

LCR 2018/5A1 - Addendum - First home super saver scheme

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Addendum

Law Companion Ruling

First home super saver scheme

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Law Companion Ruling LCR 2018/5 to reflect amendments to the law made by *Treasury Laws Amendment (2019 Measures No. 1) Act 2019*.

LCR 2018/5 is amended as follows:

1. Preamble

At the end of the second paragraph, insert 'and the *Treasury Laws Amendment (2019 Measures No. 1) Act 2019*'.

2. Table of contents

At the entry for paragraph 26 after the words 'Obligations following the', insert 'request for'.

3. Paragraph 15

- (a) In first sentence, omit '13'; substitute '12'.
- (b) After the fourth dot point, insert:
 - amounts transferred from a KiwiSaver scheme that are Australian-sourced amounts or returning New Zealand-sourced amounts^{13A}
 - applicable fund earnings from a foreign fund transfer that you elect to include in the receiving fund's assessable income
- (c) At the end of the new fifth dot point, insert footnote 13A:

^{13A} The remainder of a KiwiSaver Scheme amount transferred into an Australian super fund, that is not an Australian-sourced amount or a returning New Zealand-sourced amount, will meet the conditions in paragraph 12 of this Ruling.

4. Paragraph 26

- (a) In the heading after 'Obligations following the', insert 'request for'.
- (b) In the second sentence, omit the words 'after the release of funds'.
- (c) Omit the first two dot points; substitute:

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- you receive a FHSS determination and you make a valid request for the release of an amount of super in relation to that determination.^{28A} This must be your first such request
 - you enter into a contract to purchase or construct a CGT asset that is a residential premises²⁹, located in Australia, within the period beginning 14 days before the day you make the valid request for release, and ending 12 months after the day you make the valid request for release (or a further period allowed by the ATO)^{29A}
 - the price for the purchase or construction of the premises is at least equal to the total amount to be released that is stated in the valid request for release.
- (d) At the end of footnote 28, insert 'Section 313-35 was amended by *Treasury Laws Amendment (2019 Measures No. 1) Act 2019*'.
- (e) In the new first dot point after the word 'determination', insert footnote 28A:
^{28A} A 'valid request' is a request made under section 131-5.
- (f) At end of the new second dot point, insert footnote 29A:
^{29A} The contract to purchase or construct a residential premises to which the valid request for release relates has to be entered into on or after 1 July 2018.

5. Paragraph 28

- (a) In the first paragraph after 'following the', insert 'valid request for'.
- (b) Omit the first dot point; substitute:
- make non-concessional contributions within the period beginning 14 days before the day you make the valid request for release, ending 12 months after the day you make the valid request for release (or further period allowed by the ATO)^{32A}.
- (c) Omit the third dot point (excluding footnote 33); substitute:
- notify the ATO in the approved form that you made the non-concessional contributions within the period beginning 14 days before the day you make the valid request for release, ending 12 months after the day you make the valid request for release' (or further period allowed by the ATO).³³
- (d) At end of first dot point, insert footnote 32A:
^{32A} Sections 313-35 and 313-50 of the ITAA 1997. Sections 313-35 and 313-50 were amended by *Treasury Laws Amendment (2019 Measures No. 1) Act 2019*.

6. Paragraph 29

- (a) In the first sentence after 'residential premises', insert 'located in Australia'.
- (b) In the first sentence after 'stipulated time periods', insert footnote 33A:
^{33A} Sections 313-40 and 313-50 of the ITAA 1997.

7. Paragraph 30

Omit the words 'because you entered into a contract to purchase or construct a residential premises before the FHSS released amount was released,'.

This Addendum applies on and from 1 July 2019.

Commissioner of Taxation

3 July 2019

ATO references

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