



Tax and Superannuation Laws Amendment (2014 Measures No. 1) Act 2014

No. 11, 2014

**An Act to amend the law relating to taxation and
superannuation, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 11, 2014

**An Act to amend the law relating to taxation and
superannuation, and for related purposes**

[Assented to 18 March 2014]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax and Superannuation Laws
Amendment (2014 Measures No. 1) Act 2014*.

2 Commencement

- (1) Each provision of this Act 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
Provision(s)	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.	18 March 2014
2. Schedule 1	The day this Act receives the Royal Assent.	18 March 2014
3. Schedule 2	1 July 2014.	1 July 2014
4. Schedule 3, Part 1	The day this Act receives the Royal Assent.	18 March 2014
5. Schedule 3, Part 2, item 2	The day this Act receives the Royal Assent.	18 March 2014
6. Schedule 3, Part 2, items 3 to 8	1 July 2019.	1 July 2019
7. Schedule 4, Part 1	The day this Act receives the Royal Assent.	18 March 2014
8. Schedule 4, Part 2	17 December 2018.	17 December 2018

Note: This table relates only to the provisions of this Act as originally enacted.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

- (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.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Unlawful payments from regulated superannuation funds

Superannuation Industry (Supervision) Act 1993

1 After section 68A

Insert:

68B Promotion of illegal early release schemes

- (1) A person must not promote a scheme that has resulted, or is likely to result, in a payment being made from a regulated superannuation fund otherwise than in accordance with payment standards prescribed under subsection 31(1).
- (2) Subsection (1) is a civil penalty provision as defined by section 193, and Part 21 therefore provides for civil and criminal consequences of contravening, or being involved in a contravention of, that subsection.
- (3) In this section:

promote, in relation to a scheme, includes the following:

- (a) enter into the scheme;
- (b) induce another person to enter into the scheme;
- (c) carry out the scheme;
- (d) commence to carry out the scheme;
- (e) facilitate entry into, or the carrying out of, the scheme.

scheme means:

- (a) any agreement, arrangement, understanding, promise or undertaking:
 - (i) whether express or implied; or
 - (ii) whether or not enforceable, or intended to be enforceable, by legal proceedings; or
- (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

2 After paragraph 193(c)

Insert:

(ca) subsection 68B(1);

Schedule 2—Administrative directions and penalties for contraventions relating to self managed superannuation funds

Superannuation Industry (Supervision) Act 1993

1 Section 4 (after table item dealing with Part No. 19)

Insert:

- 20 administrative directions and penalties for contraventions relating to self managed superannuation funds

2 Subparagraph 6(1)(e)(vii)

After “Parts”, insert “20,”.

3 Subsection 10(1)

Insert:

education direction: see subsection 160(2).

rectification direction: see subsection 159(2).

4 Subsection 10(4)

After “42A”, insert “, and Part 20,”.

5 At the end of subsection 34(1)

Add:

Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

6 Subsection 35B(6) (note)

Omit “Note”, substitute “Note 1”.

7 At the end of section 35B

Add:

Note 2: Section 166 imposes an administrative penalty for a contravention of this section.

8 At the end of subsections 56(2) and 57(2)

Add:

- ; or (d) liability for the costs of undertaking a course of education in compliance with an education direction; or
- (e) liability for an administrative penalty imposed by section 166.

9 At the end of subsection 65(1)

Add:

- Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) by a trustee in relation to a self managed superannuation fund.

10 Subsection 67(1) (note)

Omit “Note”, substitute “Note 1”.

11 At the end of subsection 67(1)

Add:

- Note 2: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

12 At the end of subsection 84(1)

Add:

- Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

13 At the end of section 103

Add:

- Note 3: Section 166 imposes an administrative penalty for a contravention of subsection (1), (2) or (2A) in relation to a self managed superannuation fund.

14 At the end of subsection 104(1)

Add:

- Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

15 At the end of subsection 104A(1)

Add:

- ; or (c) he or she is a trustee of such a fund or a director of such a body corporate and undertakes a course of education in compliance with an education direction.

16 After paragraph 104A(2)(b)

Insert:

- (ba) if paragraph (1)(c) applies—sign a declaration in the approved form that he or she understands his or her duties as trustee of a self managed superannuation fund, or as director of a body corporate that is such a trustee (as appropriate), no later than 21 days after completing the course of education; and

17 At the end of subsection 104A(2)

Add:

- Note: Section 166 imposes an administrative penalty for a contravention of subsection (2).

18 At the end of subsections 105(1) and 106(1)

Add:

- Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

19 Subsection 106A(1) (note)

Omit “Note”, substitute “Note 1”.

20 At the end of subsection 106A(1)

Add:

- Note 2: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

21 At the end of subsection 124(1)

Add:

- Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.
-

22 After Part 19

Insert:

Part 20—Administrative directions and penalties for contraventions relating to self managed superannuation funds

Division 1—Object and scope of this Part

157 Object of this Part

The object of this Part is to provide administrative consequences for contraventions of this Act or the regulations that relate to self managed superannuation funds. This Part:

- (a) allows the Regulator to give rectification directions and education directions; and
- (b) imposes administrative penalties for certain contraventions.

158 Scope of this Part

This Part applies in relation to self managed superannuation funds that are regulated superannuation funds.

Division 2—Directions

159 Rectification direction

- (1) This section applies if the Regulator reasonably believes that a person who is:
 - (a) a trustee of a self managed superannuation fund; or
 - (b) a director of a body corporate that is a trustee of a self managed superannuation fund;has contravened a provision of this Act (other than Part 3B) or the regulations in relation to the fund.
- (2) The Regulator may give the person a written direction (a ***rectification direction***) requiring the person:
 - (a) to take specified action to rectify the contravention; and

- (b) to provide the Regulator with evidence of the person's compliance with the direction.
 - (3) In deciding whether to give a person a rectification direction, the Regulator is to have regard to:
 - (a) any financial detriment that might reasonably be expected to be suffered by the fund as a result of the person's compliance with the direction; and
 - (b) the nature and seriousness of the person's contravention; and
 - (c) any other relevant circumstances.
 - (4) A rectification direction must specify the period within which the person must comply with the direction (which must be a period that is reasonable in the circumstances).
- Note: The period may be affected by the operation of subsection 164(7).
- (5) The Regulator must not give a rectification direction in relation to a contravention if:
 - (a) the Regulator has, under section 262A, accepted an undertaking given by a person; and
 - (b) the contravention is covered by the undertaking; and
 - (c) the undertaking has neither been withdrawn nor varied in a way that means the contravention is no longer covered by it.
 - (6) A person to whom a rectification direction is given must comply with the direction before the end of the period specified in the direction for the purposes of subsection (4).
 - (7) A person commits an offence of strict liability if the person contravenes subsection (6).

Penalty: 10 penalty units.

160 Education direction

- (1) This section applies to the following persons:
 - (a) a trustee of a self managed superannuation fund, if the Regulator reasonably believes that the trustee has contravened a provision of this Act (other than Part 3B) or the regulations in relation to the fund;

- (b) a director of a body corporate that is a trustee of a self managed superannuation fund, if the Regulator reasonably believes that:
 - (i) the director has contravened a provision of this Act (other than Part 3B) or the regulations in relation to the fund; or
 - (ii) the trustee has contravened a provision of this Act (other than Part 3B) or the regulations in relation to the fund.
 - (2) The Regulator may give the person a written direction (an **education direction**) requiring the person:
 - (a) to undertake a specified approved course of education (see section 161); and
 - (b) to provide the Regulator with evidence of completion of the course.
- Note: See also section 104A (recognition of obligations and responsibilities).
- (3) An education direction must specify the period within which the person must comply with the direction (which must be a period that is reasonable in the circumstances).

Note: The period may be affected by the operation of subsection 164(7).

- (4) A person to whom an education direction is given must comply with the direction before the end of the specified period.

Note: Section 166 imposes an administrative penalty for a contravention of subsection (4).

- (5) A person commits an offence of strict liability if the person contravenes subsection (4).

Penalty: 10 penalty units.

161 Approval of courses of education

- (1) The Regulator may, in writing, approve one or more courses of education for the purposes of giving education directions.
- (2) A course approved under subsection (1):
 - (a) may be provided by the Regulator or by another entity; and

- (b) must be a course for which no fees are charged in respect of persons who undertake the course in compliance with education directions.

- (3) An approval under subsection (1) is not a legislative instrument.

162 Costs of course of education

If a person undertakes a course of education in compliance with an education direction, the person must ensure that none of the costs associated with undertaking the course are paid or reimbursed from the assets of the fund in relation to which the education direction was given.

163 Variation or revocation on Regulator's own initiative

The Regulator may, at any time, vary or revoke a rectification direction or an education direction by written notice given to the person to whom the direction was given.

164 Variation on request

- (1) A person to whom a rectification direction or an education direction is given may request the Regulator to vary the direction.
- (2) The request must be made by written notice given to the Regulator before the end of the period specified in the direction for the purposes of subsection 159(4) or 160(3).
- (3) The request must set out the reasons for making the request.
- (4) The Regulator must decide:
 - (a) to vary the direction in accordance with the request; or
 - (b) to vary the direction otherwise than in accordance with the request; or
 - (c) to refuse to vary the direction.
- (5) If the Regulator does not make a decision on the request before the end of 28 days after the day the request was made, the Regulator is taken, at the end of that period, to have decided to refuse the request.

- (6) If the Regulator makes a decision on the request before the end of the period referred to in subsection (5), the Regulator must:
 - (a) notify the person of the Regulator's decision; and
 - (b) if the decision is to vary the direction (whether or not in accordance with the request)—give the person a copy of the varied direction; and
 - (c) if the decision is to refuse to vary the direction, or to vary the direction otherwise than in accordance with the request—give the person written reasons for the decision.
- (7) If a person makes a request under this section, then, for the purposes of subsection 159(6) or 160(4), the period specified in the direction for the purposes of subsection 159(4) or 160(3) is taken to be extended by 1 day for each day in the period:
 - (a) beginning at the start of the day the request was made; and
 - (b) ending at the end of the day that the Regulator notifies the person that a decision has been made on the request.

165 Taxation objection

A person who is dissatisfied with:

- (a) a decision of the Regulator to give a rectification direction or an education direction, or to vary one otherwise than in accordance with a request under section 164; or
- (b) a decision of the Regulator under section 164 to refuse to vary a rectification direction or an education direction;

may object against the decision in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

Division 3—Administrative penalties

166 Administrative penalties in relation to self managed superannuation funds

- (1) If a person referred to in subsection (2) contravenes a provision of this Act specified in the table, the person is liable to an administrative penalty. The amount of the penalty is the amount specified in the table for the provision.

Schedule 2 Administrative directions and penalties for contraventions relating to self managed superannuation funds

Administrative penalties in relation to self managed superannuation funds		
Item	Provision of this Act	Administrative penalty
1	Subsection 34(1)	20 penalty units
2	Section 35B	10 penalty units
3	Subsection 65(1)	60 penalty units
4	Subsection 67(1)	60 penalty units
5	Subsection 84(1)	60 penalty units
6	Subsection 103(1)	10 penalty units
7	Subsection 103(2)	10 penalty units
8	Subsection 103(2A)	10 penalty units
9	Subsection 104(1)	10 penalty units
10	Subsection 104A(2)	10 penalty units
11	Subsection 105(1)	10 penalty units
12	Subsection 106(1)	60 penalty units
13	Subsection 106A(1)	20 penalty units
14	Subsection 124(1)	5 penalty units
15	Subsection 160(4)	5 penalty units
16	Subsection 254(1)	5 penalty units
17	Subsection 347A(5)	5 penalty units

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

- (2) For the purposes of subsection (1), the persons are:
- (a) a trustee of a self managed superannuation fund; or
 - (b) a director of a body corporate that is a trustee of a self managed superannuation fund.

Note: Collection and recovery of administrative penalties imposed by this section is dealt with in Part 4-15 of Schedule 1 to the *Taxation Administration Act 1953*.

- (3) If a trustee of a self managed superannuation fund on whom a penalty is imposed by this section is an individual, a reference in Part 4-15 or Division 298 in Schedule 1 to the *Taxation Administration Act 1953* to an entity is taken to be a reference to that individual in his or her personal capacity.

167 Administrative penalty and civil penalty

If:

- (a) a person is liable to pay an amount by way of administrative penalty imposed by section 166 because of an act or omission of the person; and
- (b) proceedings against the person are commenced for a contravention of a civil penalty provision constituted by the act or omission;

then (whether or not the proceedings are withdrawn):

- (c) the person is not liable to pay the amount; and
- (d) any amount paid, or applied by the Regulator, in total or partial discharge of that liability is to be refunded to the person, or applied by the Regulator in total or partial discharge of another tax-related liability of the person.

Note: Section 8ZE of the *Taxation Administration Act 1953* deals with the situation of a person against whom a criminal prosecution is instituted.

168 Penalty must not be reimbursed from fund

An administrative penalty imposed by section 166 must not be paid or reimbursed from the assets of the fund in relation to which the administrative penalty was imposed.

169 Joint and several liability of directors of corporate trustee liable to administrative penalty under section 166

- (1) This section applies if a trustee of a self managed superannuation fund:
 - (a) is liable to an administrative penalty imposed by section 166; and
 - (b) is a body corporate.
- (2) The directors of the body corporate at the time it becomes liable to the penalty are jointly and severally liable to pay the amount of the penalty.

23 Subsection 254(1) (note)

Omit “Note”, substitute “Note 1”.

24 At the end of subsection 254(1)

Add:

Note 2: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

25 At the end of subsection 347A(5)

Add:

Note: Section 166 imposes an administrative penalty for a contravention of subsection (5) in relation to a self managed superannuation fund.

Taxation Administration Act 1953

26 At the end of section 298-5 in Schedule 1

Add:

; or (d) an administrative penalty is imposed on an entity by section 166 of the *Superannuation Industry (Supervision) Act 1993*.

27 Application of this Schedule

The amendments made by this Schedule apply to contraventions that occur on or after 1 July 2014.

Schedule 3—Phase-out of rebate for medical expenses

Part 1—Main amendments

Income Tax Assessment Act 1936

1 Before subsection 159P(1)

Insert:

Phase-out of rebate for medical expenses

- (1A) A taxpayer is not entitled to a rebate of tax under this section in respect of the 2019-20 year of income or a later year of income.
- (1B) For the 2013-14 to 2018-19 years of income, an amount that would otherwise be paid as medical expenses is treated as *not* being paid as medical expenses unless the payment:
 - (a) relates to an aid for a person with a disability; or
 - (b) relates to services rendered by a person as an attendant of a person with a disability; or
 - (c) relates to care provided by an approved provider (within the meaning of the *Aged Care Act 1997*) of a person who:
 - (i) is approved as a care recipient under that Act; or
 - (ii) is a continuing care recipient within the meaning of that Act.
- (1C) However, subsection (1B) does not apply to amounts paid in a year of income as medical expenses in respect of a taxpayer:
 - (a) for the 2013-14 year of income—if the taxpayer's assessment for the 2012-13 year of income included an amount of rebate under this section that was greater than nil; and
 - (b) for the 2014-15 year of income—if the taxpayer's assessment for both the 2012-13 and 2013-14 years of income included an amount of rebate under this section that was greater than nil.
- (1D) Subsection (1B) also does not apply in working out a rebate of tax to which the trustee of a trust estate is entitled in respect of

amounts paid in a year of income as medical expenses in respect of a beneficiary:

- (a) for the 2013-14 year of income—if the trustee's assessment for the 2012-13 year of income included an amount of rebate under this section in respect of the beneficiary that was greater than nil; and
- (b) for the 2014-15 year of income—if the trustee's assessment for both the 2012-13 and 2013-14 years of income included an amount of rebate under this section in respect of the beneficiary that was greater than nil.

Part 2—Consequential amendments

Fringe Benefits Tax Assessment Act 1986

2 Subsection 58L(2)

Repeal the subsection, substitute:

(2) In this section:

medical expenses means payments:

- (a) to a legally qualified medical practitioner, nurse or chemist, or a public or private hospital, in respect of an illness or operation; or
- (b) to a legally qualified dentist for dental services or treatment or the supply, alteration or repair of artificial teeth; or
- (c) to a person registered under a law of a State or Territory as a dental mechanic in respect of charges lawfully made by that person for the supply, alteration or repair of artificial teeth; or
- (d) for therapeutic treatment administered by direction of a legally qualified medical practitioner; or
- (e) in respect of an artificial limb (or part of a limb), artificial eye or hearing aid; or
- (f) in respect of a medical or surgical appliance (not otherwise specified in this definition) prescribed by a legally qualified medical practitioner; or
- (g) for:
 - (i) the testing of eyes or the prescribing of spectacles or contact lenses by a person legally qualified to perform those services; or
 - (ii) the supply of spectacles or contact lenses in accordance with any such prescription; or
- (h) as remuneration of a person for services rendered by him or her as an attendant of a person who is blind or permanently confined to a bed or an invalid chair; or
- (i) for the maintenance of a dog used for the guidance or assistance of, but not social therapy for, a person with a disability, being a dog that the Commissioner is satisfied is

properly trained in the guidance or assistance of persons with disabilities.

medical treatment means an act or thing where a payment in respect of the act or thing:

- (a) is a medical expense; and
 - (b) is not a payment:
 - (i) to a legally qualified medical practitioner, nurse or chemist, or a public or private hospital, in respect of a cosmetic operation that is not a professional service (within the meaning of subsection 3(1) of the *Health Insurance Act 1973*) for which a medicare benefit is payable under Part II of that Act; or
 - (ii) to a legally qualified dentist for dental services that are, or dental treatment that is, solely cosmetic.
- (3) For the purposes of the definitions of **medical expenses** and **medical treatment** in subsection (2), a payment is taken to be made to a legally qualified medical practitioner, nurse or chemist (the **qualified person**) in respect of the provision of services or treatment, or the supply of goods, if:
- (a) the payment is made to an employer (not being a public or private hospital) of the qualified person, or a person with whom the qualified person has entered into a contract for services; and
 - (b) the payment is made in respect of the provision of those services or that treatment, or the supply of those goods, by the qualified person.
- (4) For the purposes of the definitions of **medical expenses** and **medical treatment** in subsection (2), a payment is taken to be made to a legally qualified dentist in respect of the provision of dental services or treatment or the supply, alteration or repair of artificial teeth if:
- (a) the payment is made to an employer of the dentist, or a person with whom the dentist has entered into a contract for services; and
 - (b) the payment is made in respect of the provision of those services or that treatment or the supply, alteration or repair of those artificial teeth, by the dentist.

- (5) For the purposes of the definitions of *medical expenses* and *medical treatment* in subsection (2), a payment is taken to be made to a person (a *registered dental mechanic*) registered under a law of a State or Territory as a dental mechanic in respect of charges lawfully made by the registered dental mechanic for the supply, alteration or repair of artificial teeth if:
- (a) the payment is made to an employer of such a person, or a person with whom such a person has entered into a contract for services; and
 - (b) the charges are made in respect of the supply, alteration or repair of artificial teeth by the dental mechanic.

Income Tax Assessment Act 1936

3 Subsection 6(1)

Repeal the following definitions:

- (a) definition of *family tier 1 threshold*;
- (b) definition of *medical expense rebate higher phase-in limit*;
- (c) definition of *medical expense rebate lower phase-in limit*;
- (d) definition of *rebatable medical expense amount*;
- (e) definition of *singles tier 1 threshold*.

4 Subsection 159HA(1)

Omit “, 159L and 159Q”, substitute “and 159L”.

5 Subsection 159HA(7) (table items 4 and 5)

Repeal the items.

6 Sections 159P and 159Q

Repeal the sections.

Income Tax Assessment Act 1997

7 Section 13-1 (table item headed “dependants”)

Omit:

see also *medical expenses*

8 Section 13-1 (table item headed “medical expenses”)

Repeal the item.

Schedule 4—Deductible gift recipients

Part 1—Amendments commencing on Royal Assent

Income Tax Assessment Act 1997

1 Subsection 30-25(2) (cell at table item 2.2.18, column headed “Fund, authority or institution”)

Repeal the cell, substitute:

Sir William Tyree Foundation

2 Subsection 30-80(2) (table item 9.2.23, column headed “Special conditions”)

Omit “17 December 2011”, substitute “16 December 2014”.

3 Subsection 30-100(2) (at the end of the table)

Add:

12.2.4	National Arboretum Canberra Fund	the gift must be made after 30 June 2013
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4 Section 30-105 (at the end of the table)

Add:

13.2.20	The Prince’s Charities Australia Limited	the gift must be made after 31 December 2013
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5 Subsection 30-315(2) (after table item 73)

Insert:

73AAA	National Arboretum Canberra Fund	item 12.2.4
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6 Subsection 30-315(2) (after table item 89)

Insert:

89A	Prince’s Charities Australia Limited	item 13.2.20
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7 Subsection 30-315(2) (table item 111A, column without a heading)

Omit “of The Australian Industry Group”.

Part 2—Sunsetting on 17 December 2018

Income Tax Assessment Act 1997

8 Subsection 30-80(2) (table item 9.2.23)

Repeal the item.

9 Subsection 30-315(2) (table item 27AAA)

Repeal the item.

*[Minister's second reading speech made in—
House of Representatives on 26 February 2014
Senate on 5 March 2014]*

(8/14)
