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Lodgment of returns for the year of income ended 30 June 2009 in accordance with the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Taxation Administration Act 1953*, the *Superannuation Industry (Supervision) Act 1993* and the *Income Tax (Transitional Provisions) Act 1997*

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I, Michael D'Ascenzo, Commissioner of Taxation, make the following Legislative Instrument regarding lodgment of returns for the year of income ended 30 June 2009 in accordance with the:

***Income Tax Assessment Act 1936:***

Section 23AF; Section 23AG; Section 24F; Section 24G; Section 160AAAA; Section 161; Subsection 161A(1); Section 162; Section 163; Division 1AB of Part III; Division 1A of Part III; and Division 5A of Part III.

***Income Tax Assessment Act 1997:***

Section 204-75; Section 205-50; Section 210-135; Section 995-1; Division 50; Subdivision 61-G; Division 405; Division 703; Division 719; Division 830; Division 840; and Part 3-90.

***Taxation Administration Act 1953 (Schedule 1):***

Section 12-140; Section 12-320; Section 260-140, Section 286-75, Section 388-50, Section 388-55; Subdivision 12-F; Subdivision 12-FA and Subdivision 12-H

***Superannuation Industry (Supervision) Act 1993:***

Section 35D.

***Income Tax (Transitional Provisions) Act 1997:***

Division 205; and Division 214.

***Citation***

This Instrument may be cited as 'Lodgment of returns for the year of income ended 30 June 2009 in accordance with the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Taxation Administration Act 1953*, the *Superannuation Industry (Supervision) Act 1993* and the *Income Tax (Transitional Provisions) Act 1997*.'

## Lodgment of Income Tax Returns

In accordance with section 161 and related provisions of the *Income Tax Assessment Act 1936* I require every person described in Tables A, B, C, D, E, F, G, H, I, J, K or L to give me a return of income for the year of income ended 30 June 2009 (or approved period in lieu).

In this Instrument a '*person*' includes:

- a partner of a partnership, including a foreign hybrid as defined in Division 830 of the *Income Tax Assessment Act 1997* and, subject to Table K or Table P, the descriptions in the Tables apply to a partner with respect to their duty to give me a partnership return as if the partnership were regarded as a person and meets those descriptions;
- a trustee of a trust estate;
- a trustee of a First Home Saver Accounts trust; and
- a 'full self-assessment taxpayer'. A 'full self-assessment taxpayer' means a company, a trustee of a corporate unit trust, a trustee of a public trading trust, a trustee of an approved deposit fund, a trustee of a superannuation fund, a trustee of a pooled superannuation trust or a corporate limited partnership that is treated as a company by virtue of the provisions of Division 5A of Part III of the *Income Tax Assessment Act 1936*.

In this Instrument, a reference to '*year of income*' or '*income year*' means the year of income ended 30 June 2009, or the approved period in lieu where a person has been granted leave to adopt a substituted accounting period in accordance with section 18 of the *Income Tax Assessment Act 1936*.

Every person required to lodge a return (with the exception of the trustee of a First Home Saver Accounts trust and those covered in Table I and Table J) whose year of income ends on 30 June 2009 must do so by 31 October 2009.

Where a person required to lodge a return (with the exception of the trustee of a First Home Saver Accounts trust and those covered by Table I and Table J) has been granted leave to adopt a substituted accounting period in lieu of the year of income ended 30 June 2009, the return must be lodged with me no later than the 15<sup>th</sup> day of the 7<sup>th</sup> month after the end of their year of income if they are a full self-assessment taxpayer. If they are not a full self-assessment taxpayer, the return must be lodged with me no later than 4 months after the close of the accounting period adopted.

Where a person is described in Table I or Table J and is required to lodge a return in that capacity for the year of income ended 30 June 2009, or approved period in lieu, a return must be lodged with me no later than the 1<sup>st</sup> day of the 6<sup>th</sup> month of the following year of income. Where Table I applies, a person is required to furnish a separate return for each person for whom they are an agent, in addition to their own return (if one is required). Where Table J applies, a person is required to furnish an aggregate return representing their position as agent, in addition to their own return (if one is required).

Where a person is the trustee of a First Home Saver Accounts trust (as described in Table G) and is required to lodge a return in that capacity for the

year of income ended 30 June 2009, a return must be lodged with me no later than the 1<sup>st</sup> day of the 6<sup>th</sup> month of the following year of income.

In accordance with subsection 161A(1) of the *Income Tax Assessment Act 1936*, the return must be in the approved form.

## TABLE A

Every person not covered by Tables N or O who during the year of income:

- (1) had an amount withheld from payments or an amount paid to the Commissioner of Taxation ('the Commissioner') under the Pay As You Go (PAYG) withholding system, other than:
  - withholding payments covered by Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953* (relating to certain dividend, interest and royalty payments); or
  - withholding payments covered by Subdivision 12-FA in Schedule 1 to the *Taxation Administration Act 1953* (relating to departing Australia superannuation payments); or
  - withholding payments covered by the amendments to Subdivision 12-H in Schedule 1 to the *Taxation Administration Act 1953* made by *Tax Laws Amendment (Election Commitments No 1) Act 2008* (relating to fund payments from managed investment trusts to non-residents); or
  - withholding payments covered by section 12-140 in Schedule 1 to the *Taxation Administration Act 1953* that relate to an unfranked or partially franked dividend where the total amount of dividends or distributions received and franking credits (if any) was \$6,000 or less; or
  - withholding payments covered by section 12-320 in Schedule 1 to the *Taxation Administration Act 1953* (relating to mining payments); or
  - payments withheld from a superannuation lump sum to which section 303-10 of the *Income Tax Assessment Act 1997* (concerning certain superannuation lump sum payments received by a person with a terminal medical condition) applies; or
- (2) incurred a tax loss or made a net capital loss or is entitled to deduct a tax loss or apply a net capital loss of an earlier year of income, or being a company or trust estate has undeducted tax losses or unapplied net capital losses of any earlier year of income where those losses exceed \$1,000 or, being a company, transfers a tax loss or net capital loss to another group company; or
- (3) carried on a business; or
- (4) was entitled to income as a beneficiary of a trust estate that has operated a 'primary production business' (as defined in section 995-1 of the *Income Tax Assessment Act 1997*) in Australia; or
- (5) had an individual interest in the net income or partnership loss of a partnership which operated a primary production business (as defined) in Australia; or
- (6) was under 18 years of age and whose income for the year of income was more than \$2,666 (excluding salary and wages or other payments for work that was personally performed), or whose income from dividends or distributions and franking credits for the year of income was more than \$416; or

- (7) received income subject to the provisions of sections 23AF or 23AG of the *Income Tax Assessment Act 1936* and received \$1 or more of other income; or
- (8) paid an instalment amount under the PAYG instalment system; or
- (9) was a special professional as defined by Division 405 of the *Income Tax Assessment Act 1997*; or
- (10) was entitled to claim the private health insurance tax offset under Subdivision 61-G of the *Income Tax Assessment Act 1997*; or
- (11) had a reportable fringe benefits amount identified on their PAYG payment summary; or
- (12) derived assessable income from dividends or distributions and franking credits that exceeded \$6,000; or
- (13) made personal contributions to a complying superannuation fund or retirement savings account and will be eligible to receive a Super Co-contribution in relation to those contributions; or
- (14) received an Australian superannuation lump sum that included an untaxed element when aged 60 years or over; or
- (15) received an Australian superannuation lump sum that included a taxed element or an untaxed element when aged under 60 years; or
- (16) had a First Home Saver Account into which personal FHSA contributions had been made and who will be eligible to receive a Government FHSA contribution in respect of those contributions, but they will not be required to lodge a return of income under this paragraph if both of the following conditions are satisfied: they are not otherwise required to lodge a return by this Instrument; and they have notified the Commissioner that they do not need to lodge a tax return.

#### **TABLE B**

Every person, except where they are described in Tables N or O, who has received from my High Wealth Individuals Task Force a letter described as:

*'Notification of requirement for a detailed form of return for the year of income ended 30 June 2009 (or approved period in lieu).'*

#### **TABLE C**

Every person (not being a full self-assessment taxpayer), except where they are described in Table M, who was an Australian resident for the whole of the year of income and whose taxable income for the year of income exceeded \$6,000.

#### **TABLE D**

Every person (not being a full self-assessment taxpayer), except where they are described in Table M, who at any time during the year of income was not an Australian resident and derived income (including capital gains) that is taxable in Australia other than:

- dividend, interest or royalty income subject to withholding payments covered by Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953*, and
- fund payments from managed investment trusts subject to withholding because of the amendments to Subdivision 12-H in Schedule 1 to the *Taxation Administration Act 1953* made by *Tax Laws Amendment (Election Commitments No 1) Act 2008* (relating to fund payments from managed investment trusts to non-residents).

#### **TABLE E**

Every person (not being a full self-assessment taxpayer), except where they are described in Table M, who was an Australian resident for only part of the year of income and whose taxable income exceeded the amount obtained by multiplying \$500 by the number of months the person was an Australian resident (including the month in which the person became, or ceased to be, an Australian resident).

#### **TABLE F**

Every person being a full self-assessment taxpayer (excluding trustees of superannuation funds, approved deposit funds and pooled superannuation trusts) not covered by Table N or Table O that during the year of income:

- (1) is an Australian resident, and derived income (including capital gains) from sources in Australia or sources outside Australia; or
- (2) is a non-resident of Australia, and derived income (including capital gains) that is taxable in Australia other than:
  - dividend, interest or royalty income subject to withholding payments covered by Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953*, and
  - fund payments from managed investment trusts subject to withholding because of the amendments to Subdivision 12-H in Schedule 1 to the *Taxation Administration Act 1953* made by *Tax Laws Amendment (Election Commitments No 1) Act 2008* (relating to fund payments from managed investment trusts to non-residents).

#### **TABLE G**

Every trustee of a superannuation fund, an approved deposit fund, a pooled superannuation trust or a First Home Saver Accounts trust, not covered by Table N or Table O, that during the year of income:

- (1) was an Australian resident; or
- (2) was a non-resident of Australia, and derived income (including capital gains) that is taxable in Australia other than:
  - dividend, interest or royalty income subject to withholding payments covered by Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953*, and

- fund payments from managed investment trusts subject to withholding because of the amendments to Subdivision 12-H in Schedule 1 to the *Taxation Administration Act 1953* made by *Tax Laws Amendment (Election Commitments No 1) Act 2008* (relating to fund payments from managed investment trusts to non-residents).

Note:

Self managed superannuation funds to which this table applies are required to lodge the *Self Managed Superannuation Fund Annual Return 2009*. First Home Saver Accounts trusts are required to lodge the *Company Return 2009*. Other entities to which this table applies are required to lodge the *Fund Income Tax Return 2009*.

#### **TABLE H**

Every person that during the year of income was a head company of a consolidated group or a multiple entry consolidated (MEC) group pursuant to Part 3-90 of the *Income Tax Assessment Act 1997*.

#### **TABLE I**

Every person liable for tax as:

- (1) 'master of the ship or agent or other representative in Australia of the owner or charterer'; or
- (2) a person having 'control of a non-resident's money'.

#### **TABLE J**

Every person liable for tax as:

- (1) an 'agent for a non-resident insurer'; or
- (2) an 'agent for a non-resident reinsurer'.

#### **TABLE K**

A partnership return required under this Instrument, including for a 'foreign hybrid' treated as a partnership by Division 830 of the *Income Tax Assessment Act 1997*, is to be lodged by the partners resident in Australia or by any of them who satisfy the conditions set out below (other than a partner described in Table P):

- (a) if all those partners have equal individual interests in the net income, or partnership loss, of the partnership of the year of income, as the case may be – by any one of those partners;
- (b) if 2 or more of those partners have equal individual interests in the net income, or partnership loss, of the partnership of the year of income, as the case may be, and those interests are greater than the individual interest of any other of those partners in that net income or partnership loss – by any one of the first-mentioned partners; or

- (c) if paragraph (a) or (b) does not apply – by whichever of those partners has the greater or greatest individual interest in the net income, or partnership loss, of the partnership of the year of income, as the case may be.

If there is no partner resident in Australia, the return is to be lodged by the partnership's agent in Australia.

## **TABLE L**

Where the trustee of a trust estate has derived income (including capital gains) and the trustee is not covered by Tables M, N or O, a trust return is required to be lodged by the trustee resident in Australia. If there is no trustee resident in Australia, the return is to be lodged by the trust's public officer or, where no public officer is appointed, by the trust's agent in Australia.

### **Exceptions to the requirement to lodge an income tax return under this Instrument**

A person described in Tables C, D, E, or L **is not** required to lodge an income tax return under this Legislative Instrument if they are described in Table M. (See the Note after Table M).

A person described in Table N or Table O **is not** required to lodge an income tax return.

A person described in Table P is not required to lodge a partnership tax return.

## **TABLE M (to be read in conjunction with Tables C, D, E and L)**

- (1) Every person whose assessable income during the year of income included payments received in respect of one or more of:

Social security benefits and allowances, that is, newstart allowance, sickness allowance, youth allowance, special benefit, widow allowance, partner allowance, parenting payment (partnered), mature age allowance, austudy payment;

Exceptional circumstances relief payments, farm help income support;

Interim income support payment;

Specified Commonwealth education and training payments to persons 16 years or older, that is, payments made under ABSTUDY (including the ABSTUDY Masters and Doctorate Award), the Veterans' Children Education Scheme, the Military Rehabilitation and Compensation Act Education and Training Scheme (known as 'MRCA Education Allowance' on a PAYG payment summary);

Commonwealth labour market programs, such as Green Corps Training Allowance, New Enterprise Incentive Scheme Allowance, Textile, Clothing and Footwear Special Allowance;



Income support component of wages paid to participants in the Community Development Employment Projects (CDEP) Scheme and CDEP Scheme participant supplement;

Northern Territory CDEP transition payment;

Equine Workers Hardship Wage Supplement payment;

**AND**

(a) who had no other assessable income; or

(b) whose taxable income **was less than or equal to \$14,000**.

- (2) Every person who qualified for a tax offset under section 160AAAA of the *Income Tax Assessment Act 1936* during the year of income and whose taxable income was **less than or equal to** the following amounts:

(A) if at any time during the year of income the person was single, widowed or separated - **\$28,867**; or

(B) if at any time during the year of income the person and their spouse (married or de facto) had to live apart due to illness **or** the person or their spouse was in a nursing home - **\$27,600**; or

(C) if at any time during the year of income the person and their spouse (married or de facto) lived together - **\$24,680**.

If a person is covered by more than one category during the year of income, the person is taken to be covered by category (A) or, if category (A) does not apply, category (B).

- (3) Every person who received income during the year of income from the following **AND** did not qualify for a tax offset under section 160AAAA of the *Income Tax Assessment Act 1936*:

Social security pensions: Age pension, bereavement allowance, disability support pension (where taxpayer is of age pension age), wife pension (where taxpayer or spouse is of age pension age), parenting payment (single), widow B pension, carer payment (where taxpayer or caree is of age pension age), education entry payment; or

Department of Veterans' Affairs service pensions: Age service pension, invalidity service pension (where taxpayer or spouse is of age pension age), partner service pension (where taxpayer or spouse is of age pension age or the spouse does not receive an invalidity service pension or where the taxpayer is non-illness separated from the spouse), carer service pension (where taxpayer or caree is of age pension age or the spouse does not receive an invalidity service pension), income support supplement (where the taxpayer does not receive the supplement on the grounds of permanent incapacity, or the taxpayer, spouse, or person cared for is of age pension age or the taxpayer's spouse does not receive an invalidity service pension or a disability support pension), Defence

Force Income Support Allowance (DFISA) (where the pension, payment or allowance to which it relates is taxable), or DFISA-like payments;

## AND

whose taxable income for the year was **less than or equal to** the following amounts:

- (A) if at any time during the year of income while receiving any of the above pensions or allowances, the person was single, widowed or separated - **\$25,299**; or
- (B) if at any time during the year of income while receiving any of the above pensions or allowances, the person and their spouse (married or de facto) had to live apart due to illness or the person or their spouse was in a nursing home - **\$24,272**; or
- (C) if at any time during the year of income while receiving any of the above pensions or allowances, the person and their spouse (married or de facto) lived together - **\$21,692**.

If a person is covered by more than one category during the year of income, the person is taken to be covered by category (A) or, if category (A) does not apply, category (B).

## NOTE:

Legislative Instrument *Lodgment of income tax returns in accordance with the Income Tax Assessment Act 1936 and the Taxation Administration Act 1953 for the year of income ended 30 June 2009 – Child Support Agency – parents with a child support assessment* requires persons to lodge an income tax return where they are a liable or recipient parent under a child support assessment **unless** their taxable income is less than \$18,808, **and** they are in receipt of specified Australian Government pensions, allowances or payments for the whole of the year of income.

## TABLE N

Any non-profit company that is an Australian resident and whose taxable income for the year of income **does not exceed \$416**.

Any non-profit association, organisation, institution, society or club, the income of which is exempt from liability to income tax under the provisions of Division 50 of the *Income Tax Assessment Act 1997*.

Any State/Territory body the income of which is exempt from income tax under the provisions of Division 1AB of Part III of the *Income Tax Assessment Act 1936*.

## TABLE O

Any person that for the whole of the year of income was:

- (a) a subsidiary member of a consolidated group (as defined in Division 703 of the *Income Tax Assessment Act 1997*); or
- (b) a subsidiary member of a MEC group (as defined in Division 719 of the *Income Tax Assessment Act 1997*).

## TABLE P

A person who has made an election under sub-section 485AA(1) or (2) of the ITAA 1936 in the current income year or any prior income year, in relation to their interest in a foreign investment fund so that the interest is treated as either an interest in a foreign hybrid limited partnership (pursuant to section 830-10(2) of the ITAA97 Act) or as an interest in a foreign hybrid company (pursuant to 830-15(5) of the ITAA97 Act), for the year of income and that interest does not pass the non-portfolio interest test within the meaning of section 960-195 of the ITAA97 Act, ignoring interests held by associates of the holding entity.

### NOTE:

**A partner is required to include details of all relevant income, expenditure and deduction items, as well as distribution details on their own tax return.**

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## AUSTRALIA INCLUDES TERRITORIES AND CERTAIN SEA INSTALLATIONS AND OFFSHORE AREAS

In this Instrument 'Australia' includes Norfolk Island, the Territory of Cocos (Keeling) Islands, the Territory of Christmas Island and certain sea installations and offshore areas. However, income derived by Territory residents, Territory companies or Territory trusts (as defined in Division 1A of Part III of the *Income Tax Assessment Act 1936*) of Norfolk Island, from sources in Norfolk Island and from outside Australia, is exempt from income tax under the provisions of sections 24F and 24G of the *Income Tax Assessment Act 1936*.

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## DEFERRAL OF TIME FOR LODGMENT OF RETURNS

In accordance with section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*, I may defer the time for lodgment of any return to a date later than the relevant date specified in this Instrument.

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## NOTICE OF REQUIREMENT TO LODGE A RETURN OR INFORMATION

Nothing in this Instrument prevents me or an authorised officer of the Australian Taxation Office from issuing a notice, pursuant to section 162 or section 163 of the *Income Tax Assessment Act 1936*, requiring a person to give me, in the approved form, a return, or further returns, or any information, statement or document about the person's financial affairs for any year of income.

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## **EXEMPTION FROM REQUIREMENT TO LODGE RETURNS**

Nothing in this Instrument prevents me or an authorised officer of the Australian Taxation Office from granting an exemption from lodgment, whether conditional or not, for specific returns or classes of returns from time to time.

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## **LODGMET OF FRANKING RETURNS**

If a corporate tax entity incurs, at any time during its 2008-09 income year, a liability to pay franking deficit tax or over-franking tax, or an obligation to disclose information to the Commissioner under section 204-75 of the *Income Tax Assessment Act 1997*, it is required to lodge a franking return for that income year.

A corporate tax entity is also required to lodge a franking return for its 2008-09 income year if a refund of income tax is taken by section 205-50 of the *Income Tax Assessment Act 1997* to have been paid to the entity at any time during that year.

If a corporate tax entity does not incur, during the income year, a liability to pay any amount of franking deficit tax or over-franking tax, or an obligation to disclose information under section 204-75 of the *Income Tax Assessment Act 1997*, and it has not received a refund of income tax mentioned above, then it is only required to lodge a franking return if it is specifically requested to do so by the Commissioner.

## **DATE OF LODGMET OF FRANKING RETURN**

The franking return must be lodged in the approved form by the last day of the month following the end of the income year in which the liability was incurred, or the refund is taken to have been paid, or the disclosure obligation arose, except in certain cases. This is also the date on which the franking deficit tax and over-franking tax, if any, is payable.

In certain cases where a refund of income tax is received the taxation law provides for a different payment date for franking deficit tax (namely, 14 days after that refund is received). In these cases the franking return accounting for that refund must be lodged by the payment date provided for in the law.

## **SPECIAL RULES FOR LATE BALANCING CORPORATE TAX ENTITIES THAT ELECT TO USE 30 JUNE AS A BASIS FOR DETERMINING THEIR FRANKING DEFICIT TAX LIABILITY**

Late balancing corporate tax entities that elect to use 30 June as a basis for determining their franking deficit tax liability in accordance with the rules contained in Division 205 of the *Income Tax (Transitional Provisions) Act 1997* are required to lodge a franking return and meet their liability for franking

deficit tax in accordance with the rules contained in Division 214 of the *Income Tax (Transitional Provisions) Act 1997*.

Where a late balancing corporate tax entity that elects to have its franking deficit tax liability determined on 30 June 2009 incurs a liability to pay franking deficit tax under Division 205 of the *Income Tax (Transitional Provisions) Act 1997*, the franking return must be lodged in the approved form by 31 July 2009 except in certain cases. This is also the date on which the franking deficit tax is payable.

In certain cases where a refund of income tax is received the taxation law provides for a different payment date for franking deficit tax (namely, 14 days after that refund is received). In these cases the franking return accounting for that refund must be lodged by the payment date provided for in the law.

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## **LODGMET OF VENTURE CAPITAL DEFICIT TAX RETURNS**

An entity that is a Pooled Development Fund for the purposes of the *Income Tax Assessment Act 1997* at the end of the income year, or that ceases to be a Pooled Development Fund during the income year, that has (or because of a refund of income tax, is taken to have) a deficit balance in its venture capital sub-account at the end of its 2008-09 income year, or immediately before it ceases to be a Pooled Development Fund during that year, is required to pay venture capital deficit tax under section 210-135 of the *Income Tax Assessment Act 1997* and is required to lodge a venture capital deficit tax return for that year.

Pooled Development Funds which have a nil or credit balance in the venture capital sub-account at the close of the income year or immediately before they cease to be Pooled Development Funds (and which are not taken to have a deficit at the relevant time by virtue of a refund of income tax) are not required to lodge a venture capital deficit tax return.

## **DATE OF LODGMET OF VENTURE CAPITAL DEFICIT TAX RETURN**

The venture capital deficit tax return must be lodged in the approved form by the last day of the month following the end of the income year. (This is also the date on which the venture capital deficit tax is payable.)

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## **LODGMET OF RETURNS IN ACCORDANCE WITH THE *SUPERANNUATION INDUSTRY (SUPERVISION) ACT 1993***

Where a taxpayer is a self managed superannuation fund as defined in the *Superannuation Industry (Supervision) Act 1993* at any time during the year of income ended 30 June 2009 (or approved period in lieu), then in accordance with section 35D of the *Superannuation Industry (Supervision) Act 1993* the period for lodgment of a return under that section is the period ending on the day that the taxpayer is required to lodge their income tax return. This return forms part of the *Self Managed Superannuation Fund Annual Return* which must be lodged with me in accordance with this Instrument.

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The requirements for the lodgment of contributions statements by superannuation providers in relation to superannuation plans (other than self managed superannuation funds) are detailed in a separate Legislative Instrument '*Lodgment of statements by superannuation providers in relation to superannuation plans (other than self managed superannuation funds) for each income year ended 30 June in accordance with the Taxation Administration Act 1953*'. The contributions statement for superannuation providers in relation to superannuation plans that are self managed superannuation funds forms part of the *Self Managed Superannuation Fund Annual Return* which must be lodged with me in accordance with this Instrument.

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## LODGMET IN THE APPROVED FORM

In accordance with subsection 161A(1) of the *Income Tax Assessment Act 1936*, a return, notice, statement, or other document **(including any schedule)** required by the Commissioner under this Instrument must be lodged in the approved form. Under section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*, a document is in the approved form if:

- it is in the form approved in writing by the Commissioner;
- it contains a declaration signed by the person or persons as required;
- it contains the information required by the form and is accompanied by any further information, statement, or document **(including any schedule)** required by the Commissioner; and
- it is given in the manner that the Commissioner requires (which may include electronically).

***Note: Giving false or misleading information is a serious offence.***

## PENALTIES FOR NON-COMPLIANCE

Any person who fails or refuses to give me a return or any other information under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997* commits an offence and is punishable on conviction by a fine not exceeding 20 penalty units if it is the first offence. If convicted of a second offence, the court may impose a fine not exceeding 40 penalty units. If convicted of a third or subsequent offence, the court may impose a fine not exceeding 50 penalty units or a maximum of 12 months imprisonment, or both. The court may impose a fine not exceeding 250 penalty units on a company if convicted for failing to give me a return or any other information under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*. Alternatively:

(1) any person (including a full self-assessment taxpayer) may, in relation to an income tax return, become liable to pay a penalty under section 286-75 in Schedule 1 to the *Taxation Administration Act 1953*;

(2) companies, trustees of corporate unit trusts, trustees of public trading trusts, corporate limited partnerships and pooled development funds may, in relation to a franking return, or a venture capital deficit tax return, become liable to pay a penalty under section 286-75 in Schedule 1 to the *Taxation Administration Act 1953*.

A trustee of a self managed superannuation fund who contravenes the requirement to lodge a return under section 35D of the *Superannuation Industry (Supervision) Act 1993* commits an offence and, if convicted, is liable to a penalty of 50 penalty units. This return forms part of the Self Managed Superannuation Fund Annual Return.

Note:

At the time this Instrument was registered one penalty unit was \$110.00.

(Michael D'Ascenzo)  
Commissioner of Taxation  
Dated this 19<sup>th</sup> day of June 2009