

# EXPOSURE DRAFT



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## Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019

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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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1 Amendments

Part 1 Transfer balance account credits and debits

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## 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

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Amendments **Schedule 1**

Transfer balance account credits and debits **Part 1**

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- (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.

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Schedule 1 Amendments

Part 2 Innovative income streams

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## 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.

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Schedule 1 Amendments

Part 4 Life expectancy period

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## 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.