

EXPOSURE-DRAFT

1 Inserts for
2 **Tax Laws Amendment (2012 Measures**
3 **No. 5) Bill 2012: Merging**
4 **superannuation funds**
5

6 **EXPOSURE DRAFT**

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Schedule #, Part 1	The day this Act receives the Royal Assent.	
2. Schedule #, Part 2	1 October 2011	
3. Schedule #, Part 3	The day this Act receives the Royal Assent.	

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Schedule #—Merging superannuation funds

Part 1—Extending the application of Division 310

Income Tax Assessment Act 1997

1 Section 310-1 (note 1)

Repeal the note, substitute:

Note 1: This Division applies to mergers happening between 24 December 2008 and 30 June 2011 (or, in certain cases, 30 September 2011), or between 1 October 2011 and 1 July 2017, (see Part 3 of Schedule 2 to the *Tax Laws Amendment (2009 Measures No. 6) Act 2010*).

2 Section 310-1 (note 2)

Omit “1 July 2013”, substitute “1 July 2019”.

Tax Laws Amendment (2009 Measures No. 6) Act 2010

3 Subsection 2(1) (table item 4)

Repeal the item, substitute:

4. Schedule 2,	1 July 2019.	1 July 2019
Parts 4 and 5		

4 Item 11 of Schedule 2

After “30 June 2011”, insert “, or during the period starting on 1 October 2011 and ending at the end of 1 July 2017”.

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Part 2—Further amendments of Division 310

Income Tax Assessment Act 1997

5 Subsection 310-10(1)

Omit “*complying superannuation fund”, substitute “*complying superannuation fund (other than a *self managed superannuation fund)”.

6 Subparagraphs 310-35(1)(b)(i) and (ii)

Omit “for that earlier year”, substitute “for the transfer year”.

7 Subparagraphs 310-40(1)(b)(i) and (ii)

Omit “for that earlier year”, substitute “for the transfer year”.

8 Section 310-50

Repeal the section, substitute:

310-50 Choosing the form of the assets roll-over

- (1) An entity that chooses a roll-over under this Subdivision must choose the form of the roll-over that applies to each of the following:
 - (a) the original assets that are not *revenue assets;
 - (b) the original assets that are revenue assets.
- (2) In respect of original assets that are not *revenue assets, the entity choosing the roll-over must choose either section 310-55 (global asset approach) or 310-60 (individual asset approach) to apply to the original assets and the corresponding received assets.
- (3) In respect of original assets that are *revenue assets, the entity choosing the roll-over must choose either section 310-65 (global asset approach) or 310-70 (individual asset approach) to apply to the original assets and the corresponding received assets.

Note: The entity choosing the form of the roll-over may choose different forms of roll-over for its CGT assets and revenue assets.

9 Subsection 310-55(1) (note)

Omit “subsection 310-50(1)”, substitute “subsection 310-50(2)”.

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10 Subsection 310-60(1)

Omit “*capital loss”, substitute “*capital gain or *capital loss”.

11 Subsection 310-60(1) (note)

Repeal the note, substitute:

Note: This section only applies if it is chosen to apply under subsection 310-50(2).

12 Subsection 310-60(2)

Omit “*capital loss”, substitute “*capital gain or *capital loss”.

13 Subsection 310-60(3)

Repeal the subsection, substitute:

(3) The transferring entity’s *capital proceeds from the transfer event are taken to be an amount equal to:

- (a) if, apart from this subsection, the event would result in a *capital gain—the asset’s *cost base just before the event; or
- (b) if, apart from this subsection, the event would result in a *capital loss—the asset’s *reduced cost base just before the event.

14 Subsection 310-65(1) (note)

Omit “subsection 310-50(2)”, substitute “subsection 310-50(3)”.

15 Subsection 310-70(1)

Omit “incurs a *tax loss”, substitute “derives assessable income (other than a *capital gain) or incurs a *tax loss”.

16 Subsection 310-70(1) (note)

Repeal the note, substitute:

Note: This section only applies if it is chosen to apply under subsection 310-50(3).

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2 **Part 3—Application provision**

3 **17 Application provision**

4 The amendments made by this Schedule apply in relation to a
5 transferring entity and a receiving entity if:

6 (a) the condition in subsection 310-10(3), 310-15(3) or
7 310-20(3) of the *Income Tax Assessment Act 1997* for those
8 entities is satisfied; and

9 (b) all the transfer events (if any) referred to in subsection
10 310-45(2) of that Act for those entities happen;

11 during the period starting on 1 October 2011 and ending at the end of
12 1 July 2017.

13 Note 1: The effect of paragraph (a) is that all of the members of the original fund will need to
14 become members of a continuing fund during this period.

15 Note 2: The effect of paragraph (b) is that the transferring fund needs to cease to hold all
16 relevant assets during this period.