

# EXPOSURE DRAFT

## EXPLANATORY STATEMENT

### Issued by authority of the Treasurer

*International Organisations (Privileges and Immunities) Act 1963*

*Specialized Agencies (Privileges and Immunities) Regulations 1986*

Section 13 of the *International Organisations (Privileges and Immunities) Act 1963* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Convention on the Privileges and Immunities of the Specialized Agencies*, which took effect for Australia in 1986, permits the International Monetary Fund (IMF) and certain World Bank Group (WBG) agencies to specify categories of officials, and the privileges and immunities to which those officials should be entitled. Section 19 of the Convention lists one of these privileges as an income tax exemption for the salary or emoluments paid to them.

A recent Administrative Appeals Tribunal case has revealed that Australia's implementing legislation does not confer an income tax exemption for the salary or emoluments of individuals performing temporary missions on behalf of the IMF and WBG agencies (*Hamilton and Commissioner of Taxation [2020] AATA 1812*). The income tax exemption for the salary or emoluments is currently conferred only to those who fall within the definition of 'high office holder', 'office holder', and 'person accredited to, or is in attendance at, an international conference convened by an international organisation as a representative'.

The draft Regulations provide an income tax exemption for Australian residents performing temporary missions either for the IMF or the three WBG agencies on salaries and emoluments received from the relevant agencies. The Government announced this measure in the 2020-21 Budget on 6 October 2020.

A mission is considered 'temporary' if it exists only for a limited duration and is not permanent. Temporary missions could range from a small number of days up to longer periods. For example, a two-year mission with a nominated end date would be considered a 'temporary mission'. Where an individual undertakes more than one mission or assignment, each mission or assignment would be considered as a separate temporary mission.

A temporary mission can be undertaken by anyone engaged on a contractual basis by the relevant agencies, including experts, consultants, and other individuals.

The draft Regulations apply in relation to salaries and emoluments received on or after 1 July 2017.

The draft Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*. The draft Regulations will commence the day after they are registered on the Federal Register of Legislation.