



Income Tax Assessment Amendment Regulations 2007 (No. 9)¹

Select Legislative Instrument 2007 No. 330

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Income Tax Assessment Act 1997*.

Dated 26 September 2007

P. M. JEFFERY
Governor-General
By His Excellency's Command

PETER CRAIG DUTTON
Minister for Revenue and Assistant Treasurer

1 Name of Regulations

These Regulations are the *Income Tax Assessment Amendment Regulations 2007 (No. 9)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Income Tax Assessment Regulations 1997*

Schedule 1 amends the *Income Tax Assessment Regulations 1997*.

Schedule 1 Amendments

(regulation 3)

[1] Paragraph 292-170.05 (2) (b)

substitute

(b) either:

- (i) the member has not moved to a new benefit category; or
- (ii) if the member has moved to a new benefit category, the new benefit category does not provide the member with an improved level of benefit.

[2] Subregulation 292-170.05 (5)

substitute

- (5) If the rate of superannuation salary has increased, since 5 September 2006, by:
 - (a) more than 50% in 1 year; or
 - (b) more than 75% over 3 years;

a condition is that the employer-sponsor advises the trustee that the increase in the rate is on an arm's length basis.

[3] Paragraph 292-170.06 (2) (b)

substitute

(b) either:

- (i) the member has not moved to a new benefit category; or
- (ii) if the member has moved to a new benefit category, the new benefit category does not provide the member with an improved level of benefit.

[4] Subregulation 292-170.06 (5)

substitute

(5) If the rate of superannuation salary has increased, since 5 September 2006, by:

- (a) more than 50% in 1 year; or
- (b) more than 75% over 3 years;

a condition is that the employer-sponsor advises the trustee that the increase in the rate is on an arm's length basis.

[5] Schedule 1A, paragraph 1.3 (a)

omit

; and

insert

; or

[6] Schedule 1A, subsection 2.5 (2)

substitute

- (2) Subject to subsection (2A), if the fund rules provide a discretion to pay, on voluntary exit, a benefit that is higher than the standard benefit, the actuary must assume that a higher benefit is always paid on voluntary exit on or after age 55.
- (2A) If the higher benefit mentioned in subsection (2) exceeds the accrued retirement benefit, the actuary may assume that the benefit is an amount:
 - (a) greater than or equal to the accrued retirement benefit; and
 - (b) less than or equal to the higher benefit.

[7] Schedule 1A, after subsection 3.6 (2)

insert

- (2A) If:
 - (a) on 1 July 2007, the defined benefit members of the fund include persons who have been, before becoming members of the fund, members of a predecessor fund; and
 - (b) the actuary considers that it is reasonable to do so;the actuary may use the age of entry of those members into the predecessor fund in determining the average age of entry.
- (2B) For this section:
defined benefit member does not include a person who:
 - (a) is receiving only a pension benefit from the fund; or
 - (b) has deferred his or her benefit entitlement in the fund.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frl.gov.au.