Treasury Laws Amendment (2018 Measures No. 4) Act 2019

No. 8, 2019

An Act to amend the law relating to taxation, superannuation, competition and consumers, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (https://www.legislation.gov.au/)

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Treasury Laws Amendment (2018 Measures No. 4) Act 2019

No. 8, 2019

An Act to amend the law relating to taxation, superannuation, competition and consumers, and for related purposes

[*Assented to 1 March 2019*]

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (2018 Measures No. 4) Act 2019*.

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2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	1 March 2019
2. Schedules 1 and 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 April 2019
3. Schedule 3, Part 1	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 April 2019
4. Schedule 3, Part 2	The later of: (a) the day after this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 2 to the *Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 2) Act 2019*. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
5. Schedules 4 and 5	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 April 2019
6. Schedule 6	1 July 2018.	1 July 2018
7. Schedule 7	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 April 2019

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Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
8. Schedule 8, Part 1	Immediately after the commencement of sections 1 to 3 of the *Superannuation Legislation Amendment (MySuper Core Provisions) Act 2012*.	28 November 2012
9. Schedule 8, Part 2	1 January 2018.	1 January 2018
10. Schedule 8, Part 3	The day after this Act receives the Royal Assent.	2 March 2019
11. Schedule 8, Parts 4, 5 and 6	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 April 2019
12. Schedule 8, Part 7	The day after this Act receives the Royal Assent.	2 March 2019
13. Schedules 9 and 10	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 April 2019
14. Schedule 11	1 July 2019.	1 July 2019

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation 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.

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Schedule 1—Direction powers

Part 1—Direction to pay superannuation guarantee charge

Taxation Administration Act 1953

1 At the end of Division 265 in Schedule 1

Add:

Subdivision 265-C—Direction to pay superannuation guarantee charge

Guide to Subdivision 265-C

265-85 What this Subdivision is about

> If you are liable to pay an amount of superannuation guarantee charge or certain related liabilities, the Commissioner may direct you to pay the amount.
>
> If the amount is not paid, you may commit an offence.

Table of sections

265-90 Direction to pay superannuation guarantee charge
265-95 Offence
265-100 Variation or revocation
265-105 Effect of liability being reduced or ceasing to exist
265-110 Taxation objection
265-115 Extension of period to comply if taxation objection made

265-90 Direction to pay superannuation guarantee charge

(1) The Commissioner may, by written notice, give you a direction requiring you to pay to the Commissioner:

(a) an amount of superannuation guarantee charge that is payable by you under the *Superannuation Guarantee (Administration) Act 1992*; or

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(b) if an estimate under Division 268 in this Schedule of an amount of a liability of yours to pay superannuation guarantee charge for a quarter under section 16 of the *Superannuation Guarantee (Administration) Act 1992* is in force as referred to in subsection 268-10(5)—the amount of the estimate.

Note: The direction does not create a separate liability to pay the amount. However, it may result in you committing an offence against subsection 265-95(1) if the amount is not paid.

(2) In deciding whether to give a direction under subsection (1), the Commissioner must have regard to the following matters:

(a) your history of compliance with obligations to pay superannuation guarantee charge, and obligations to pay estimates under Division 268 of superannuation guarantee charge;

(b) your history of compliance with other obligations under *taxation laws;

(c) whether the amount mentioned in paragraph (1)(a) or (b) is substantial, having regard to the size and nature of your business;

(d) any steps that you have taken to discharge the liability to pay the amount or dispute that the liability exists;

(e) any other matter that the Commissioner considers relevant.

(3) The direction must:

(a) set out the amount that you are required to pay to the Commissioner; and

(b) if the amount referred to in paragraph (1)(a) or (b) relates to a *quarter—set out the quarter; and

(c) specify the period before the end of which you must comply with the direction (which must end at least 21 days after the day the direction is given); and

(d) explain the consequences of failing to comply with the direction; and

(e) explain how you may have the Commissioner's decision to give the direction reviewed.

(4) To avoid doubt, a single notice may relate to 2 or more directions, but must comply with subsection (3) in relation to each of them.

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(5) A notice given under subsection (1) is not a legislative instrument.

265-95 Offence

(1) You commit an offence if:
  (a) you are given a direction under subsection 265-90(1); and
  (b) the liability to pay the amount set out in the direction is not discharged (whether by you or by another entity) before the end of the period specified in the direction under paragraph 265-90(3)(c).

Penalty: 50 penalty units or imprisonment for 12 months, or both.

(2) An offence against subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(3) Subsection (1) does not apply if both of the following apply:
  (a) you took all reasonable steps to comply with the direction before the end of the period specified in the direction under paragraph 265-90(3)(c);
  (b) you took all reasonable steps to ensure that the liability was discharged before the direction was given.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the *Criminal Code*.

265-100 Variation or revocation

(1) If the Commissioner has given you a direction under subsection 265-90(1), the Commissioner may, at any time before the end of the period specified in the direction under paragraph 265-90(3)(c), by written notice given to you:
  (a) vary the direction to reduce the amount that you are required to pay to the Commissioner in order to comply with the direction; or
  (b) vary the direction to extend the period specified in the notice of the direction under paragraph 265-90(3)(c); or
  (c) revoke the direction.

(2) To avoid doubt, the variation or revocation of a direction under subsection (1) does not affect any liability that you may have to pay an amount referred to in the direction.

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265-105 Effect of liability being reduced or ceasing to exist

(1) If:
  (a) you have been given a direction under subsection 265-90(1) requiring you to pay an amount of a liability referred to in that subsection to the Commissioner; and
  (b) the period specified in the direction under paragraph 265-90(3)(c) has not expired; and
  (c) the liability is reduced (but not to nil);

the amount set out in the direction is taken to be reduced by the amount of the reduction referred to in paragraph (c).

(2) If:
  (a) you have been given a direction under subsection 265-90(1) requiring you to pay an amount of a liability referred to in that subsection to the Commissioner; and
  (b) the period specified in the direction under paragraph 265-90(3)(c) has not expired; and
  (c) either:
    (i) the liability is reduced to nil; or
    (ii) the liability ceases to exist;

the direction is taken to be revoked.

(3) You may be convicted of an offence against subsection 265-95(1) in relation to a direction under subsection 265-90(1) requiring you to pay an amount of a liability referred to in subsection 265-90(1) to the Commissioner even if:
  (a) the liability is reduced, or ceases to exist, after the end of the period specified in the direction under paragraph 265-90(3)(c); or
  (b) the liability is discharged after the end of that period; or
  (c) the liability is, after the end of that period, taken never to have existed, or taken not to have existed at a time on or before the end of that period.

265-110 Taxation objection

If you are dissatisfied with a decision of the Commissioner to give you a direction under subsection 265-90(1), you may, at any time before the end of the period specified in the direction under

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paragraph 265-90(3)(c), object against the decision in the manner set out in Part IVC.

265-115 Extension of period to comply if taxation objection made

(1) This section applies if:
  (a) the Commissioner gives you a direction under subsection 265-90(1); and
  (b) the period specified in the direction under paragraph 265-90(3)(c) has not expired; and
  (c) you:
    (i) make an objection in accordance with section 265-110 in relation to the Commissioner's decision to give you the direction; or
    (ii) make an objection in the manner set out in Part IVC against a taxation decision that relates to your liability to pay an amount referred to in the direction.

(2) The period specified in the direction under paragraph 265-90(3)(c) is extended by one day for each day in the period that begins on the day the objection is made and ends at the end of the later of the following days:
  (a) the day 21 days after the day the Commissioner notifies you of the Commissioner's decision under section 14ZY in relation to the objection;
  (b) if, before the end of the day referred to in paragraph (a), you:
    (i) apply to the *AAT in accordance with Division 4 of Part IVC for review of the Commissioner's decision; or
    (ii) lodge an appeal against the Commissioner's decision with the Federal Court of Australia under Division 5 of that Part;

  the day the review or the appeal is finally determined.

(3) To avoid doubt, the extension of the period under subsection (2) does not affect any liability that you may have to pay an amount referred to in the direction.

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2 Application of superannuation guarantee charge direction provisions

Subdivision 265-C in Schedule 1 to the *Taxation Administration Act 1953*, as inserted by this Schedule, applies in relation to an amount referred to in paragraph 265-90(1)(a) in that Schedule, or an amount of an estimate referred to in paragraph 265-90(1)(b) in that Schedule, that first becomes payable on or after 1 July 2018.

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Part 2—Education directions

Taxation Administration Act 1953

3 After paragraph 8C(1)(f)

Insert:

(fa) to comply with an education direction in accordance with subsection 384-15(3) in Schedule 1; or

4 After Division 382 in Schedule 1

Insert:

Division 384—Education directions

Guide to Division 384

384-5 What this Division is about

> If the Commissioner reasonably believes that you have failed to comply with certain obligations arising under taxation laws, the Commissioner may give you a direction requiring a specified course of education to be undertaken.

Table of sections

384-10 When an education direction may be given
384-15 Education direction
384-20 Approval of courses of education
384-25 Costs of course of education
384-30 Variation or revocation on Commissioner's own initiative
384-35 Variation on request
384-40 Taxation objection

384-10 When an education direction may be given

(1) This section applies to you, and the Commissioner may give you an education direction under section 384-15, if the Commissioner reasonably believes that an item of the following table applies to you.

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Education directions	
Item	**The item applies to you if…**
1	You fail to pay an amount of a tax-related liability set out in subsection (2).
2	You fail to comply with an obligation to give a statement or information to the Commissioner under a taxation law set out in subsection (3).
3	You fail to comply with an obligation to keep records under a taxation law set out in subsection (3).
4	You fail to comply with an obligation under this Act that relates to a taxation law set out in subsection (3).

(2) The following table sets out tax-related liabilities for the purposes of subsection (1).

Item	Tax-related liability
1	Superannuation guarantee charge payable by you under the *Superannuation Guarantee (Administration) Act 1992*
2	An amount that is due and payable by you of an estimate under Division 268 of an amount of a liability referred to in paragraph 268-10(1)(b) (superannuation guarantee charge)

(3) The following table sets out taxation laws for the purposes of subsection (1).

Item	Taxation law
1	*Superannuation Guarantee (Administration) Act 1992*

384-15 Education direction

(1) If section 384-10 applies to you, the Commissioner may give you a written direction (an ***education direction***) requiring you to:

(a) ensure that any of the following individuals undertakes a specified approved course of education (see section 384-20):

(i) if you are an individual—you;

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(ii) an individual who makes, or participates in making, decisions that affect the whole, or a substantial part, of your business; and

(b) provide the Commissioner with evidence that the individual has completed the course.

(2) The education direction must specify the period within which you must comply with the direction (which must be a period that is reasonable in the circumstances).

Note: The period may be affected by the operation of subsection 384-35(7).

(3) You must comply with the direction within the specified period.

Note: Failure to comply with this subsection is an offence against section 8C.

(4) You are taken to comply with the direction if, and only if:

(a) an individual referred to in paragraph (1)(a) undertakes the specified approved course of education during the specified period; and

(b) before the end of the specified period, you provide the Commissioner with evidence that the individual has completed the course.

(5) You are liable to an administrative penalty of 5 penalty units if you contravene subsection (3).

Note: Division 298 contains machinery provisions for administrative penalties.

(6) An education direction is not a legislative instrument.

384-20 Approval of courses of education

(1) The Commissioner may, in writing, approve one or more courses of education for the purposes of giving education directions.

(2) A course approved under subsection (1) may be provided by the Commissioner or by another entity.

(3) An approval under subsection (1) is not a legislative instrument.

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384-25 Costs of course of education

(1) The Commissioner or other entity providing an approved course of education may charge fees for the course.

(2) Any fees charged must not be such as to amount to taxation.

384-30 Variation or revocation on Commissioner's own initiative

If the Commissioner has given you an education direction, the Commissioner may, at any time, vary or revoke the education direction by written notice given to you.

384-35 Variation on request

(1) If the Commissioner has given you an education direction, you may ask the Commissioner to vary the direction.

(2) The request must be made by written notice given to the Commissioner before the end of the period specified in the direction for the purposes of subsection 384-15(2).

(3) The request must set out the reasons for making the request.

(4) The Commissioner must decide:
  (a) to vary the direction in accordance with the request; or
  (b) to vary the direction otherwise than in accordance with the request; or
  (c) to refuse to vary the direction.

(5) If the Commissioner does not make a decision on the request before the end of 28 days after the day the Commissioner received the request, the Commissioner is taken, at the end of that period, to have decided to refuse the request.

(6) If the Commissioner makes a decision on the request before the end of the period referred to in subsection (5), the Commissioner must:
  (a) notify you of the Commissioner's decision; and
  (b) if the decision is to vary the direction (whether or not in accordance with the request)—give you a copy of the varied direction; and

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(c) if the decision is to refuse to vary the direction, or to vary the direction otherwise than in accordance with the request—give you written reasons for the decision.

(7) If you make a request under this section, then, for the purposes of subsection 384-15(3), the period specified in the direction for the purposes of subsection 384-15(2) is taken to be extended by 1 day for each day in the period:

(a) beginning at the start of the day the Commissioner receives the request; and

(b) ending at the end of the day that the Commissioner notifies you that a decision has been made on the request.

384-40 Taxation objection

If you are dissatisfied with:

(a) a decision of the Commissioner to give an education direction, or to vary one otherwise than in accordance with a request under section 384-35; or

(b) a decision of the Commissioner under section 384-35 to refuse to vary an education direction;

you may object against the decision in the manner set out in Part IVC.

5 Application of education direction provisions

Division 384 in Schedule 1 to the *Taxation Administration Act 1953*, as inserted by this Schedule, applies in relation to a failure referred to in subsection 384-10(1) in that Schedule that occurs on or after 1 July 2018 (including a failure to pay an amount that became payable before that day, and remains payable on or after that day).

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Part 3—Consequential amendments

Administrative Decisions (Judicial Review) Act 1977

6 After paragraph (gab) of Schedule 1

Insert:

(gac) decisions of the Commissioner of Taxation under Subdivision 265-C in Schedule 1 to the *Taxation Administration Act 1953* that are referred to in section 265-110 in that Schedule;

(gad) decisions of the Commissioner of Taxation under Division 384 in Schedule 1 to the *Taxation Administration Act 1953* that are referred to in section 384-40 in that Schedule;

Taxation Administration Act 1953

7 After paragraph 14ZW(1)(bh)

Insert:

(bi) if the taxation objection is made under section 265-110 in Schedule 1 to this Act (about directions to pay superannuation guarantee charge)—the period specified for the purposes of paragraph 265-90(3)(c) in the direction given to the person (subject to subsection 265-115(2)); or

(bj) if the taxation objection is made under section 384-40 in Schedule 1 to this Act (about education directions)—the period specified for the purposes of subsection 384-15(2) in the direction given to the person (subject to subsection 384-35(7)); or

8 Paragraph 298-5(c) in Schedule 1

After “Division 16 or section”, insert “384-15,”.

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Schedule 2—Disclosure of information about non-compliance

Taxation Administration Act 1953

1 Subsection 355-65(3) in Schedule 1 (table item 7, column headed "and the record or disclosure ...", paragraph (a))

After "the *Superannuation Guarantee (Administration) Act 1992*", insert ", or under a provision of this Act as it relates to that Act,".

2 Subsection 355-65(3) in Schedule 1 (after table item 7)

Insert:

7A	an individual who is or was an employee (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*)	(a) is of information that relates to: (i) a failure by the individual's employer or former employer to comply with the employer's obligations under the *Superannuation Guarantee (Administration) Act 1992*, or under a provision of this Act as it relates to that Act, in relation to the employee; or (ii) if the Commissioner reasonably suspects that such a failure has occurred—the suspected failure; or (iii) any actions taken by the Commissioner in relation to such a failure or suspected failure; and (b) does not relate to the general financial affairs of the employer.

3 Subsection 355-65(9) in Schedule 1

Repeal the subsection, substitute:

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(9) To avoid doubt, the exceptions in table items 7 and 7A in table 2 in subsection (3) have effect even if it is, or has been, in dispute or uncertain whether the individual is an employee or former employee of the employer.

4 Application—disclosure of information

The amendments made by this Schedule apply in relation to records or disclosures made on or after 1 July 2018 in relation to matters that arose before, on or after that day.

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Schedule 3—Single touch payroll reporting

Part 1—Single touch payroll reporting

Income Tax Assessment Act 1997

1 Subsection 995-1(1) (definition of *substantial employer*)

Repeal the definition.

Taxation Administration Act 1953

2 Paragraph 8AAZLGB(1)(a)

Repeal the paragraph, substitute:

(a) the Commissioner reasonably believes that the entity has made a payment as a result of which the entity is, or will be, required to notify the Commissioner under section 389-5 in Schedule 1; and

3 Paragraph 8AAZLGB(3)(b)

Omit "if subparagraph (1)(a)(i) applied—".

4 Section 389-1 in Schedule 1

Repeal the section, substitute:

389-1 What this Division is about

> Employers must (unless they are exempt) notify the Commissioner of certain amounts that relate to payments in respect of their employees.
>
> In many cases this Division has the effect of bringing forward the due dates for notification or reporting under other provisions. Notifying under this Division may satisfy an employer's obligations to notify or report under the other provisions.

5 Section 389-5 in Schedule 1 (heading)

Repeal the heading, substitute:

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389-5 Required reporting by employers

6 Subsection 389-5(1) in Schedule 1

Omit all the words from and including "If:" to and including "column 2 of that item", substitute "An entity must notify the Commissioner of an amount of a kind referred to in column 1 of an item in the following table on or before the day referred to in column 2 of that item, if the amount arises as a result of conduct of the entity (such as payment of an amount or provision of a benefit)".

7 Subsection 389-5(6) in Schedule 1

Repeal the subsection.

8 Subsections 389-15(1) and (2) in Schedule 1

Repeal the subsections.

9 Subsection 389-15(3) in Schedule 1 (heading)

Repeal the heading.

10 Application—required reporting

(1) The amendments made by this Part apply in relation to an amount that an entity is required to notify to the Commissioner if the requirement to notify arises on or after 1 July 2019.

(2) For the purposes of Division 3 of Part 1 of Schedule 23 to the *Budget Savings (Omnibus) Act 2016*, and despite item 24 of that Schedule, the ***application day*** for an entity is taken to be the earlier of the following:

(a) the application day for the entity under that Division, disregarding the effect of this item;

(b) 1 July 2019.

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Part 2—Reporting of salary sacrifice amounts

Taxation Administration Act 1953

11 Paragraphs 8K(2A)(a) and 8N(2)(a)

Omit "item 1 or 2", substitute "item 1, 2 or 2A".

12 Paragraph 284-75(8)(a) in Schedule 1

Omit "item 1 or 2", substitute "item 1, 2 or 2A".

13 Subsection 286-75(1) in Schedule 1 (note)

Repeal the note, substitute:

Note: You may not be liable to a penalty in relation to a failure to notify an amount referred to in item 1, 2 or 2A of the table in subsection 389-5(1) during the period provided for by subitem 22(2) of Schedule 23 to the *Budget Savings (Omnibus) Act 2016* (see also item 16 of Schedule 3 to the *Treasury Laws Amendment (2018 Measures No. 4) Act 2019*).

14 Subsection 389-5(1) in Schedule 1 (table item 2)

Repeal the item, substitute:

2	An amount that consists of either or both of the following: (a) an amount (other than an amount covered by item 1) paid, on a particular day, by the entity that constitutes the ordinary time earnings (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) of an individual who is the entity's employee (within the meaning of that Act but disregarding subsection 12(3) of that Act); (b) a sacrificed ordinary time earnings amount (within the meaning of that Act) of such an employee of the entity, in respect of the entity, that would be paid as ordinary time earnings on a particular day if it was not sacrificed	the day on which the amount is paid, or would be paid, as mentioned in column 1.

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2A	An amount that consists of either or both of the following: (a) an amount (other than an amount covered by item 1) paid, on a particular day, by the entity that constitutes the salary or wages (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) of an individual who is the entity's employee (within the meaning of that Act but disregarding subsection 12(3) of that Act); (b) a sacrificed salary or wages amount (within the meaning of that Act) of such an employee of the entity, in respect of the entity, that would be paid as salary or wages on a particular day if it was not sacrificed	the day on which the amount is paid, or would be paid, as mentioned in column 1.

15 Subsection 389-25(1) in Schedule 1

Omit "item 1 or 2", substitute "item 1, 2 or 2A".

16 Application

(1) The amendments made by this Part apply in relation to quarters beginning on or after the day this Part commences.

(2) The reference in paragraph 22(2)(a) of Schedule 23 to the *Budget Savings (Omnibus) Act 2016* to item 1 or 2 of the table in subsection 389-5(1) in Schedule 1 to the *Taxation Administration Act 1953* is taken to include a reference to item 2A of that table, as inserted by this Part.

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Schedule 4—Fund reporting

Part 1—Grace period for member information statements

Taxation Administration Act 1953

1 After subsection 8K(2A)

Insert:

(2B) Subsection (1) or (1B) does not apply if:

(a) the statement (the ***original statement***) was made under section 390-5 in Schedule 1; and

(b) the person who made the original statement makes a further statement to a taxation officer that corrects the original statement in each of the respects in which it is false or misleading in a material particular; and

(c) subsection 390-7(1) in Schedule 1 provides for a period for correcting the original statement; and

(d) the further statement:

(i) is in the approved form; and

(ii) is made within the period referred to in paragraph (c) of this subsection.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2B): see subsection 13.3(3) of the *Criminal Code*.

2 At the end of section 8N

Add:

(3) This section does not apply if:

(a) the statement (the ***original statement***) was made under section 390-5 in Schedule 1; and

(b) the person who made the original statement makes a further statement to a taxation officer that corrects the original statement in each of the respects in which it is false or misleading in a material particular; and

(c) subsection 390-7(1) in Schedule 1 provides for a period for correcting the original statement; and

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(d) the further statement:
  (i) is in the approved form; and
  (ii) is made within the period referred to in paragraph (c) of this subsection.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the *Criminal Code*.

3 Subsection 284-75(8) in Schedule 1 (heading)

Repeal the heading, substitute:

Further exceptions to subsection (1)

4 At the end of section 284-75 in Schedule 1

Add:

(9) You are not liable to an administrative penalty under subsection (1) if:
  (a) you made the statement (the ***original statement***) under section 390-5; and
  (b) you make a further statement to a taxation officer that corrects the original statement in each of the respects in which it is false or misleading in a material particular; and
  (c) subsection 390-7(1) provides for a period for correcting the original statement; and
  (d) the further statement:
    (i) is in the *approved form; and
    (ii) is made within the period referred to in paragraph (c) of this subsection.

5 After section 390-5 in Schedule 1

Insert:

390-7 Grace periods for correcting false or misleading member information statements

When statements can be corrected

(1) A *superannuation provider in relation to a *superannuation plan that has given a statement to the Commissioner under section 390-5 may correct the statement:

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(a) within the period determined by the Commissioner under subsection (2) of this section; or

(b) if paragraph (a) does not apply but the superannuation provider is covered by a determination under subsection (5)—within the period specified in that determination.

Note 1: Correcting the statement can protect the superannuation provider from liability for a false or misleading statement: see subsections 8K(2B), 8N(3) and 284-75(9).

Note 2: If no period has been determined under subsection (2) or (5) in relation to a superannuation provider, the superannuation provider will not be able to take advantage of the grace period provided for by this section.

Determinations for particular superannuation providers

(2) The Commissioner may determine the period within which the *superannuation provider may correct a statement.

(3) The Commissioner must give the *superannuation provider written notice of the determination.

(4) The *superannuation provider may object, in the manner set out in Part IVC, against a decision of the Commissioner determining a period under subsection (2) relating to the superannuation provider.

Determinations for classes of superannuation providers

(5) The Commissioner may, by legislative instrument, determine the period within which *superannuation providers included in a class of superannuation providers specified in the determination may correct a statement.

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Part 2—Employer reporting of superannuation contributions

Taxation Administration Act 1953

6 Subsection 389-5(1) in Schedule 1 (table item 3)

Repeal the item.

7 Application

The amendment made by this Part applies in relation to a contribution that is paid on or after 1 July 2018.

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Part 3—Statements for lost members

Superannuation (Unclaimed Money and Lost Members) Act 1999

8 Section 7

Omit:

> The regulations may establish a scheme under which superannuation providers must provide the Commissioner of Taxation with details relating to lost members. An aim of the scheme would be to reduce at an early stage the number of accounts which become unclaimed money.

9 Section 8 (definition of *lost member*)

Repeal the definition, substitute:

lost member means a member of a fund who is:

(a) a lost RSA holder within the meaning of the *Retirement Savings Accounts Regulations 1997*; or

(b) a lost member within the meaning of the *Superannuation Industry (Supervision) Regulations 1994*.

10 Part 4

Repeal the Part, substitute:

Part 4—Register of lost members

23 Register of lost members

The Commissioner must keep a register of lost members.

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24 Commissioner may give information to State or Territory authorities

The Commissioner may give information contained in the register to a State or Territory authority if the State or Territory has a law satisfying the requirements of subsections 18(4) and (5).

11 Subsection 24HA(1)

Omit "subsections 25(3) and (4)", substitute "subsection 25(4)".

12 Subsections 25(3) and 26(3)

Repeal the subsections.

13 Section 27

Omit "subsection 23(2)", substitute "Part 4".

14 Paragraph 29(1)(b)

Omit "subsection 23(2)", substitute "Part 4".

15 Subsection 44(1)

Omit "subsection 23(2)", substitute "Part 4".

16 Application of amendments

The repeal of subsection 23(1) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* made by this Part does not apply in relation to information that must be given to the Commissioner, under the scheme mentioned in that subsection as in force at any time before the commencement of this item, for a half year ending before 1 January 2018.

17 Transitional provisions

(1) The register that, just before the commencement of this item, was kept under regulations made for the purposes of subsection 23(2) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* is treated, from that commencement, as being kept under section 23 of that Act, as amended by this Part.

(2) Without limiting section 23 of that Act, as amended by this Part, the register kept under that section may contain any information given to the Commissioner (whether before, on or after the commencement of

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this item) under the scheme established by regulations made for the purposes of that section, as in force at any time before that commencement.

Taxation Administration Act 1953

18 At the end of subsection 390-5(9) in Schedule 1

Add:

; (d) information relating to the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

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Schedule 5—Compliance measures

Part 1—Penalties relating to estimates

Taxation Administration Act 1953

1 Subsection 269-10(1) in Schedule 1 (table item 4)

Repeal the item.

2 Subsection 269-10(1) in Schedule 1 (note)

Repeal the note.

3 At the end of section 269-10 in Schedule 1

Add:

Estimates

(4) This Division also applies if:
  (a) a company is a company registered under the *Corporations Act 2001*; and
  (b) the company is given notice of an estimate under Division 268; and
  (c) the company is obliged to pay the amount of the estimate to the Commissioner on or before a particular day (the ***due day***).

(5) If this Division applies because of subsection (4), then for the purposes of this Division:
  (a) in the case of an estimate of an underlying liability referred to in paragraph 268-10(1)(a) (PAYG withholding liabilities)—the ***initial day*** is:
    (i) for a company that is a *medium withholder or a *small withholder on the last day of the period identified in the notice of the estimate under section 268-15 as the period to which the underlying liability relates—the last day of that period; or
    (ii) for any other company—the day by which the company is obliged to pay the amount of the underlying liability to the Commissioner; and

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(b) in the case of an estimate of an underlying liability referred to in paragraph 268-10(1)(b) (superannuation guarantee charge)—the ***initial day*** is the last day of the *quarter to which the estimate relates; and

(c) the company's obligation to pay the amount of the estimate is taken to have begun on the day after the initial day identified in paragraph (a) or (b) of this subsection.

(6) For the purposes of subsection (5), assume that the underlying liability exists as identified in the notice of the estimate under section 268-15.

4 After subsection 269-15(2) in Schedule 1

Insert:

(2A) To avoid doubt, if the obligation of the company is an obligation to pay the amount of an estimate of an underlying liability under Division 268, a director is subject to his or her obligation under subsection (1):

(a) even if the underlying liability never existed or has been discharged in full; and

(b) even if the unpaid amount of the underlying liability is less than the unpaid amount of the estimate; and

(c) at all times on and after the day referred to in paragraph 269-10(5)(b) until the director's obligation ceases under subsection (2) of this section, including at any such times before the Commissioner has made the estimate or given notice of the estimate.

5 After subsection 269-35(3) in Schedule 1

Insert:

(3AA) If the obligation referred to in subparagraph (2)(a)(i) is an obligation to pay an amount of an estimate of an underlying liability under Division 268, that reference to an obligation includes a reference to the obligation to pay the underlying liability.

(3AB) For the purposes of subsection (3AA), assume that the underlying liability exists as identified in the notice of the estimate under section 268-15.

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6 Application

The amendments made by this Part apply in relation to an estimate made under Division 268 in Schedule 1 to the *Taxation Administration Act 1953* on or after 1 July 2018 (whether the underlying liability to which the estimate relates arose before, on or after that day).

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Part 2—Director penalties

Taxation Administration Act 1953

7 Subsection 269-30(2) in Schedule 1 (table, heading to column 2)

Omit "**the last day of the 3 months after**".

8 Subsection 269-30(2) in Schedule 1 (table item 1, column 2)

Before "the due day", insert "the last day of the 3 months after".

9 Subsection 269-30(2) in Schedule 1 (table item 2, column 1)

Omit "(estimates of PAYG withholding liabilities and superannuation guarantee charge)", substitute "of a liability referred to in paragraph 268-10(1)(a) (PAYG withholding liabilities)".

10 Subsection 269-30(2) in Schedule 1 (table item 2, column 2)

Before "the day", insert "the last day of the 3 months after".

11 Subsection 269-30(2) in Schedule 1 (at the end of the table)

Add:

4	the amount of an estimate under Division 268 of a liability referred to in paragraph 268-10(1)(b) (superannuation guarantee charge),	the day by which the company was obliged to pay the underlying liability to which the estimate relates,	to any extent.

12 Subsection 269-30(3) in Schedule 1

Omit "column 2, treat the reference in the column", substitute "item 1 or 2, treat the reference in the item".

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13 Application

The amendments made by this Part apply in relation to:

(a) an amount referred to in item 1 or 3 of the table in subsection 269-30(2) in Schedule 1 to the *Taxation Administration Act 1953* (as amended by this Part) that first becomes payable on or after 1 July 2018; and

(b) an estimate referred to in item 2 or 4 of the table in that subsection (as amended by this Part) that is made on or after 1 July 2018 (whether the underlying liability to which the estimate relates arose before, on or after that day).

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Part 3—Orders to provide security

Taxation Administration Act 1953

14 At the end of Subdivision 255-D in Schedule 1

Add:

255-115 Order to comply with requirement

(1) The Federal Court of Australia may, on the application of the Commissioner, order you to comply with a requirement to give security under section 255-100, if the Commissioner has given you notice of the requirement under subsection 255-105(1).

(2) If the Court makes an order under subsection (1), the Court may also order you to comply with such other requirements made, or that could be made, in relation to you under the taxation law as the Court considers necessary to ensure the effectiveness of the requirement referred to in that subsection.

(3) An order under subsection (1) or (2) may require you to comply with the requirement on or before a day specified in the order.

(4) If an order under subsection (1) or (2) is not given to you orally by the court, the proper officer of the court must cause a copy of the order to be served on you in the prescribed manner, or otherwise as may be ordered by the court.

255-120 Offence

(1) You commit an offence if:
  (a) you are subject to an order under subsection 255-115(1) or (2); and
  (b) you fail to comply with the order.

Penalty: 50 penalty units or imprisonment for 12 months, or both.

(2) An offence against subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

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(3) Subsection (1) does not apply to the extent that you are not capable of complying with the order.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the *Criminal Code*.

15 Application

The amendments made by this Part apply in relation to a requirement to give security in relation to a tax-related liability if the Commissioner gives notice of the requirement under subsection 255-105(1) in Schedule 1 to the *Taxation Administration Act 1953* on or after 1 July 2018.

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Schedule 6—Amendments relating to employee commencement

Part 1—Disclosure of tax file numbers

Income Tax Assessment Act 1936

1 Section 202CG

Omit all the words after "a payer of the recipient", substitute:

if:

(a) the recipient provided the number in a TFN declaration to the Commissioner in relation to the payer; or

(b) the recipient made a TFN declaration to the Commissioner in relation to the payer that included a statement referred to in subsection 202CB(2).

2 Application

The amendment made by this Part applies in relation to a TFN declaration made on or after 1 July 2018.

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Part 2—Withholding information

Taxation Administration Act 1953

3 Subsection 355-50(2) in Schedule 1 (at the end of the table)

Add:

11	a payer (within the meaning of Part VA of the *Income Tax Assessment Act 1936*) in relation to whom an individual has made a *TFN declaration that is in effect	(a) is of a matter that relates to the individual's income tax or other liability referred to in paragraph 11-1(b), (ca), (cb), (cc), (cd), (da) or (db); and (b) is for the purpose of assisting the individual to give a declaration under section 15-50 to the payer; and (c) is made as the result of a request made by the individual to the Commissioner

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Part 3—Superannuation choice

Taxation Administration Act 1953

4 Subsection 355-65(3) in Schedule 1 (at the end of the table)

Add:

11	An employer (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) of an individual	is for the purpose of: (a) informing the individual of one or more of his or her *superannuation interests; or (b) assisting the individual to choose whether to maintain or create a superannuation interest; or (c) assisting the individual to give effect to such a choice

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Schedule 7—Information sharing

Part 1—Tax file number sharing and verification

Income Tax Assessment Act 1936

1 At the end of Part VA

Add:

Division 8—Tax file number sharing and verification

203 Verification of tax file numbers

(1) This section applies if an Agency (within the meaning of the *Public Service Act 1999*) obtains or has obtained, in accordance with a law of the Commonwealth, a number that any of the following (the ***relevant official***) believes to be the tax file number of a person (the ***relevant person***):

(a) the Agency Head (within the meaning of that Act);

(b) an SES employee, or acting SES employee, in the Agency.

Note: For example, the Agency may have received the number in a TFN declaration made by the relevant person in relation to an assistance payment, or from another person in accordance with a law that provides for an official to ask the other person to provide the relevant person's tax file number.

(2) The relevant official may give the Commissioner a notice, in writing, asking the Commissioner to verify the number under this section.

(3) A notice under subsection (2):

(a) must include the number; and

(b) must include the full name and date of birth of the relevant person; and

(c) may include any other information that the relevant official considers may assist in identifying the relevant person.

(4) If the Commissioner is satisfied, having regard to the information (if any) that the Commissioner has recorded for the number, that it is reasonable to do so, the Commissioner may give the Agency a

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notice, in writing, that states whether or not the Commissioner is able to verify the information given.

(5) If:

(a) the Commissioner is not satisfied that the number is the tax file number of the relevant person; but

(b) the Commissioner is satisfied, having regard to the information (if any) that the Commissioner has recorded for the number, that another number (the ***correct number***) is the tax file number of the relevant person;

the notice under subsection (4) may state the correct number.

(6) If the notice under subsection (4) states the correct number, the correct number is taken to be the number that was obtained by the Agency as mentioned in subsection (1).

(7) This section does not limit, and is not limited by, section 202CEA or any other provision, in this or any other law of the Commonwealth, that provides for the sharing or verification of tax file numbers.

Notices are not legislative instruments

(8) A notice given under subsection (2) or (4) is not a legislative instrument.

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Part 2—Providing information to the Repatriation Commission

Taxation Administration Act 1953

2 Subsection 355-65(2) in Schedule 1 (table item 3, column headed "and the record or disclosure ...")

After "pensions", insert ", allowances or benefits".

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Schedule 8—Miscellaneous amendments

Part 1—Amendments to commencement provisions

Superannuation Legislation Amendment (MySuper Core Provisions) Act 2012

1 Subsection 2(1) (table item 3)

Repeal the item, substitute:

3. Schedule 1, items 2 to 13	1 January 2013.	1 January 2013

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Part 2—Amendments to application provisions

Tax Laws Amendment (Implementation of the Common Reporting Standard) Act 2016

2 Subitem 15(3) of Schedule 1

Repeal the subitem, substitute:

Reporting of Lower Value Accounts

(3) For the purposes of (and without limiting) subsections 396-105(1) and (2) in Schedule 1 to the *Taxation Administration Act 1953*, as amended by this Schedule, an account maintained by a Reporting Financial Institution at any time in the 2018 calendar year is treated as being a Reportable Account (within the meaning of the CRS) at that time if the account:

(a) is a Lower Value Account (within the meaning of the CRS); and

(b) has not been included in a statement under subsection 396-105(2) in that Schedule for the 2017 calendar year; and

(c) at that time, would be a Reportable Account (within the meaning of the CRS) if the Reporting Financial Institution applied the due diligence procedures described in the CRS in relation to the account at that time.

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Part 3—Road user charge

Fuel Tax Act 2006

3 Subsections 43-10(7) and (8)

Repeal the subsections, substitute:

Determining the rate of road user charge

(7) The *amount of road user charge for a taxable fuel is worked out using the rate determined under subsection (8) that applies to the taxable fuel.

(8) The *Transport Minister may, by legislative instrument, determine a rate of road user charge for the following classes of taxable fuels:

(a) taxable fuels for which duty is payable at a rate per litre of fuel;

(b) taxable fuels for which duty is payable at a rate per kilogram of fuel;

(c) taxable fuels for which duty is payable at a rate expressed in a unit of measurement that is not mentioned in paragraph (a) or (b).

Note 1: A different rate may be determined for each class of taxable fuels.

Note 2: For the purposes of determining whether duty is payable for a taxable fuel at a rate per litre, per kilogram or per another unit of measurement, see whichever of the *Excise Tariff Act 1921* and the *Customs Tariff Act 1995* is applicable to the taxable fuel.

4 Subsection 43-10(11A)

Omit "for each litre of fuel".

5 Subsection 43-10(12)

Repeal the subsection, substitute:

(12) The *Transport Minister must not make more than one determination in respect of a class of taxable fuel in a financial year if the effect of the determination would be to increase the road user charge for that class of taxable fuel more than once in that financial year.

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Note: For the classes of taxable fuel, see subsection (8).

6 Saving provision—Transport Minister's determinations

A determination under subsection 43-10(8) of the *Fuel Tax Act 2006* that was in force immediately before the commencement of this Part continues in force on and after that commencement as if it were a determination made under that subsection as amended by this Part for the class of taxable fuels described in paragraph 43-10(8)(a).

7 Rate for working out amount of road user charge

(1) This item applies to taxable fuel for which duty is payable at a rate per kilogram of fuel.

Note: For the purposes of determining the taxable fuels for which duty is payable at a rate per kilogram of the fuel, see whichever of the *Excise Tariff Act 1921* and the *Customs Tariff Act 1995* is applicable to the taxable fuel.

(2) For the purposes of section 43-10 of the *Fuel Tax Act 2006*, the rate specified in the following table for a period is taken to have been the rate of road user charge for the taxable fuel for that period.

Rate of road user charge

Item	Period	Rate per kilogram of taxable fuel
1	1 July 2011 to 30 June 2012	$0.30792
2	1 July 2012 to 30 June 2013	$0.33992
3	1 July 2013 to 30 June 2016	$0.34845
4	1 July 2016 to 30 June 2017	$0.345
5	1 July 2017 to immediately before this item commences	$0.344

(3) For the purposes of section 43-10 of the *Fuel Tax Act 2006*, the rate of road user charge for the taxable fuel is taken to be $0.344 for the period:

(a) beginning on the commencement of this item; and

(b) ending immediately before the commencement of the first determination made under subsection 43-10(8) of that Act (as amended by this Part) for the class of taxable fuels described in paragraph 43-10(8)(b).

(4) This item has effect despite subsection 43-10(7) of the *Fuel Tax Act 2006* (as in force before and after the commencement of this item).

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Part 4—Seasonal Workers Program

Income Tax Assessment Act 1997

8 Subparagraph 840-905(b)(ii)

Repeal the subparagraph, substitute:

(ii) you hold a Temporary Work (International Relations) Visa (subclass 403).

Taxation Administration Act 1953

9 Subparagraph 12-319A(b)(ii) in Schedule 1

Repeal the subparagraph, substitute:

(ii) the employee holds a Temporary Work (International Relations) Visa (subclass 403).

10 Application of amendments

(1) The amendment made by item 8 applies to income derived on or after 19 November 2016.

(2) The amendment made by item 9 applies to salary, wages, commission, bonuses or allowances paid on or after 19 November 2016.

11 Continued application of the old law in relation to holders of a Special Program Visa (subclass 416)

(1) Despite the amendment of section 840-905 of the *Income Tax Assessment Act 1997* made by item 8, that section, as in force immediately before the commencement of this item, continues to apply to income derived on or after 19 November 2016 by an individual who holds a Special Program Visa (subclass 416).

(2) Despite the amendment of section 12-319A in Schedule 1 to the *Taxation Administration Act 1953* made by item 9, that section, as in force immediately before the commencement of this item, continues to apply to salary, wages, commission, bonuses or allowances paid:

(a) on or after 19 November 2016; and

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(b) to an individual for the individual's employment before, on or after that day while the individual holds a Special Program Visa (subclass 416).

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Part 5—Offshore information notices

Income Tax Assessment Act 1936

12 Section 264A

Repeal the section.

Income Tax Assessment Act 1997

13 Subsection 995-1(1)

Insert:

> ***offshore document*** has the meaning given by section 353-25 in Schedule 1 to the *Taxation Administration Act 1953*.
>
> ***offshore information*** has the meaning given by section 353-25 in Schedule 1 to the *Taxation Administration Act 1953*.

Petroleum Resource Rent Tax Assessment Act 1987

14 Section 108A

Repeal the section.

Register of Foreign Ownership of Water or Agricultural Land Act 2015

15 Section 33

Repeal the section, substitute:

33 Offshore information notices for persons who may have obligations under Part 3 or Part 3B

For the purposes of this Act, Subdivision 353-B in Schedule 1 to the *Taxation Administration Act 1953* applies as if a reference in that Subdivision to an assessment of tax-related liability of a person were a reference to the determination of either or both of the following:

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(a) whether a person has or had an obligation under Part 3 or 3B of this Act;

(b) whether a person has complied with an obligation the person has or had under Part 3 or 3B of this Act.

Note 1: Subdivision 353-B in Schedule 1 to the *Taxation Administration Act 1953*:

(a) lets the Commissioner give a person an offshore information notice requesting the person to give the Commissioner information, or a document, that is outside Australia and that the Commissioner believes is relevant to an assessment of the person; and

(b) sets out the consequences if the person does not comply with the request.

Note 2: Subdivision 353-A in Schedule 1 to the *Taxation Administration Act 1953* also gives the Commissioner power to require a person to give the Commissioner information or documents for the administration of this Act.

Taxation Administration Act 1953

16 Paragraph 8J(2)(k)

Repeal the paragraph.

17 At the end of subsection 8J(2)

Add:

; or (q) paragraph 353-25(1)(b) or (c) in Schedule 1 to this Act.

18 Before section 353-10 in Schedule 1

Insert:

Table of Subdivisions

	Guide to Division 353
353-A	Powers to obtain information and evidence
353-B	Powers to obtain information and evidence from overseas

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Guide to Division 353

353-1 What this Division is about

This Division gives the Commissioner powers to obtain information and evidence.

Subdivision 353-A—Powers to obtain information and evidence

Table of sections

353-10 Commissioner's power
353-15 Access to premises, documents etc.
353-20 Checking status of specifically listed deductible gift recipients

19 At the end of Division 353 in Schedule 1

Add:

Subdivision 353-B—Powers to obtain information and evidence from overseas

Table of sections

353-25 Offshore information notices
353-30 Offshore information notices—consequence of not complying

353-25 Offshore information notices

(1) The Commissioner may, by notice in writing (an ***offshore information notice***) given to you, request you to do all or any of the following:

(a) to give the Commissioner any information that the Commissioner reasonably believes is:

(i) relevant to the *assessment of a *tax-related liability of yours; and

(ii) *offshore information;

(b) to produce to the Commissioner any documents that the Commissioner reasonably believes are:

(i) relevant to the assessment of a tax-related liability of yours; and

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(ii) *offshore documents;

(c) to make copies of any documents the Commissioner could request you to produce under paragraph (b), and to produce those copies to the Commissioner.

(2) An offshore information notice:

(a) must specify a period, of at least 90 days after it is given to you, within which you are to give the information or produce the documents or copies; and

(b) must set out the effect of section 353-30; and

(c) may set out how the request is to be complied with; and

(d) may be included in the same document as a notice under section 353-10.

A notice is not invalid merely because it does not comply with paragraph (b).

(3) The Commissioner may, by notice in writing, extend the period within which you are to give the information or produce the documents or copies, if, before the end of that period, you apply for the extension in the *approved form.

(4) If the Commissioner does not notify you, in writing, before the end of the period of the Commissioner's decision on an application you make under subsection (3), then the period is extended until the day on which the Commissioner so notifies you.

(5) An offshore information notice may be varied or revoked in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*, however a variation:

(a) must not have the effect of shortening the period within which you must give particular *offshore information or produce particular *offshore documents or copies; and

(b) must not have the effect that the period within which you must give particular offshore information, or produce particular offshore documents or copies, is less than 90 days.

(6) Nothing in this section affects the operation of section 353-10 and nothing in that section affects the operation of this section.

(7) ***Offshore information*** is any information that is one or more of the following:

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(a) within the knowledge (whether exclusive or otherwise) of an entity outside Australia;
(b) recorded (whether exclusively or otherwise) in a document outside Australia;
(c) stored (whether exclusively or otherwise) by any means whatsoever outside Australia.

(8) An ***offshore document*** is any document that is outside Australia (whether or not copies are in Australia or, if the documents are copies of other documents, whether or not those other documents are in Australia).

353-30 Offshore information notices—consequence of not complying

(1) Section 8C does not apply to a request set out in an offshore information notice under section 353-25.

(2) If you refuse or fail to comply with a request set out in an offshore information notice (including a request you are not able to comply with), the following are not admissible in evidence in proceedings under Part IVC on a review or appeal relating to a *tax-related liability of yours, except with the consent of the Commissioner:
(a) the *offshore information;
(b) the contents of the *offshore documents or copies.

(3) In deciding whether to consent, the Commissioner must:
(a) have regard to whether, because of the absence of that information or those documents or copies, the remaining information or documents that are relevant to the proceedings are, or are likely to be, misleading; and
(b) not have regard to the consequences (whether direct or indirect) of an obligation arising under a *foreign law relating to the secrecy of the information, documents or copies; and
(c) consent if refusal would have the effect, for the purposes of the Constitution, of making any tax or penalty incontestable.

(4) If, before the hearing of a proceeding under Part IVC on a review or appeal relating to a *tax-related liability of yours, the Commissioner forms the views that:
(a) you have refused or failed to comply with a request under section 353-25; and

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(b) the Commissioner is unlikely to give the consent mentioned in subsection (3);

the Commissioner must, by notice in writing, inform you that the Commissioner has formed those views. However, a failure to do so does not affect the validity of the Commissioner's decision under subsection (3).

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Part 6—Various amendments

A New Tax System (Goods and Services Tax) Act 1999

20 Section 195-1 (note to the definition of *taxable supply*)

Omit "80-50 84-85,, 90-5, 100-5, 100-18", substitute "80-50, 84-85, 90-5, 100-5, 100-18,".

Competition and Consumer Act 2010

21 Section 44AAJ

Repeal the section.

22 Application of amendment

The amendment made by item 21 applies in relation to reporting periods that commence on or after 1 July 2018.

Crimes (Taxation Offences) Act 1980

23 Subsection 3(1) (paragraph (b) of the definition of *income tax*)

Omit "section 163AA", substitute "former section 163AA".

Fringe Benefits Tax Assessment Act 1986

24 Paragraphs 135T(1)(a) to (k)

Repeal the paragraphs, substitute:

(a) a ***Department*** within the meaning of subsection 3(1) of the *Government Sector Employment Act 2013* (NSW);

(b) a ***public service body*** within the meaning of subsection 4(1) of the *Public Administration Act 2004* (Vic.);

(c) a ***department*** within the meaning of section 7 of the *Public Service Act 2008* (Qld);

(d) a ***department*** within the meaning of section 3 of the *Financial Management Act 2006* (WA) as extended by section 5 of that Act;

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(e) a ***subsidiary body*** as defined in paragraphs (b) and (c) of the definition of that term in subsection 60(1) of the *Financial Management Act 2006* (WA);

(f) an ***administrative unit*** within the meaning of subsection 3(1) of the *Public Sector Act 2009* (SA);

(g) a ***Government department*** within the meaning of subsection 3(1) of the *State Service Act 2000* (Tas.);

(h) a ***directorate*** as defined in the Dictionary of the *Financial Management Act 1996* (ACT);

(i) an ***Agency*** within the meaning of subsection 3(1) of the *Financial Management Act* (NT);

25 Application of amendments

The amendments made by item 24 apply to years of tax starting on or after the day this item commences.

Fuel Tax Act 2006

26 Subsection 43-5(1)

Omit “tax fuel credit”, substitute “fuel tax credit”.

Income Tax Assessment Act 1936

27 Subsection 26BC(9D)

Omit “applicaton”, substitute “application”.

28 Section 121EJ

Omit “activites”, substitute “activities”.

29 Subsection 159GP(1)

Insert:

deferred superannuation income stream has the same meaning as in the *Income Tax Assessment Act 1997*.

30 Subsection 159GP(1) (definition of *ineligible annuity*)

Repeal the definition, substitute:

ineligible annuity means:

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(a) an annuity that is issued by a life assurance company to or for the benefit of a natural person other than in the capacity of trustee of a trust estate; or

(b) an annuity that is issued by a life assurance company to a complying superannuation fund if:

(i) the annuity is held by the fund for the sole purpose of meeting its liabilities to provide one or more deferred superannuation income streams to one or more members of the fund; and

(ii) the value of the annuity and the one or more deferred superannuation income streams is the same or substantially the same; and

(iii) the terms on which the annuity and the one or more deferred superannuation income streams are payable are the same or substantially the same; or

(c) an annuity that is issued by a life assurance company to an RSA provider if:

(i) the annuity is held by the RSA provider for the sole purpose of meeting its liabilities to provide one or more deferred superannuation income streams to one or more holders of the RSA; and

(ii) the value of the annuity and the one or more deferred superannuation income streams is the same or substantially the same; and

(iii) the terms on which the annuity and the one or more deferred superannuation income streams are payable are the same or substantially the same.

31 Application of amendment

Paragraphs (b) and (c) of the definition of ***ineligible annuity*** in subsection 159GP(1) of the *Income Tax Assessment Act 1936* (as inserted by item 30) apply to annuities issued on or after 1 July 2017.

32 Sections 163A, 163AA and 163B

Repeal the sections.

33 Subparagraph 177C(2)(a)(i)

Omit “an agreement, choice,”, substitute “a”.

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34 Subparagraphs 254(2)(a)(i) and 255(4)(a)(i)

Omit "section 163AA", substitute "former section 163AA".

Income Tax Assessment Act 1997

35 Subsection 30-45(2) (cell at table item 4.2.11, column headed "Fund, authority or institution")

Repeal the cell, substitute:

Royal Society for the Prevention of Cruelty to Animals Tasmania

36 Application of amendment

The amendment made by item 35 applies in relation to gifts or contributions made on or after 11 April 2016.

37 Subsection 30-80(2) (cell at table item 9.2.15, column headed "Fund, authority or institution")

Repeal the cell, substitute:

The East African Fund Limited

38 Application of amendment

The amendment made by item 37 applies in relation to gifts or contributions made on or after 17 July 2017.

39 Section 30-105 (table item 13.2.20, column headed "Fund, authority or institution")

Omit "Charities", substitute "Trust".

40 Application of amendment

The amendment made by item 39 applies in relation to gifts or contributions made on or after 7 July 2017.

41 Section 30-315 (table item 45B)

Omit "East African Fund", substitute "East African Fund Limited".

42 Section 30-315 (table item 89A)

Omit "Charities", substitute "Trust".

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43 After paragraph 307-80(3)(a)

Insert:

(aa) the person to whom the benefit is payable is not a reversionary beneficiary; and

44 Application of amendment

The amendment made by item 43 to the meaning of the term ***retirement phase*** applies in a provision of an Act, regulation or instrument that uses the term in the same way as that provision applies.

45 Subsection 311-55(1) (note)

Omit "Section 320", substitute "Section 320-200".

46 Subsection 995-1(1)

Insert:

> ***Arts Minister*** means the Minister administering the *National Gallery Act 1975*.

Income Tax (Transitional Provisions) Act 1997

47 Division 67

Repeal the Division.

Taxation Administration Act 1953

48 Paragraph 3B(1AA)(d)

Omit "*taxation officers", substitute "taxation officers (within the meaning of the *Income Tax Assessment Act 1997*)".

49 Subsection 8AAB(4) (table item 9)

Omit "163AA", substitute "former section 163AA".

50 Subsection 8AAB(4) (table item 10)

Omit "163B", substitute "former section 163B".

51 Subsection 8AAZLGA(3) (note)

Repeal the note.

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52 Subsection 8W(1C) (definitions of *adjusted reset cost base asset setting amount* and *original reset cost base asset setting amount*)

Omit "*" (wherever occurring).

53 Subsection 8W(1C) (paragraph (a) of the definition of *tax on capital gain*)

Repeal the paragraph, substitute:

(a) the capital gain (within the meaning of the *Income Tax Assessment Act 1997*) that the head company makes as a result of CGT event L6 happening as mentioned in section 104-525 of that Act; and

54 Subsection 8W(1C) (paragraph (b) of the definition of *tax on capital gain*)

Omit "*corporate tax rate", substitute "corporate tax rate (within the meaning of that Act)".

55 Subsection 8W(4)

Insert:

CGT event has the same meaning as in the *Income Tax Assessment Act 1997*.

head company has the same meaning as in the *Income Tax Assessment Act 1997*.

subsidiary member has the same meaning as in the *Income Tax Assessment Act 1997*.

tax cost setting amount has the same meaning as in the *Income Tax Assessment Act 1997*.

56 Paragraph 18-135(3)(b) in Schedule 1 (example)

Omit "the Australian Securities and Investments Commission", substitute "ASIC".

57 Subsection 250-10(1) in Schedule 1 (table item 50)

Omit "163A(3)", substitute "former subsection 163A(3)".

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58 Subsection 340-10(2) in Schedule 1 (table item 1)

Omit "section 163B", substitute "former section 163B".

59 Subsection 340-10(2) in Schedule 1 (table item 3)

Omit "section 163AA", substitute "former section 163AA".

60 Subsection 340-10(2) in Schedule 1 (table item 5)

Omit "section 163A", substitute "former section 163A".

61 Subsection 355-65(4) in Schedule 1 (cell at table item 1, column headed "The record is made for or the disclosure is to ...")

Repeal the cell, substitute:

*ASIC

62 Section 396-65 in Schedule 1

Repeal the section, substitute:

396-65 Exemptions—wholesale clients

(1) An entity is not required to include, in a report under section 396-55, information about a transaction described in table item 5, 6 or 7 in that section to the extent that the information relates to a party to the transaction:

(a) who is not an individual; and

(b) who, under the transaction, is being provided with:

(i) a financial product (within the meaning of Chapter 7 of the *Corporations Act 2001*); or

(ii) a financial service (within the meaning of that Chapter);

as a wholesale client (within the meaning of that Chapter).

Note: This exemption does not apply to information relating to any other party to the transaction, such as the party providing the product or service.

(2) An entity is not required to include, in a report under section 396-55, information about a transaction described in table item 8 in that section to the extent that the information relates to a beneficiary mentioned in that item:

(a) who is not an individual; and

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(b) who, under the transaction, is being provided with:
(i) a financial product (within the meaning of Chapter 7 of the *Corporations Act 2001*); or
(ii) a financial service (within the meaning of that Chapter);
as a wholesale client (within the meaning of that Chapter).

Note: This exemption does not apply to information relating to any other party to the transaction, such as the party providing the product or service.

63 Application of amendment

The amendment made by item 62 applies in relation to transactions entered into on or after 1 July 2017.

Taxation (Interest on Overpayments and Early Payments) Act 1983

64 Subparagraph 8A(1)(a)(va)

Omit "section 163A", substitute "former section 163A".

65 Subparagraph 8A(1)(a)(vb)

Omit "section 163B", substitute "former section 163B".

66 Part IIIA (heading)

Repeal the heading, substitute:

Part IIIA—Interest on overpayments resulting from certain remissions and refunds

67 Subparagraph 12A(1)(a)(i)

Omit "section 163AA", substitute "former section 163AA".

68 Paragraph 12A(1)(b)

Omit "remission, refund or crediting", substitute "remission or refund".

69 Subsection 12A(1)

Omit "remitted, refunded or credited", substitute "remitted or refunded".

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70 Section 12B

Omit “remission, refund or crediting”, substitute “remission or refund”.

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Part 7—Transitional arrangements relating to the disclosure of information

Superannuation (Resolution of Complaints) Act 1993

71 Subsection 63(2)

Omit "subsection (3)", substitute "subsections (2C) and (3)".

72 After subsection 63(2B)

Insert:

(2C) Subsection (2) does not prohibit the Tribunal, or a member of ASIC's staff made available under section 62, from disclosing information or producing a document to the AFCA if the disclosure is for the purposes of the AFCA performing its functions or exercising its powers under Part 7.10A of the *Corporations Act 2001*.

73 Subsection 63(3B)

Omit "particular complaint-handling body", substitute "complaint-handling body (other than the AFCA)".

74 Subsection 63(5)

Insert:

AFCA has the same meaning as in Chapter 7 of the *Corporations Act 2001*.

75 Application of amendments

The amendments made by this Part apply in relation to disclosures of information made on or after the commencement of this Part, regardless of when the information was acquired.

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Schedule 9—Deductible gift recipients

Income Tax Assessment Act 1997

1 In the appropriate position in section 30-95 (table)

Insert:

11.2.10	Australian Philanthropic Services Limited	the gift must be made after 30 June 2016

2 In the appropriate position in subsection 30-100(2) (table)

Insert:

12.2.5	Sydney Chevra Kadisha	the gift must be made after 31 December 2017 and before 1 January 2021

3 In the appropriate position in section 30-105 (table)

Insert:

13.2.23	Foundation 1901 Limited	the gift must be made after 31 August 2016 and before 1 September 2021

4 Section 30-315 (after table item 24B)

Insert:

24C	Australian Philanthropic Services Limited	item 11.2.10

5 Section 30-315 (after table item 49B)

Insert:

49C	Foundation 1901 Limited	item 13.2.23

6 Section 30-315 (after table item 112AF)

Insert:

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112B	Sydney Chevra Kadisha	item 12.2.5

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Schedule 10—Further deductible gift recipients

Income Tax Assessment Act 1997

1 Subsection 30-25(2) (at the end of the table)

Add:

2.2.45	Smile Like Drake Foundation Limited	the gift must be made after 8 March 2018 and before 9 March 2023
2.2.46	The Q Foundation Trust	the gift must be made after 31 December 2017 and before 1 January 2023

2 Subsection 30-45(2) (at the end of the table)

Add:

4.2.44	Victorian Pride Centre Ltd	the gift must be made after 8 March 2018 and before 9 March 2023

3 Section 30-90 (at the end of the table)

Add:

10.2.9	Australian Sports Foundation Charitable Fund	the gift must be made after 30 June 2018 and before 1 July 2023

4 Section 30-95 (at the end of the table)

Add:

11.2.11	Australian Women Donors Network	the gift must be made after 8 March 2018 and before 9 March 2023

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5 Section 30-105 (at the end of the table)

Add:

13.2.24	Paul Ramsay Foundation Limited	the gift must be made after 30 June 2018 and before 1 July 2020

6 Section 30-315 (after table item 27)

Insert:

27AAAA	Australian Sports Foundation Charitable Fund	item 10.2.9
27AAAB	Australian Women Donors Network	item 11.2.11

7 Section 30-315 (after table item 82A)

Insert:

83	Paul Ramsay Foundation Limited	item 13.2.24

8 Section 30-315 (after table item 94)

Insert:

94AA	Q Foundation Trust	item 2.2.46

9 Section 30-315 (table items 111A, 111AAA and 111AA)

Repeal the items, substitute:

111AA	Sir William Tyree Foundation	item 2.2.18
111AB	Smile Like Drake Foundation Limited	item 2.2.45
111AC	Social Traders Ltd	item 13.2.5
111A	Social Ventures Australia Limited	item 13.2.16

10 Section 30-315 (after table item 121A)

Insert:

121B	Victorian Pride Centre Ltd	item 4.2.44

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Schedule 11—Extending DGR status to entities promoting Indigenous languages

Income Tax Assessment Act 1997

1 Subsection 30-300(2)

Omit “arts of”, substitute “arts or languages of”.

[*Minister’s second reading speech made in—*
House of Representatives on 28 March 2018
Senate on 25 June 2018]

(79/18)

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