amount of *superannuation income stream benefits
34 that you were entitled to receive from the income stream

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Amendments **Schedule 1**
Superannuation **Part 1**

- 1 before the start of the financial year in which the
2 commutation takes place;
- 3 (b) if regulation 1.07B of the *Superannuation Industry*
4 *(Supervision) Regulations 1994* applies to the income
5 stream—the greater of the following:
- 6 (i) the minimum amount under subregulation 1.07B(4) of
7 those regulations for the income stream for that
8 financial year;
- 9 (ii) the total amount of superannuation income stream
10 benefits that you received from the income stream in
11 that financial year (other than superannuation income
12 stream benefits that you were entitled to receive from
13 the income stream before the start of that financial
14 year);
- 15 (c) if regulation 1.07C of the *Superannuation Industry*
16 *(Supervision) Regulations 1994* applies to the income
17 stream—the greater of the following:
- 18 (i) the minimum amount under subregulation 1.07C(3) of
19 those regulations for the income stream for that
20 financial year;
- 21 (ii) the total amount of superannuation income stream
22 benefits that you received from the income stream in
23 that financial year (other than superannuation income
24 stream benefits that you were entitled to receive from
25 the income stream before the start of that financial
26 year);
- 27 (d) if regulation 1.08 of the *Retirement Savings Accounts*
28 *Regulations 1997* applies to the income stream—the greater
29 of the following:
- 30 (i) the minimum amount under regulation 1.08 of those
31 regulations for the income stream for that financial year;
- 32 (ii) the total amount of superannuation income stream
33 benefits that you received from the income stream in
34 that financial year (other than superannuation income
35 stream benefits that you were entitled to receive from
36 the income stream before the start of that financial
37 year).
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Schedule 1 Amendments

Part 1 Superannuation

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

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

5 **4 Application**

6 The amendments made by Part 1 of this Schedule apply on or after
7 1 July 2017.

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Amendments **Schedule 1**
Running balance accounts **Part 2**

1 **Part 2—Running balance accounts**

2 *Taxation Administration Act 1953*

3 **5 Section 8AAZA (definition of *credit*)**

4 At the end of the definition, add:
5 ; and (c) an amount that the Commissioner determines under
6 section 8AAZAB to be an amount the Commissioner must
7 pay to a taxpayer under a taxation law.

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

9 Repeal the definition, substitute:

10 *primary tax debt* means:

- 11 (a) an amount due to the Commonwealth by an entity directly
12 under a taxation law (other than, except in Division 4, the
13 *Product Grants and Benefits Administration Act 2000*),
14 including any such amount that is not yet payable; or
15 (b) an amount that the Commissioner determines under
16 section 8AAZAA to be an amount due to the
17 Commonwealth.

18 **7 Section 8AAZA (paragraph (b) of the definition of *RBA***
19 ***deficit debt*)**

20 Repeal the paragraph, substitute:

- 21 (b) payments made in respect of current or anticipated primary
22 tax debts of the entity that have been allocated to the RBA;
23 and
24 (c) any credits to which the entity is entitled under a taxation law
25 that have been allocated to the RBA (disregarding any credits
26 that have already been allocated to the RBA under
27 paragraph (a)).

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

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Schedule 1 Amendments

Part 2 Running balance accounts

1 **8 Section 8AAZA (paragraph (b) of the definition of RBA**
2 **surplus)**

3 Repeal the paragraph, substitute:

- 4 (b) payments made in respect of current or anticipated primary
5 tax debts of the entity that have been allocated to the RBA;
6 and
7 (c) any credits to which the entity is entitled under a taxation law
8 that have been allocated to the RBA (disregarding any credits
9 that have already been allocated to the RBA under
10 paragraph (a)).

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

14 **9 After section 8AAZA**

15 Insert:

16 **8AAZAA Amount due to the Commonwealth**

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

- 21 (a) the sum of some or all of the amounts covered by
22 paragraph (a) of that definition for the entity; or
23 (b) the balance of:
24 (i) the sum of some or all of the amounts covered by
25 paragraph (a) of that definition for the entity; less
26 (ii) the sum of some or all of the credits to which the entity
27 is entitled to under a taxation law.

28 **8AAZAB Amount payable by the Commonwealth**

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

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

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Amendments **Schedule 1**
Running balance accounts **Part 2**

- 1 (b) the balance of:
2 (i) the sum of some or all of the amounts covered by
3 paragraph (a) or (b) of that definition for the entity; less
4 (ii) the sum of some or all of the amounts due to the
5 Commonwealth by the entity under a taxation law.

6 **10 Subsection 8AAZD(1)**

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

11 **11 Subsection 8AAZD(1) (note)**

12 Omit “Note”, substitute “Note 1”.

13 **12 At the end of subsection 8AAZD(1)**

14 Add:

- 15 Note 2: A primary tax debt to be allocated to an RBA may be:
16 (a) a single amount due under a taxation law; or
17 (b) an amount determined under section 8AAZAA from several
18 amounts due under taxation laws.

19 **13 After section 8AAZD**

20 Insert:

21 **8AAZDA Reallocation of primary tax debts between RBAs**

- 22 (1) This section applies to a primary tax debt that has already been
23 allocated to an RBA of an entity.
24 (2) The Commissioner may reallocate the primary tax debt, in whole
25 or in part, to any RBA of the entity that has been established for
26 that type of tax debt in the manner the Commissioner determines.

27 **14 After section 8AAZF**

28 Insert:

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Schedule 1 Amendments

Part 2 Running balance accounts

1 **8AAZFA Transfer of RBA balance**

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

5 **8AAZFB Transfer of other account balance**

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

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

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

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

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

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