

# EXPOSURE DRAFT

EXPOSURE DRAFT

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Inserts for  
**Treasury Laws Amendment (Measures  
for Consultation) Bill 2021:  
Superannuation information for family  
law proceedings**

# EXPOSURE DRAFT

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## Schedule 1—Amendments

### Part 1—Main amendments

#### *Family Law Act 1975*

##### **1 At the end of Division 5 of Part VIII B**

Add:

##### **90XZJ Requests for Commissioner of Taxation to provide superannuation information**

###### *Application for superannuation information*

- (1) A person who is a party to property settlement proceedings:
- (a) in the Federal Circuit and Family Court of Australia in relation to the person's marriage or de facto relationship with another person; or
  - (b) in the Family Court of Western Australia in relation to the person's marriage with another person;
- may apply, in the approved form, to a Senior Registry official of that Court for that official to request the superannuation information of that other person (the *other party*).

###### *Request for superannuation information*

- (2) If a Senior Registry official of a Court receives an application from a person under subsection (1) for the superannuation information of the other party, the official may:
- (a) request the Commissioner of Taxation to disclose that superannuation information for the purpose of those proceedings; and
  - (b) if the Commissioner of Taxation discloses that superannuation information to the official for the purpose of those proceedings—disclose the superannuation information to the following:
    - (i) that person and each lawyer of that person;
    - (ii) the other party and each lawyer of that other party;for that person, other party or lawyer to make a record of, or disclose, for the purpose of those proceedings.

# EXPOSURE DRAFT

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1 Note 1: Making a record of, or on-disclosing, that superannuation information  
2 may be an offence unless it is for the purpose of those proceedings,  
3 see sections 355-155 and 355-175 in Schedule 1 to the *Taxation*  
4 *Administration Act 1953*.

5 Note 2: Disclosing superannuation information for the purpose of those  
6 proceedings extends to disclosing the superannuation information to  
7 the trustee of an eligible superannuation plan as part of an application  
8 under section 90XZB for the purpose of those proceedings.

9 *Approved form*

- 10 (3) An application made by a person under subsection (1) is in the  
11 approved form if and only if:  
12 (a) it is in the form approved in writing by the person prescribed  
13 by the Federal Circuit and Family Court of Australia  
14 (Division 1) Rules for the purposes of this paragraph; and  
15 (b) it contains the information (including any declaration) that  
16 the form requires; and  
17 (c) it is given in the manner required by the person prescribed  
18 for the purposes of paragraph (a) (which may include  
19 electronically).

- 20 (4) In this section:

21 *Senior Registry official:*

- 22 (a) of the Federal Circuit and Family Court of Australia—means  
23 the Registry Manager of that Court; or  
24 (b) of the Family Court of Western Australia—means the  
25 Principal Registrar of that Court.

26 *superannuation information*, of a person, means information  
27 about the identity and value of each superannuation interest (within  
28 the meaning of the *Income Tax Assessment Act 1997*) held by the  
29 person.

30 *Taxation Administration Act 1953*

31 **2 Subsection 355-65(3) in Schedule 1 (after table item 8)**

32 Insert:

- 33 8A a Senior Registry official (within the meaning of section 90XZJ of the *Family Law Act 1975*) of a court in response to that official's (a) is of superannuation information (within the meaning of that section); and (b) is for the purpose of property

# EXPOSURE DRAFT

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request under that section

settlement proceedings (within the meaning of that Act) in that court.

## 1 **3 Application of amendments**

2 (1) The amendments of the *Family Law Act 1975* made by this Part apply  
3 in relation to the following proceedings at or after the commencement  
4 of this Part, whether the proceedings commenced before or after that  
5 commencement:

6 (a) property settlement proceedings in the Federal Circuit and  
7 Family Court of Australia; and

8 (b) property settlement proceedings, in relation to the parties to a  
9 marriage, in the Family Court of Western Australia.

10 (2) The amendments of the *Taxation Administration Act 1953* made by this  
11 Part apply in relation to records or disclosures of information made at or  
12 after the commencement of this Part, whether the information was  
13 obtained before, at or after the commencement of this Part.

# EXPOSURE DRAFT

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## Part 2—Other amendments

### *Family Law Act 1975*

#### 4 At the end of Division 5 of Part VIII C

Add:

#### **90YZY Requests for Commissioner of Taxation to provide superannuation information**

##### *Application for superannuation information*

- (1) A person who is a party to either of the following proceedings in the Family Court of Western Australia, in relation to the person's de facto relationship with another person (the *other party*):
- (a) proceedings in relation to matters arising under this Part;
  - (b) proceedings under the *Family Court Act 1997* (WA) with respect to the property of the parties to the de facto relationship or either of them, if the person is considering bringing, or is a party to, related proceedings in relation to matters arising under this Part;
- may apply, in the approved form, to the Principal Registrar of that Court for the Principal Registrar to request the superannuation information of that other party.

##### *Request for superannuation information*

- (2) If the Principal Registrar of that Court receives an application from a person under subsection (1) for the superannuation information of the other party, the Principal Registrar may:
- (a) request the Commissioner of Taxation to disclose that superannuation information for the purpose of all of the following proceedings (the *relevant proceedings*) in relation to the person's de facto relationship with the other party:
    - (i) any proceedings in relation to matters arising under this Part;
    - (ii) any proceedings under the *Family Court Act 1997* (WA) with respect to the property of the parties to the de facto relationship or either of them, if the person is considering bringing, or is a party to, related

# EXPOSURE DRAFT

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1 proceedings in relation to matters arising under this  
2 Part; and

- 3 (b) if the Commissioner of Taxation discloses that  
4 superannuation information to the Principal Registrar for the  
5 purpose of the relevant proceedings—disclose the  
6 superannuation information to the following:  
7 (i) that person and each lawyer of that person;  
8 (ii) the other party and each lawyer of that other party;  
9 for that person, other party or lawyer to make a record of, or  
10 disclose, for the purpose of the relevant proceedings.

11 Note 1: Making a record of, or on-disclosing, that superannuation information  
12 may be an offence unless it is for the purpose of the relevant  
13 proceedings, see sections 355-155 and 355-175 in Schedule 1 to the  
14 *Taxation Administration Act 1953*.

15 Note 2: Disclosing superannuation information for the purpose of proceedings  
16 relating to matters arising under this Part extends to disclosing the  
17 superannuation information to the trustee of an eligible  
18 superannuation plan as part of an application under section 90YZR for  
19 the purpose of those proceedings.

## 20 *Approved form*

- 21 (3) An application made by a person under subsection (1) is in the  
22 approved form if and only if:  
23 (a) it is in the form approved for the purposes of paragraph  
24 90XZJ(3)(a); and  
25 (b) it contains the information (including any declaration) that  
26 the form requires; and  
27 (c) it is given in the manner required by the person prescribed  
28 for the purposes of paragraph 90XZJ(3)(a) (which may  
29 include electronically).

## 30 *Delegation*

- 31 (4) The Principal Registrar of the Family Court of Western Australia  
32 may, in writing, delegate any of the Principal Registrar's functions  
33 or powers under this section to any other appropriate officer or  
34 staff member of that Court.

- 35 (5) In this section:

36 *relevant proceedings* has the meaning given by paragraph (2)(a).

37 *superannuation information* has the same meaning as in  
38 subsection 90XZJ(4).

# EXPOSURE DRAFT

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1 *Taxation Administration Act 1953*

2 **5 Subsection 355-65(3) in Schedule 1 (after table item 8A)**

3 Insert:

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|----|---|---|
| 8B | the Principal Registrar of the Family Court of Western Australia in response to the Principal Registrar's request under subsection 90YZY(2) of the <i>Family Law Act 1975</i> | (a) is of superannuation information (within the meaning of that section); and<br>(b) is for the purpose of all of the relevant proceedings (within the meaning of that section). |
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5 **6 Application of amendments**

- 6 (1) The amendments of the *Family Law Act 1975* made by this Part apply  
7 in relation to proceedings referred to in this Part that are in the Family  
8 Court of Western Australia at or after the commencement of this Part,  
9 whether the proceedings commenced before or after that  
10 commencement.
- 11 (2) The amendments of the *Taxation Administration Act 1953* made by this  
12 Part apply in relation to records or disclosures of information made at or  
13 after the commencement of this Part, whether the information was  
14 obtained before, at or after the commencement of this Part.