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## Explanatory Statement

# Taxation Laws (Requirement to Lodge a Return for the 2026 Year) Instrument 2026

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### General outline of instrument

1. This legislative instrument is made under sections 130, 148, 161, and 163 of the *Income Tax Assessment Act 1936* (ITAA 1936), section 214-15 of the *Income Tax Assessment Act 1997* (ITAA 1997), section 35D of the *Superannuation Industry (Supervision) Act 1993* (SISA), and section 390-5 in Schedule 1 to the *Taxation Administration Act 1953* (TAA).
2. This instrument specifies which persons are required to lodge an income tax return for the income year, and when a return must be lodged. This includes a requirement to lodge a community charity return.
3. This instrument also deals with other lodgment requirements for:
  - (a) franking returns
  - (b) venture capital deficit tax returns
  - (c) ancillary fund returns, and
  - (d) trustees of self-managed superannuation funds.
4. A return must be lodged in the approved form.
5. This instrument is remade annually to capture threshold changes and on occasion, exempt or include a new class of persons to lodge an income tax return for the income year.
6. This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

### Date of effect

7. This instrument commences on the day after it is registered on the Federal Register of Legislation.

### Background

8. Certain laws enable the Commissioner of Taxation (Commissioner) to require persons to give a return. For example, section 161 of the ITAA 1936 says that every person must, if required by the Commissioner by legislative instrument, give to the Commissioner a return for a year of income within the period specified in the instrument. The Commissioner may also require certain persons to give returns under section 130, 148 and 163 of the ITAA 1936 and section 214-15 of the ITAA 1997. This instrument specifies classes of persons who are required to give a return.

9. In addition, for the trustee of a self-managed superannuation fund, the instrument provides the relevant timeframes for the purposes of:

- (a) section 35D of the SISA, which enables the Commissioner to determine the period in which returns under section 35D must be provided to the Commissioner, and
- (b) section 390-5 in Schedule 1 to the TAA, which enables the Commissioner to determine the day on which member information statements must be provided to the Commissioner.

10. Income tax exempt non-charitable not-for-profits (NFPs) are required to submit an online annual self-review return to enhance the transparency of income tax exemptions claimed by NFPs. NFPs that self-assess as income tax exempt have always been required to review their entitlement to the exemption and maintain governing documents to satisfy their operation as an NFP.

## **Effect of this instrument**

### ***Requirement to lodge an income tax return***

11. Section 6 requires certain persons to lodge an income tax return for the '2026 year'. For persons who do not have a 'substituted accounting period', the 2026 year is the year of income ended on 30 June 2026. For persons with a substituted accounting period – that is, a period they have been granted leave to adopt under section 18 of the ITAA 1936 instead of the year of income ended 30 June 2026 – the 2026 year is their substituted accounting period.

12. This requirement to lodge extends to certain entities whose income is exempt under Division 50 of the ITAA 1997 to lodge an 'NFP self-review return' (see subsection 6(11)).

13. Section 7 provides exceptions to certain classes of persons covered by section 6. This includes exceptions to the requirement to lodge a 'NFP self-review return' (see subsection 7(4)), and an exception to the requirement to lodge an income tax return for Public Trustees acting in that capacity, where the relevant trust estate derives no taxable income or small amounts not subject to tax in the hands of the beneficiary (see subsection 7(1)(g)).

14. Section 8 specifies the dates by which an income tax return required under this instrument must be lodged.

15. These due dates for lodgment differ for some classes of person to ensure that all persons required to lodge a return under this instrument have sufficient time after the end of the income year to prepare the information required for reporting.

### ***Other lodgment requirements***

16. The instrument also sets out the requirement and due date for:

- (a) a corporate tax entity to lodge a franking return, noting that there are special rules for late balancing corporate tax entities that elect to use 30 June as a basis for determining their franking deficit tax liability (see sections 9 and 10)
- (b) a corporate tax entity to lodge a venture capital deficit tax return (see sections 11 and 12)
- (c) a trustee of a public ancillary fund or a private ancillary fund to lodge an ancillary fund return (see sections 13 and 14), and
- (d) a trustee of a community charity trust or a community charity corporation to lodge a community charity return (see sections 16 and 17).

17. In addition, section 15 deals with when returns and member information statements for self-managed superannuation funds must be lodged.

### **Compliance cost impact**

18. Compliance cost impact: Minor – There will be no additional regulatory impacts as the instrument is minor and machinery in nature (OIA26-11553).

### **Consultation**

19. For this instrument, broad public consultation was undertaken for a period of 4 weeks ending on 13 March 2026.

20. The draft instrument and draft explanatory statement were published to the ATO Legal database. Publication was advertised via the 'What's new' page on that website, and via the 'Open Consultation' page on ato.gov.au. Major tax and superannuation publishers and associations monitor these pages and include the details in the daily and weekly alerts and newsletters to their subscribers and members. This ensures advice of the draft is disseminated widely across the tax professional community, and that they are in an informed position to provide comments and feedback.

21. Feedback was received proposing exemptions from lodging returns for trusts below a specified income distribution threshold. It was also suggested that this threshold be administered by external bodies, and as an example, through the definition of a small-value estate. Additionally, it was noted that the current drafting of the exemption for public trustees puts additional onus on the executor to confirm with each beneficiary about their taxable income (which may be difficult to attain).

22. The feedback did not result in any changes. The lodgment exemption introduced this year is to remove lodgment obligations on certain trustees without tax liability. It is designed in a way that does not undermine the objectives of the Modernising Tax Administration Systems program, in particular greater transparency through improved reporting, data matching, and prefill.

## **Statement of compatibility with human rights**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

### **Taxation Laws (Requirement to Lodge a Return for the 2026 Year) Instrument 2026**

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the legislative instrument**

This instrument specifies which persons are required to lodge an income tax return, franking return, venture capital deficit tax return, ancillary fund return or community charity return for the 2026 year (which, for many persons, is the income year ended 30 June 2026). It also specifies the dates by which returns must be lodged, and when other certain information must be provided to the Commissioner of Taxation.

#### **Human rights implications**

This instrument does not engage any of the applicable rights or freedoms. It requires certain persons to lodge a return, and specifies when returns and other information must be provided, so that the Commonwealth can properly administer tax and superannuation laws.

#### **Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.