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## Explanatory Statement

# Taxation Administration Member Account Transaction Service – the Reporting of Information Relating to Superannuation Account Transactions 2018

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### General outline of instrument

1. This instrument is made under section 390-5 and section 390-20 of Schedule 1 to the *Taxation Administration Act 1953* (TAA 1953).
2. This instrument sets out the way in which superannuation providers in relation to superannuation plans (excluding self-managed superannuation funds (SMSFs)) and life insurance companies, are required to give statements to the Commissioner of Taxation (the Commissioner) in relation to an individual's superannuation account transactions.
3. This determination is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

### Date of effect

5. The instrument will commence on the day after it is registered on the Federal Register of Legislation and will apply from 1 July 2018.

### What is this instrument about

6. The principal purpose of the instrument is to set out the timeframe for the giving of a statement under section 390-5 and section 390-20 of Schedule 1 to the TAA 1953 in relation to an individual's superannuation account transactions. The Member Account Transaction Service (MATS) form is the approved form for the giving of such a statement to the Commissioner.
7. This instrument establishes when such a statement is to be lodged to report certain superannuation account transactions unless the time for lodging the approved form is deferred by the Commissioner under section 388-55 of Schedule 1 to the TAA 1953.

### What is the effect of this instrument

8. The effect of this instrument is that superannuation providers in relation to superannuation plans (excluding SMSFs), and life insurance companies, are required to report information relating to an individual's superannuation account transactions to the Commissioner by lodging a statement in the approved form by the relevant due date specified in the instrument.

9. As the MATS form is the approved form for the giving of the statement to the Commissioner, a penalty may be imposed under Division 286 of Schedule 1 to the TAA 1953 for failure to lodge on time and in the approved form.
10. The information that must be reported to the Commissioner includes but is not limited to, information in relation to the following types of superannuation account transactions:
  - i. member contribution balance amounts,
  - ii. employer contributions,
  - iii. non employer transactions
  - iv. retirement phase events, and
  - v. acknowledgment of valid notices of intent to claim a personal superannuation contribution deduction.
11. 'Member contribution balance amounts' include account balances, retirement phase values and accumulation phase values to be reported as at 30 June of a financial year, and 'notional taxed contributions' (uncapped) and 'defined benefit contributions', that are required to be reported for a financial year, as applicable.
12. 'Non-employer transactions' includes all contributions made by an entity other than an employer and amounts allocated from a reserve.
13. 'Retirement phase events' are transactions that result in a credit or debit in an individual's transfer balance account, including:
  - i. superannuation income streams that commence or begin to be in the retirement phase on or after 1 July 2017,
  - ii. limited recourse borrowing arrangement repayments,
  - iii. member commutations, and
  - iv. superannuation income streams that stop being in the retirement phase.
14. The reporting of information relating to superannuation account transactions to the Commissioner in the MATS form commences from 1 July 2018.
15. Following consultation with industry the Commissioner will provide administrative concessions to support the transition to MATS reporting. There will be a transitional period from 1 July 2018 until 31 March 2019, allowing for the first lodgment of the MATS form to be no later than 10 business days from the 31 March 2019, unless the time for lodging the approved form is deferred by the Commissioner.
16. Until they transition to MATS, superannuation providers in relation to superannuation plans (excluding SMSFs) and life insurance companies will continue to use the Transfer Balance Account Report (TBAR) to report transactions to enable the ATO to:
  - i. determine if an individual has exceeded their transfer balance cap and take appropriate action,
  - ii. determine an individual's total superannuation balance, and
  - iii. determine an individual's uncapped notional taxed contributions.
17. Compliance with a commutation authority issued by the Commissioner will continue to be reported by superannuation providers and life insurance companies via the TBAR.
18. If an error is identified in information originally reported in a TBAR, the report may be cancelled via the TBAR or a MATS form, and the information re-reported where applicable.
19. The TBAR reporting requirements are detailed in legislative instrument F2017L01273 - *Reporting of event based transfer balance account information in accordance with the Taxation Administration Act 1953*.

20. This instrument does not alter the reporting obligations for the financial year ending 30 June 2018 and prior financial years, as detailed in legislative instrument F2014L00691 - *Lodgment of statements by superannuation providers in relation to superannuation plans (other than self managed superannuation funds) for each financial year ended 30 June in accordance with the Taxation Administration Act 1953*.

### **Compliance cost**

21. Compliance Cost Impact: Minor – there will be no or minimal impacts for both implementation and ongoing compliance costs. The legislative instrument is minor or machinery in nature.

### **Background**

22. Since June 2001 the Commissioner has published requirements for lodgment of returns and statements in accordance with relevant legislation.
23. From July 2013 superannuation providers in relation to superannuation plans were required to lodge a Member Contributions Statement annually for each individual who held a superannuation interest in a superannuation plan at any time during the financial year.
24. From 1 October 2017 superannuation providers in relation to superannuation plans, and life insurance companies, were required to lodge a TBAR to report certain event based transfer balance account information to the Commissioner and information relevant to determining an individual's total superannuation balance and uncapped notional tax contributions..
25. The reporting requirements for superannuation providers (excluding SMSFs) and insurance companies is transitioning to event based reporting via the:
- i. Member Account Attribute Service (MAAS) form – for the reporting of information relating to an individual's superannuation account phases and attributes from 1 April 2018, and
  - ii. MATS form – for the reporting of information relating to an individual's superannuation account transactions from 1 July 2018.
26. Trustees of SMSFs will continue to report their member's superannuation account transactions, including retirement phase events, via their SMSF annual return and the TBAR.

### **Consultation**

27. This instrument was developed in consultation with key industry stakeholders. The ATO undertook consultation on the timing and overall framework of MATS reporting including ongoing workshops with industry from July 2015.
28. Further documents were published on the ATO's software developer's website in the form of the MATS Business Implementation Guide and MATS technical documents.
29. The ATO considered all issues in preparing the final legislative instrument. The majority of consultation feedback sought clarification about the relevant timeframes in specific circumstances and the ATO provided clarification on these points.

**Legislative references:**

*Acts Interpretation Act 1901*

*Legislation Act 2003*

*Human Rights (Parliamentary Scrutiny) Act 2011*

*Taxation Administration Act 1953*

*Income Tax Assessment Act 1997*

*Lodgment of statements by superannuation providers in relation to superannuation plans (other than self managed superannuation funds) for each financial year ended 30 June in accordance with the Taxation Administration Act 1953*

*Reporting of event based transfer balance account information in accordance with the Taxation Administration Act 1953*

## **Statement of compatibility with Human Rights**

This statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

### **Taxation Administration Member Account Transaction Service – the Reporting of Information Relating to Superannuation Account Transactions 2018.**

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**

The principal purpose of the instrument is to set out the reporting periods and lodgment timing for superannuation providers (excluding self-managed superannuation funds) and life insurance companies to lodge a statement to report superannuation account transactions.

### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms as it simply provides guidance for superannuation providers on their obligations to lodge statements and the date by which they must be lodged.

### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.