



# **Income Tax Assessment Amendment Regulations 2011 (No. 5)**

## **Select Legislative Instrument 2011 No. 182**

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I, QUENTIN BRYCE, 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 29 September 2011

QUENTIN BRYCE  
Governor-General

By Her Excellency's Command

BILL SHORTEN  
Minister for Financial Services and Superannuation

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**1 Name of Regulations**

These Regulations are the *Income Tax Assessment Amendment Regulations 2011 (No. 5)*.

**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 Amendment**

(regulation 3)

**[1] After Subdivision 295-F**

*insert*

**Subdivision 295-G Deductions**

**295-465.01 Deductible portion of premiums**

- (1) For subsections 295-465 (1B) and (2A) of the Act, the proportion specified in an item in the table in relation to the insurance policy specified in the item may be treated:
  - (a) as being attributable to the complying superannuation fund's liability to provide benefits referred to in section 295-460 of the Act; and

- (b) as being the amount the fund could reasonably be expected to pay, in an arm's length transaction, to obtain an insurance policy to cover it for its current or contingent liabilities to provide benefits referred to in section 295-460 of the Act.

Item	Insurance policy	Specified proportion %
1	TPD any occupation	100
2	TPD any occupation with one or more of the following inclusions: (a) activities of daily living; (b) cognitive loss; (c) loss of limb; (d) domestic (home) duties	100
3	TPD own occupation	67
4	TPD own occupation with one or more of the following inclusions: (a) activities of daily living; (b) cognitive loss; (c) loss of limb; (d) domestic (home) duties	67
5	TPD own occupation bundled with death (life) cover	80
6	TPD own occupation bundled with death (life) cover with one or more of the following inclusions: (a) activities of daily living; (b) cognitive loss; (c) loss of limb; (d) domestic (home) duties	80

- (2) A specified proportion mentioned in the table in subregulation (1) will be deductible only if the conditions to which the insurance policy that relates to the proportion is subject are either more restrictive than or have substantially the same meaning as the conditions described in the definition of the policy in subregulation (5).

- (3) If a member is required to meet a criterion to be eligible for a benefit under an insurance policy in addition to the criteria that are essential to the matters identified in the definition of the policy in subregulation (5), the additional criterion may be disregarded.
- (4) The use of a specified proportion in the table in subregulation (1) in respect of a particular insurance policy is not affected by the inclusion in the insurance policy of a benefit payable to a member because a terminal medical condition exists in relation to the member.

- (5) In this regulation:

***activities of daily living*** means a component of a disability insurance policy that insures against a disability that results in a member's total and permanent inability to perform at least 2 of the following activities of daily living without the assistance of another person:

- (a) bathing and showering;
- (b) dressing and undressing;
- (c) eating and drinking;
- (d) mobility, to the extent of being able to get in and out of bed or a chair, and move from place to place without using a wheelchair;
- (e) the ability to use a toilet.

***bundled*** means a situation in which:

- (a) the TPD and death (life) components of the combined insurance premium are not separately identified; and
- (b) the amount payable to the insured person in relation to the TPD component does not exceed the amount payable in relation to the insured person in relation to the death (life) component.

***cognitive loss*** means a component of a disability insurance policy that insures against a member suffering a permanent deterioration or loss of cognitive functioning or intellectual capacity that requires the person to be under the continuous care and supervision of another person.

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***death (life) cover*** means insurance against the liability to provide a superannuation death benefit within the meaning of the Act.

***domestic (home) duties*** means a component of a disability insurance policy that insures against a disability that results in a member being:

- (a) unable to perform the member's normal domestic duties; and
- (b) unable to leave the member's home unaided; and
- (c) incapacitated to such an extent that the member is unlikely to ever engage in normal domestic duties or any gainful employment.

***loss of limb*** means a component of a disability insurance policy that insures against the permanent loss of:

- (a) the sight in both the member's eyes resulting in blindness; or
- (b) the use of two or more of the member's limbs, feet or hands; or
- (c) the sight in one of the member's eyes resulting in blindness in that eye and the use of one of the member's limbs, feet or hands.

***normal domestic duties*** means the tasks performed by an individual whose sole occupation is to maintain the individual's family home, including;

- (a) unassisted cleaning of the individual's home; and
- (b) cooking of meals for the individual's family; and
- (c) doing the laundry for the individual's family; and
- (d) shopping for food for the individual's family; and
- (e) taking care of any dependent children.

***TPD any occupation*** means insurance against the member suffering an illness or injury that is likely to result in the member's permanent inability to engage in gainful employment for which the member is reasonably qualified by education, training or experience.

***TPD own occupation*** means insurance against the member suffering an illness or injury that is likely to result in the member's permanent inability to engage in gainful

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employment in the member's own occupation, where inability to engage in gainful employment includes the inability to work otherwise than in a substantially reduced capacity to that in which the member worked before suffering the illness or injury.