





# **Tax Laws Amendment (Superannuation Contributions Splitting) Act 2005**

**No. 148, 2005**

**An Act in respect of taxation measures relating to superannuation, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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## **An Act in respect of taxation measures relating to superannuation, and for related purposes**

*[Assented to 14 December 2005]*

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Tax Laws Amendment (Superannuation Contributions Splitting) Act 2005*.

## **2 Commencement**

This Act commences on the day on which it receives the Royal Assent.

## **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## Schedule 1—Superannuation contributions splitting

### *Income Tax Assessment Act 1936*

#### **1 Subsection 27A(1)**

Insert:

*contributions-splitting ETP*, in relation to a taxpayer, means an amount:

- (a) paid to a superannuation fund, approved deposit fund or life assurance company, or transferred within a superannuation fund, for the benefit of the taxpayer; and
- (b) designated as a spouse contributions-splitting amount in regulations made for the purposes of this definition.

#### **2 Subsection 27A(1) (at the end of paragraphs (a) and (b) of the definition of *eligible service period*)**

Add “or”.

#### **3 Subsection 27A(1) (after paragraph (b) of the definition of *eligible service period*)**

Insert:

- (ba) where the relevant eligible termination payment is an eligible termination payment by virtue of paragraph (bb) of the definition of *eligible termination payment*—a period of zero days; or

#### **4 Subsection 27A(1) (at the end of paragraph (c) of the definition of *eligible service period*)**

Add “or”.

#### **5 Subsection 27A(1) (definition of *eligible termination payment*)**

After “means”, insert “any of the following”.

**6 Subsection 27A(1) (at the end of subparagraph (b)(i) of the definition of *eligible termination payment*)**

Add “or”.

**7 Subsection 27A(1) (at the end of subparagraph (b)(iii) of the definition of *eligible termination payment*)**

Add “or”.

**8 Subsection 27A(1) (after subparagraph (b)(iii) of the definition of *eligible termination payment*)**

Insert:

(iv) that is a contributions-splitting ETP;

**9 Subsection 27A(1) (after paragraph (ba) of the definition of *eligible termination payment*)**

Insert:

(bb) an amount that is a contributions-splitting ETP;

**10 Subsection 27A(1) (definition of *eligible termination payment*)**

After “but does not include”, insert “any of the following”.

**11 Subsection 27A(1) (paragraph (n) of the definition of *eligible termination payment*)**

Omit “exertion; or”, substitute “exertion;”.

**12 Subsection 27A(1) (sub-subparagraph (p)(ii)(B) of the definition of *eligible termination payment*)**

Omit “or”.

**13 Subsection 27A(1) (paragraphs (q) and (qa) of the definition of *eligible termination payment*)**

Omit “or”.

**14 Subsection 27A(1) (subparagraph (r)(ii) of the definition of *eligible termination payment*)**

Omit “or”.

**15 Subsection 27A(12)**

After “if” (first occurring), insert “it is a contributions-splitting ETP or if”.

**16 Subsection 27AB(1) (table item 2, column headed “ETP type”)**

After “(b)”, insert “or (bb)”.

**17 At the end of section 27D**

Add:

- (8) The regulations may:
- (a) provide that, in circumstances prescribed by regulations for the purposes of this paragraph, an election under subsection (1) is taken to have been made in relation to a qualifying eligible termination payment that is a contributions-splitting ETP; and
  - (b) prescribe matters that are taken to be specified in such an election for the purposes of subsection (1); and
  - (c) prescribe such other matters as are necessary or convenient for the purposes of applying this section to such an election.

**18 After section 27H**

Insert:

**27HA Information about contributions-splitting ETPs**

- (1) A person who pays a contributions-splitting ETP in a financial year must give the Commissioner a statement setting out the matters required by the regulations.
- (2) The statement must be given:
  - (a) on or before 31 October in the next financial year; or
  - (b) by such later date (if any) as the Commissioner allows.

**19 Subsection 82AAS(1)**

Insert:

*contributions-splitting ETP* has the meaning given by subsection 27A(1).

**20 At the end of subsection 82AAT(1B)**

Add:

; (d) if:

- (i) a person has made a contributions-splitting application in respect of contributions made to the fund during a year of income; and
  - (ii) the trustee of the fund has not rejected the application;
- the person cannot give a notice in respect of those contributions.

Note: Paragraph (d) does not prevent a person from giving a notice under subsection (1A) before the person makes a contributions-splitting application in respect of the contributions.

**21 After subsection 82AAT(1B)**

Insert:

(1BA) In subsection (1B):

*contributions-splitting application* means an application designated in the regulations as a contributions-splitting application.

**22 At the end of subsection 82AAT(1CC)**

Add:

; (d) if:

- (i) a person has made a contributions-splitting application in respect of contributions made to the RSA during a year of income; and
  - (ii) the provider of the RSA has not rejected the application;
- the person cannot give a notice in respect of those contributions.

Note: Paragraph (d) does not prevent a person from giving a notice under subsection (1A) before the person makes a contributions-splitting application in respect of the contributions.

**23 After subsection 82AAT(1CC)**

Insert:

(1CCA) In subsection (1CC):

*contributions-splitting application* has the same meaning as in subsection (1BA).

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[*Minister's second reading speech made in—  
House of Representatives on 12 October 2005  
Senate on 28 November 2005*]

(164/05)

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